

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3153-04
Bill No.: Perfected HCS for HB 1854
Subject: Cities, Towns and Villages; Property, Real and Personal; Taxation and Revenue -
 Property; Revenue, Department of
Type: Original
Date: March 3, 2020

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

FISCAL SUMMARY

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

* The fiscal impact to the state is the potential loss of the Department of Revenue's 2% collection fee. Oversight has ranged the impact from \$0 (debt is already considered uncollectible and DOR would not have received the 2% fee even without this proposal) to \$721,143 (which represents if DOR would have collected 100% of the \$36 million of outstanding debt allowed to be reduced by this proposal). Oversight assumes the actual loss to the state is on the very low end of this range.

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

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 9 pages.

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

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

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

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

*** The net fiscal impact to the local political subdivision is the potential loss of the Department of Revenue’s 2% collection fee. Oversight has ranged the impact from \$0 (debt is already considered uncollectible and DOR would not have received the 2% fee even without this proposal) to \$721,143 (which represents if DOR would have collected 100% of the \$36 million of outstanding debt allowed to be reduced by this proposal). Oversight assumes the actual impact is on the very low end of this range.**

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 January 1, 2021, 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. This proposal directs that the DOR Director initiate a ballot measure that could disincorporate 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 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 per statutes, which is deposited into school district funds. DOR notes that the Department started imposing this fine in August 2017. DOR receives notice from the State Auditor's Office if a political subdivision does not file their annual financial statement. At that time the Department sends a notice to the political subdivision and thirty days later the fee starts to accumulate.

The Department collects the fine by offsetting any sales or use tax distributions due to the political subdivisions. In essence the Department only gets to collect the fee if the political subdivision has a sales or use tax. Most of these political subdivisions do not have a sales or use tax for the Department to collect, so the Department assumes much of what is owed is uncollectable. Additionally, this is not state money but local political subdivision funds.

ASSUMPTION (continued)

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.

This proposal is allowing a political subdivision that files its financial statement after January 1, 2021 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 had 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

The Department notes that per statute we are allowed to retain 2% of the amount collected for administration. Since the program began we have collected \$38,977.74 which has been deposited into General Revenue. All DOR collection fees are deposited into General Revenue and are not retained by the Department.

ASSUMPTION (continued)

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 to initiate a ballot measure that could dissolve political subdivisions that fail to timely submit annual financial statements after January 1, 2021.

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.

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.

Oversight also notes that DOR noted \$2,000 in system updates for this proposal. Oversight assumes DOR is provided with core funding to handle a certain amount of computer activity from each year's legislative session. Oversight assumes DOR could absorb the system update costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process. Therefore, Oversight will reflect a \$0 fiscal impact to this part of the proposal.

Officials at the **Office of the Attorney General (AGO)** state that the AGO's involvement in the process for dissolution of political subdivisions created through this version of the legislation has been removed and, therefore, will have no fiscal impact.

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

ASSUMPTION (continued)

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 **Kansas City Election Board** each assume no fiscal impact to their respective entities from this proposal.

In response to a previous version, officials at the **Jackson County Election Board** assumed no fiscal impact from this proposal.

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 the Kansas City 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
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GENERAL REVENUE

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)
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<u>Loss</u> - DOR - 2% collection fee that may have been collected if not for the 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 <u>(\$721,143)</u>	<u>\$0</u>	<u>\$0</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 or up to (\$721,143)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
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LOCAL POLITICAL SUBDIVISIONS

<u>Savings</u> - Local Political Subdivisions - on potential fines for certain LPS	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
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<u>Loss</u> - School districts receiving less fine revenue (from savings above)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
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<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>
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<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>
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ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Unknown, less than \$721,143</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
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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.

If, after January 1, 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 will initiate the process to disincorporate the political subdivision.

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
Kansas City Election Board
Jackson County Election Board



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March 3, 2020



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