

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 441
101ST GENERAL ASSEMBLY

1360H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 105.145, 316.250, and 537.348, RSMo, and to enact in lieu thereof three new sections relating to political subdivisions, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 105.145, 316.250, and 537.348, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 105.145, 316.250, and 537.348, to read
3 as follows

105.145. 1. The following definitions shall be applied to the terms used in this section:

2 (1) "Governing body", the board, body, or persons in which the powers of a political
3 subdivision as a body corporate, or otherwise, are vested;

4 (2) "Political subdivision", any agency or unit of this state, except counties and school
5 districts, which now is, or hereafter shall be, authorized to levy taxes or empowered to cause
6 taxes to be levied.

7 2. The governing body of each political subdivision in the state shall cause to be
8 prepared an annual report of the financial transactions of the political subdivision in such
9 summary form as the state auditor shall prescribe by rule, except that the annual report of
10 political subdivisions whose cash receipts for the reporting period are ten thousand dollars or less
11 shall only be required to contain the cash balance at the beginning of the reporting period, a
12 summary of cash receipts, a summary of cash disbursements and the cash balance at the end of
13 the reporting period.

14 3. Within such time following the end of the fiscal year as the state auditor shall
15 prescribe by rule, the governing body of each political subdivision shall cause a copy of the
16 annual financial report to be remitted to the state auditor.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 4. The state auditor shall immediately on receipt of each financial report acknowledge
18 the receipt of the report.

19 5. In any fiscal year no member of the governing body of any political subdivision of the
20 state shall receive any compensation or payment of expenses after the end of the time within
21 which the financial statement of the political subdivision is required to be filed with the state
22 auditor and until such time as the notice from the state auditor of the filing of the annual financial
23 report for the fiscal year has been received.

24 6. The state auditor shall prepare sample forms for financial reports and shall mail the
25 same to the political subdivisions of the state. Failure of the auditor to supply such forms shall
26 not in any way excuse any person from the performance of any duty imposed by this section.

27 7. All reports or financial statements herein above mentioned shall be considered to be
28 public records.

29 8. The provisions of this section apply to the board of directors of every transportation
30 development district organized under sections 238.200 to 238.275.

31 9. Any political subdivision that fails to timely submit a copy of the annual financial
32 statement to the state auditor shall be subject to a fine of five hundred dollars per day.

33 10. The state auditor shall report any violation of subsection 9 of this section to the
34 department of revenue. Upon notification from the state auditor's office that a political
35 subdivision failed to timely submit a copy of the annual financial statement, the department of
36 revenue shall notify such political subdivision **and the mayor, if the political subdivision is**
37 **a municipality**, by certified mail that the statement has not been received. Such notice shall
38 clearly set forth the following:

39 (1) The name of the political subdivision;

40 (2) That the political subdivision shall be subject to a fine of five hundred dollars per day
41 if the political subdivision does not submit a copy of the annual financial statement to the state
42 auditor's office within thirty days from the postmarked date stamped on the certified mail
43 envelope;

44 (3) That the fine will be enforced and collected as provided under subsection 11 of this
45 section; and

46 (4) That the fine will begin accruing on the thirty-first day from the postmarked date
47 stamped on the certified mail envelope and will continue to accrue until the state auditor's office
48 receives a copy of the financial statement.

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50 In the event a copy of the annual financial statement is received within such thirty-day period,
51 no fine shall accrue or be imposed. The state auditor shall report receipt of the financial
52 statement to the department of revenue within ten business days. Failure of the political

53 subdivision to submit the required annual financial statement within such thirty-day period shall
54 cause the fine to be collected as provided under subsection 11 of this section.

55 11. The department of revenue may collect the fine authorized under the provisions of
56 subsection 9 of this section by offsetting any sales or use tax distributions due to the political
57 subdivision. The director of revenue shall retain two percent for the cost of such collection. The
58 remaining revenues collected from such violations shall be distributed annually to the schools
59 of the county in the same manner that proceeds for all penalties, forfeitures, and fines collected
60 for any breach of the penal laws of the state are distributed.

61 12. Any ~~[transportation development district organized under sections 238.200 to~~
62 ~~238.275 having]~~ **political subdivision that has** gross revenues of less than five thousand dollars
63 **or that has not levied or collected taxes** in the fiscal year for which the annual financial
64 statement was not timely filed shall not be subject to the fine authorized in this section.

65 13. **If a failure to timely submit the annual financial statement is the result of fraud**
66 **or other illegal conduct by an employee or officer of the political subdivision, the failure**
67 **shall not be subject to a fine authorized under this section if the statement is filed within**
68 **thirty days of the discovery of the fraud or illegal conduct. If a fine is assessed and paid**
69 **prior to the filing of the statement, the department of revenue shall refund the fine upon**
70 **notification from the political subdivision.**

71 14. **If a political subdivision has an outstanding balance for fines or penalties at the**
72 **time it files its first annual financial statement after January 1, 2022, the director of**
73 **revenue shall make a one-time downward adjustment to such outstanding balance in an**
74 **amount that reduces the outstanding balance by ninety percent.**

75 15. The director of revenue shall have the authority to make a one-time downward
76 adjustment to any outstanding penalty imposed under this section on a political subdivision
77 if the director determines the fine is uncollectable. The director of revenue may prescribe
78 rules and regulations necessary to carry out the provisions of this subsection. Any rule or
79 portion of a rule, as that term is defined in section 536.010, that is created under the
80 authority delegated in this section shall become effective only if it complies with and is
81 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
82 section and chapter 536 are nonseverable, and if any of the powers vested with the general
83 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
84 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
85 authority and any rule proposed or adopted after August 28, 2021, shall be invalid and
86 void.

87 16. **If any resident of a political subdivision believes or knows that the political**
88 **subdivision has failed to file the annual financial report required under subsection 2 of this**

section, the resident may file an affidavit with the director of revenue that attests to the alleged failure. The director of revenue shall evaluate the allegation and, if true, notify the political subdivision that it has thirty days to comply with subsection 2 of this section. If the political subdivision has not complied after thirty days, and if the political subdivision has an outstanding balance for fines or penalties and is not levying or collecting any taxes, and has no outstanding financial obligations, the director of revenue shall initiate the process to disincorporate the political subdivision under subsection 18 of this section.

17. If a political subdivision has an outstanding balance for fines or penalties and is not levying or collecting any taxes, and has no outstanding financial obligations, the director of revenue shall initiate the process to disincorporate the political subdivision under subsection 18 of this section.

18. (1) The question of whether a political subdivision subject to possible disincorporation under subsection 16 or 17 of this section shall be disincorporated shall be submitted to the voters of the political subdivision. The election upon the question shall be held on the next general election day.

(2) No later than five o'clock p.m. on the tenth Tuesday prior to the election, the director of revenue shall notify the election authorities responsible for conducting the election according to the provisions of section 115.125 and the county governing body in which the political subdivision is located.

(3) The election authority shall give notice of the election for eight consecutive weeks prior to the election by publication in a newspaper of general circulation published in the political subdivision or, if there is no such newspaper in the political subdivision, in the newspaper in the county published nearest the political subdivision.

(4) Any costs of submitting the question shall be paid by the political subdivision.

(5) The question shall be submitted to the voters of such political subdivision in substantially the following form:

The (political subdivision)(has an outstanding balance for fines or penalties and) has failed to file an annual financial statement, as required by law.

Shall the (political subdivision) be disincorporated?

☐ YES ☐ NO

Upon the affirmative vote of a majority of the qualified voters voting on the question, the director of revenue shall file an action to disincorporate the political subdivision in the circuit court with jurisdiction over the political subdivision.

19. In an action to disincorporate a political subdivision, the circuit court shall order:

125 **(1) The appointment of an administrative authority for the political subdivision,**
126 **which may be another political subdivision, the state, a qualified private party, or other**
127 **qualified entity;**

128 **(2) All financial and other institutions holding funds of the political subdivision, if**
129 **any, as identified by the director of revenue, to honor the directives of the administrative**
130 **authority;**

131 **(3) The director of revenue or other party charged with distributing tax revenue**
132 **to distribute the revenues and funds of the political subdivision, if any, to the**
133 **administrative authority; and**

134 **(4) The disincorporation of the political subdivision and the effective date of the**
135 **disincorporation, taking into consideration a reasonable transition period.**
136

137 **The administrative authority shall administer all revenues under the name of the political**
138 **subdivision or its agents and administer all funds collected on behalf of the political**
139 **subdivision. The administrative authority shall use the revenues and existing funds to pay**
140 **all debts and obligations of the political subdivision other than the penalties accrued under**
141 **this section. The circuit court shall have ongoing jurisdiction to enforce its orders and**
142 **carry out the remedies under this subsection.**

143 **20. The attorney general shall have the authority to file an action in a court of**
144 **competent jurisdiction against any political subdivision that fails to comply with this**
145 **section in order to compel compliance.**

316.250. 1. This section shall be known and may be cited as "Ethan's Law".

2 2. Every owner of a for-profit private swimming pool or facility shall maintain adequate
3 insurance coverage in an amount of not less than one million dollars per occurrence for any
4 liability incurred in the event of injury or death of a patron to such swimming pool or facility,
5 including any liability incurred under paragraph ~~[(b)]~~ (a) of subdivision (3) of section 537.348.
6 Such owners shall be required to register with the department of public safety and provide proof
7 of such insurance coverage at the time of registration and when requested by any state or local
8 governmental agency responsible for the enforcement of this section.

9 3. As used in this section, the following terms shall mean:

10 (1) "Owner", the owner of the land, including but not limited to a lessee, tenant,
11 mortgagee in possession and the person in charge of the land on which a swimming pool is
12 located;

13 (2) "Swimming pool or facility", any for-profit privately owned tank or body of water
14 with a capacity of less than five hundred patrons which charges a fee per admission and is used
15 and maintained for swimming or bathing purposes which has a maximum depth of greater than

16 twenty-four inches. "Swimming pool or facility" shall include, but not be limited to, a swimming
17 pool on lands in connection with the operation of any type of for-profit privately owned
18 amusement or recreational park. "Swimming pool or facility" does not include a swimming pool
19 or facility owned by a hotel, motel, public or governmental body, agency, or authority, a naturally
20 occurring body of water or stream, or a body of water established by a person or persons and
21 used for watering livestock, irrigation, or storm water management.

22 4. Any owner who violates the provisions of this section shall not be permitted to remain
23 in operation until such owner meets the requirements of this section. Any such owner who
24 allows operation of a swimming pool or facility in violation of this section shall be subject to a
25 civil penalty of two hundred fifty dollars per day for each day of continued violation up to a
26 maximum of ten thousand dollars and may be subject to liability for the costs incurred by the
27 state or a political subdivision for enforcing the provisions of this section. In a separate court
28 action, the attorney general may seek reimbursement on behalf of the state and a political
29 subdivision may seek reimbursement on behalf of the political subdivision for costs incurred as
30 a result of enforcing the provisions of this section. For purposes of this section, "each day of the
31 violation" means each day that the swimming pool is operational and open for business and
32 remains in violation of this section. It shall not include days that the swimming pool is not
33 operational and open for business.

34 5. In addition, any owner who intentionally violates the provisions of this section is
35 guilty of a class A misdemeanor. It shall be the duty of each prosecuting attorney and circuit
36 attorney in their respective jurisdictions to commence any criminal actions under this section,
37 and the attorney general shall have concurrent original jurisdiction to commence such criminal
38 actions throughout the state where such violations have occurred.

39 6. The department of public safety shall implement and, with the assistance of local law
40 enforcement agencies, enforce the provisions of this section.

41 7. An insurance company providing insurance coverage under this section shall notify
42 the department of public safety if any owner of a swimming pool or facility as defined in this
43 section terminates, cancels, or fails to renew such coverage. The department may utilize local
44 law enforcement agencies to enforce the provisions of this section.

537.348. Nothing in this act shall be construed to create liability, but it does not limit
2 liability that otherwise would be incurred by those who use the land of others, or by owners of
3 land for:

4 (1) Malicious or grossly negligent failure to guard or warn against a dangerous condition,
5 structure, personal property which the owner knew or should have known to be dangerous, or
6 negligent failure to guard or warn against an ultrahazardous condition which the owner knew or
7 should have known to be dangerous;

8 (2) Injury suffered by a person who has paid a charge for entry to the land; or

9 (3) Injuries occurring on or in:

10 (a) ~~[Any land within the corporate boundaries of any city, municipality, town, or village~~
11 ~~in this state;~~

12 ~~——(b)]~~ Any swimming pool. "Swimming pool" means a pool or tank, especially an
13 artificial pool or tank, intended and adapted for swimming and held out as a swimming pool;

14 ~~[(e)]~~ (b) Any residential area. "Residential area" as used herein means a tract of land of
15 one acre or less predominately used for residential purposes, or a tract of land of any size used
16 for multifamily residential services; or

17 ~~[(d)]~~ (c) Any noncovered land. "Noncovered land" as used herein means any portion of
18 any land, the surface of which portion is actually used primarily for commercial, industrial,
19 mining or manufacturing purposes; provided, however, that use of any portion of any land
20 primarily for agricultural, grazing, forestry, conservation, natural area, owner's recreation or
21 similar or related uses or purposes shall not under any circumstances be deemed to be use of such
22 portion for commercial, industrial, mining or manufacturing purposes.

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