

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3153-02  
Bill No.: HB 1854  
Subject: Cities, Towns and Villages; Property, Real and Personal; Property, Taxation and Revenue - Property; Revenue, Department of  
Type: Original  
Date: January 25, 2020

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Bill Summary: This proposal modifies provisions relating to political subdivisions.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0 or up to (\$721,143)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or up to (\$721,143)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Local Government</b>	<b>Unknown, less than \$721,143</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Office of Administration's Division of Budget & Planning (B&P)** assume §105.145 excludes the fine for failure to submit annual financial statements for political subdivisions with gross revenues of less than \$5,000, or for political subdivisions that have not levied or collected sales or use taxes in the fiscal year. This may result in a revenue loss for both the state and schools.

It also provides grace from fines if the failure to timely submit the annual financial statement is the result of fraud or other illegal conduct and allows a refund by DOR of any fines already paid under these circumstances. The 90% downward adjustment DOR is allowed to make on outstanding fine or penalty balances after August 28, 2020, results in the amount of collections being reduced for both the state and DOR collection fees. A similar downward adjustment may be made by DOR if the outstanding fines are deemed uncollectible. These downward adjustments will likewise result in a revenue loss for both the state and schools.

Based on information from DOR, the department started imposing this fine in August 2017. DOR has imposed total fines of \$42,853,000.00 and collected a total of \$2,011,481.57. The new provisions to this proposal call for DOR notification of the Attorney General and a ballot measure that could dissolve political subdivisions that fail to timely submit annual financial statements after August 28, 2020.

B&P defers to DOR for more specific estimates of actual collection costs.

Officials at the **Department of Revenue (DOR)** state that currently local political subdivisions are required to file annual financial statements with the State Auditor's Office. Failure to file those statements results in the political subdivision being assessed a fine of \$500 per day. DOR notes that the Department started imposing this fine in August 2017. Currently, a transportation development district that had gross revenues of less than \$5,000 in a fiscal year was not subject to this fine.

This proposal states that any political subdivision that has gross revenues less than \$5,000 or has not levied or collected a sales and use tax in the fiscal year, would not be subject to the fine. Additionally, language is added that if the failure to file is a result of fraud or illegal conduct by an employee or officer of the political subdivision, and if the political subdivision complies with filing the financial statement within thirty days of the discovery of the fraud or illegal conduct, the fine shall not be assessed.

ASSUMPTION (continued)

This proposal is allowing a political subdivision that files its financial statement by August 28, 2020, to receive a 90% reduction of their outstanding balance of their fines owed. Current records of the Department show total fines of \$42,853,000.00 and that \$2,011,481.57 has been collected. The assessment of the fines is distributed as follows:

Political Subdivisions	Number of Subdivisions	Total Amount Fined	Total Amount Collected
Cities	147	\$13,620,000	\$1,419,702.72
Ambulance Districts	11	\$1,296,000	\$58,000
Hospitals	6	\$604,000	\$0
PWSD	17	\$1,433,500	\$0
Library Districts	7	\$1,510,500	\$0
Fire Protection Districts	47	\$4,744,500	\$42,500
Levee/Drainage/SRD Districts	53	\$7,736,000	\$0
Health Departments	4	\$196,500	\$0
CID	55	\$8,126,500	\$332,124.07
TDD	18	\$2,796,500	\$159,154.78
Other/Undesignated	6	\$874,000	\$0
		\$42,075,000.00	\$2,011,481.57

Therefore the current outstanding balance is \$40,063,518.43 (\$42,075,000 - \$2,011,481.57). Therefore if all political subdivision file their report and receive the reduction it would be a loss of \$36,057,166.59 in fine revenue. The new provisions to this proposal call for DOR notification of the Attorney General and a ballot measure that could dissolve political subdivisions that fail to timely submit annual financial statements after August 28, 2020. DOR assumes no additional fiscal impact from these provisions.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a potential loss of fine revenue stated by DOR to the general revenue fund for this proposal. Also, Oversight notes that because of the new language for certain local political subdivisions who have gross revenues of less than \$5,000 or who have not levied or collected a sales and use tax in the fiscal year or if the failure to file a financial statement is the result of fraud or illegal conduct by an employee or officer of the political subdivision and the political subdivision complies with filing the financial statement within thirty days of the discovery of the fraud or illegal conduct, then the fine shall not be assessed and could result in a savings to local political subdivisions on fine fees. Therefore, Oversight will also reflect a savings to local political subdivisions of \$0 to unknown for this proposal.

ASSUMPTION (continued)

**Oversight** also notes that the loss in fine revenue collected by DOR would result in a savings to the local political subdivisions who would no longer need to pay the fine revenue. It would also result in a loss of revenue to School Districts on these fines no longer being collected. Therefore, Oversight will reflect a savings to local political subdivisions on the fines no longer being collected and a loss of 98% of the fine revenue no longer going to the school districts for this proposal. Oversight notes that the Department of Revenue is allowed to retain two percent of the fine revenue collected (per §105.145.11). Oversight assumes a large portion of the \$40,063,518 of outstanding fines would be considered uncollectible. Therefore, Oversight will range the fiscal impact from this proposal from \$0 to DOR's estimates.

Officials at the **Office of the Attorney General (AGO)** assume that any additional costs arising from this proposal can be absorbed with existing personnel and resources. The AGO may seek additional appropriations if there is a significant increase in workload.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Office of the State Courts Administrator**, the **State Auditor's Office** and the **Joint Committee on Administrative Rules** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **City of Kansas City**, the **City of Springfield**, the **St. Louis County Board of Elections**, the **Platte County Election Board** and the **Jackson County Election Board** each assume no fiscal impact to their respective entities from this proposal.

ASSUMPTION (continued)

**Oversight** notes the Office of the State Courts Administrator, the State Auditor’s Office, the Joint Committee on Administrative Rules, the City of Kansas City, the City of Springfield, the St. Louis County Board of Elections, the Platte County Election Board and the Jackson County Election Board have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties and local election authorities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>GENERAL REVENUE</b>			
Loss - DOR - 2% of collection fee on future potential fines no longer assessed because LPS no longer required to file due to changes in the bill	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Loss</u> - DOR - of fine revenue from a one-time decrease of 90% of the outstanding balance from the local political subdivision if they submit a timely financial statement by 8/28/2020	\$0 or up to (\$36,057,167)	\$0	\$0
Savings - DOR - reduction in amount of fine revenue distributed to school districts - DOR one-time reduction of 90% of outstanding fines (after retaining 2%)	\$0 or up to <u>\$35,336,024</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>\$0 or up to (\$721,143)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Savings</u> - Local Political Subdivisions - on potential fines for certain LPS	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Loss</u> - School districts receiving less fine revenue (from savings above)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Savings</u> - Local Political Subdivisions - on fine revenue that is reduced with a one-time reduction of 90% on the outstanding balance due if they submit a timely financial statement by 8/28/2020	\$0 or up to \$36,057,167	<u>\$0</u>	<u>\$0</u>
<u>Loss</u> - School Districts - reduction in fine revenue from one-time adjustment of fine revenue	\$0 or up to <u>(\$35,336,024)</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b>Unknown, less <u>than \$721,143</u></b>	<b><u>\$0 to Unknown</u></b>	<b><u>\$0 to Unknown</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding the consequences of a political subdivision for failure to file an annual financial statement with the State Auditor as required.

If the failure to submit the annual financial statement was a result of fraud or other illegal conduct by any employee, the failure shall not result in a fine.

Any political subdivision that has gross revenues of less than \$5000 or fails to collect or levy sales or use taxes shall not be subject to the fine.

In addition, the Director of the Department of Revenue shall have the authority to make a one-time downward adjustment to any fine he or she deems uncollectible.

### FISCAL DESCRIPTION

If, after August 28, 2020, and before January 31, 2021, a political subdivision fails to file an annual statement, or if a political subdivision files an annual statement in that time period but fails to file any statement thereafter, the Director of the Department of Revenue must notify the Attorney General, and the Attorney General will initiate the process to dissolve the political subdivision.

In addition, the residents of a political subdivision may apprise the Attorney General of the failure to file and the Attorney General, after investigation and confirmation, will initiate the process to dissolve the political subdivision as specified in the bill.

The process for dissolving a political subdivision that is not in compliance with the annual financial statement requirement is specified in the bill, as is the available court orders.

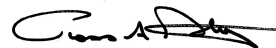
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Department of Revenue  
Office of Administration - Division of Budget & Planning  
Office of the Attorney General  
Office of the Secretary of State  
Office of the State Courts Administrator  
State Auditor's Office  
Joint Committee on Administrative Rules  
City of Kansas City  
City of Springfield  
St. Louis County Board of Elections  
Platte County Election Board  
Jackson County Election Board



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