

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2646S.01I
 Bill No.: SB 547
 Subject: Auditor, State; Counties; County Government; County Officials; Political Subdivisions; Revenue, Department of
 Type: Original
 Date: March 9, 2021

Bill Summary: This proposal modifies provisions regarding the expungement of records.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue*	\$0 or up to (\$1,260,108)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue*	\$0 or up to (\$1,260,108)	\$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 \$1,260,108 (which represents if DOR would have collected 100% of the \$63 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 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government*	Unknown, less than \$1,260,108	\$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 \$1,260,108 (which represents if DOR would have collected 100% of the \$63 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

§105.145

In response to a similar proposal, HCS for HB 441, from this session, officials from the **Office of Administration - Budget and Planning (B&P)** assumed §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, 2022, 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 uncollectable. 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. This proposal directs that the DOR Director initiate a ballot measure that could dissolve political subdivisions that fail to timely submit annual financial statements after August 28, 2021. B&P defers to DOR for more specific estimates of fines and 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.

Currently, a transportation development district that has gross revenues of less than \$5,000 in a fiscal year is 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, 2022 to receive a 90% reduction of their outstanding balance of their fines owed. The Department notes that this fine money is given to the local jurisdiction's school district when paid, minus a 2% collection fee retained by the Department of Revenue that is deposited into General Revenue.

Current records of the Department show total fines of \$72,444,999.99 and that \$2,438,991.50 has been collected. The Department is showing the assessment of the fines by the political subdivision type and by the county in which the district that owes the fine is located.

By Political Subdivision Type:

PolSub Type	Total Owed	Total Paid
911	\$500.00	\$0.00
AMB	\$2,143,500.00	\$91,639.53
CID	\$13,349,500.00	\$360,986.77
City	\$23,435,499.99	\$1,745,878.33
Drain	\$3,789,000.00	\$0.00
FPD	\$9,502,500.00	\$42,500.00
Health	\$333,500.00	\$0.00
Hospital	\$524,500.00	\$0.00
Levy	\$3,128,500.00	\$0.00
Library	\$757,000.00	\$0.00
NHD	\$215,000.00	\$0.00
PWSD	\$3,124,000.00	\$6,500.00
SEWER	\$223,500.00	\$0.00
SLD	\$771,500.00	\$0.00
SRD	\$6,666,500.00	\$0.00
TDD	\$4,480,500.00	\$191,486.87
	\$72,444,999.99	\$2,438,991.50

By County of where the political subdivision is located:

County	Total Fines Assessed	Total Paid
Adair	\$551,500.00	\$1,500.00
Andrew	\$46,500.00	\$0.00
Atchison	\$525,500.00	\$0.00
Audrain	\$688,000.00	\$0.00

Barry	\$1,320,500.00	\$14,113.87
Barton	\$0.00	\$0.00
Bates	\$492,500.00	\$29,408.04
Benton	\$38,500.00	\$0.00
Bollinger	\$1,086,000.00	\$0.00
Boone	\$259,000.00	\$20,967.30
Buchanan	\$506,500.00	\$34,689.99
Butler	\$913,000.00	\$26,694.50
Caldwell	\$100,000.00	\$14,500.93
Callaway	\$190,000.00	\$1,947.94
Camden	\$220,000.00	\$22,000.00
Cape Girardeau	\$195,500.00	\$0.00
Carroll	\$2,142,500.00	\$0.00
Carter	\$1,172,500.00	\$17,500.00
Cass	\$2,944,500.00	\$8,463.47
Cedar	\$211,500.00	\$28,500.00
Chariton	\$372,000.00	\$39,500.00
Christian	\$1,427,500.00	\$0.00
Clark	\$454,000.00	\$37,500.00
Clay	\$682,500.00	\$14,500.00
Clinton	\$875,500.00	\$0.00
Cole	\$434,000.00	\$3,628.34
Cooper	\$828,500.00	\$22,000.00
Crawford	\$944,000.00	\$20,000.00
Dade	\$143,500.00	\$0.00
Dallas	\$806,500.00	\$0.00
Daviess	\$425,500.00	\$0.00
DeKalb	\$390,000.00	\$0.00
Dent	\$194,500.00	\$0.00
Douglas	\$0.00	\$0.00
Dunklin	\$1,200,500.00	\$14,818.20
Franklin	\$947,500.00	\$443.90
Gasconade	\$65,500.00	\$4,249.10
Gentry	\$1,159,500.00	\$0.00
Greene	\$516,500.00	\$9,000.00
Grundy	\$645,000.00	\$0.00
Harrison	\$390,000.00	\$0.00

Henry	\$492,500.00	\$76,883.03
Hickory	\$416,500.00	\$0.00
Holt	\$995,000.00	\$10,500.00
Howard	\$690,000.00	\$147,500.00
Howell	\$489,500.00	\$56,000.00
Iron	\$20,000.00	\$12,000.00
Jackson	\$1,688,500.00	\$204,833.53
Jasper	\$729,000.00	\$24,598.49
Jefferson	\$807,000.00	\$17,800.33
Johnson	\$391,500.00	\$1,500.00
Knox	\$738,500.00	\$0.00
Laclede	\$193,500.00	\$12,000.00
Lafayette	\$237,000.00	\$33,417.80
Lawrence	\$1,916,000.00	\$0.00
Lewis	\$1,187,000.00	\$0.00
Lincoln	\$712,500.00	\$26,313.03
Linn	\$304,000.00	\$30,500.00
Livingston	\$812,500.00	\$22,000.00
Macon	\$38,500.00	\$0.00
Madison	\$1,340,500.00	\$5,139.53
Maries	\$7,000.00	\$0.00
Marion	\$0.00	\$0.00
McDonald	\$38,500.00	\$0.00
Mercer	\$416,500.00	\$0.00
Miller	\$554,500.00	\$2,528.17
Mississippi	\$807,500.00	\$70.56
Moniteau	\$0.00	\$0.00
Monroe	\$10,000.00	\$10,000.00
Montgomery	\$109,500.00	\$0.00
Morgan	\$0.00	\$0.00
New Madrid	\$1,232,500.00	\$102,036.35
Newton	\$242,500.00	\$25,500.00
Nodaway	\$1,804,000.00	\$10,000.00
Oregon	\$0.00	\$0.00
Osage	\$369,500.00	\$9,937.93
Ozark	\$43,000.00	\$43,000.00
Pemiscot	\$2,032,500.00	\$6,500.00
Perry	\$1,162,000.00	\$0.00

Pettis	\$401,000.00	\$0.00
Phelps	\$333,500.00	\$50,000.00
Pike	\$0.00	\$0.00
Platte	\$632,500.00	\$22,500.00
Polk	\$267,000.00	\$0.00
Pulaski	\$860,500.00	\$17,000.00
Putnam	\$0.00	\$0.00
Ralls	\$177,500.00	\$31,055.19
Randolph	\$660,500.00	\$10,500.00
Ray	\$1,374,000.00	\$0.00
Reynolds	\$397,500.00	\$657.95
Ripley	\$232,000.00	\$0.00
Saline	\$463,500.00	\$0.00
Schuyler	\$430,500.00	\$0.00
Scotland	\$548,000.00	\$0.00
Scott	\$1,298,000.00	\$0.00
Shannon	\$104,500.00	\$95,001.92
Shelby	\$6,500.00	\$6,500.00
St Clair	\$178,000.00	\$0.00
St. Charles	\$935,000.00	\$46,455.82
St. Clair	\$1,240,500.00	\$229.37
St. Francois	\$238,500.00	\$0.00
St. Louis	\$2,052,500.00	\$473,564.92
St. Louis City	\$4,018,000.00	\$104,946.13
Ste. Genevieve	\$0.00	\$0.00
Stoddard	\$950,500.00	\$132,693.13
Stone	\$687,999.99	\$88,499.99
Sullivan	\$455,000.00	\$0.00
Taney	\$909,500.00	\$8,500.00
Taney	\$0.00	\$0.00
Texas	\$697,500.00	\$39,500.00
Vernon	\$764,000.00	\$12,000.00
Warren	\$10,500.00	\$10,500.00
Washington	\$482,500.00	\$12,000.00
Wayne	\$852,500.00	\$402.75
Webster	\$231,000.00	\$0.00
Worth	\$19,000.00	\$0.00

Wright	\$0.00	
TOTALS	\$72,444,999.99	\$2,438,991.50

DOR notes that per statute they are allowed to retain 2% of the amount collected for administration. Since the program began they have collected \$48,779.83 which has been deposited into General Revenue. All DOR collection fees are deposited into General Revenue and are not retained by the Department.

The current outstanding balance is \$70,006,008.49 (\$72,444,999.99 - \$2,438,991.50). This is money the Department notes is owed, but most likely uncollectable. Should it be collected it will be forwarded to the local school district fund. Therefore if all political subdivision file their report and receive the reduction it would be a loss of \$61,745,300 to the local school districts from not receiving the fine money, a loss to the state of \$1,260,108 in collection fees and a gain to the local political subdivisions of \$63,005,408 (\$70,006,008 * 90%).

The new provisions to this proposal calls for DOR to initiate a ballot measure that could dissolve political subdivisions that fail to timely submit annual financial statements after January 1, 2022. The Department assumes that if there is an impact it could be absorbed by the Department.

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 this proposal is allowing a political subdivision that files its financial statement after August 28, 2021 to receive a one-time 90% reduction of their outstanding balance of their fines owed. DOR noted in their response after January 1, 2022.

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 majority of the \$70,006,008 of outstanding fines to be uncollectible. Therefore, Oversight will range the fiscal impact from this proposal from \$0 to DOR's estimates.

In response to similar legislation from this year, HCS for HB 441, officials at the **Kansas City Board of Elections** assumed the cost of an election in the City portion of Jackson County is \$625,000. A political subdivision would pay their pro-rata cost based on voter registration. Their costs could range from \$10,000 to \$625,000 depending on their registrations, plus an extra \$5,000 to \$10,000 to place legal notices in the paper for 8 weeks prior to Election Day.

In response to similar legislation from this year, HCS for HB 441, officials at the **Platte County Board of Elections** assumed increased publishing costs of \$1,500 from this proposal.

Oversight notes 105.145.18(4) states any costs of submitting the question shall be paid by the political subdivisions. Oversight will reflect a \$0 or (Unknown) cost to local political subdivisions for such election costs.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

In response to a previous version, officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs.** However, they also recognize 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 our office can sustain with our core budget. **Therefore, they reserve 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 from the **Attorney General's Office** and the **Department of Commerce and Insurance** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to similar legislation from this year, HCS for HB 441, officials from the **Office of the State Courts Administrator**, the **Office of the State Auditor** and the **Department of Public Safety's Office of the Director** each assumed the proposal will have no fiscal impact on

their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **City of Claycomo**, the **City of Corder**, the **City of Hughesville**, the **City of Kansas City**, the **City of O'Fallon** and the **City of Springfield** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to similar legislation from this year, HCS for HB 441, officials from **St. Louis City**, the **St. Louis County Board of Elections** and **Clinton County** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities and counties 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 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE			
<u>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 (§105.145)</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Loss – 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 8/28/21 (§105.145)</u>	\$0 or up to <u>(\$1,260,108)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	\$0 or up to <u>(\$1,260,108)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Savings</u> – on potential fines for certain LPS (§105.145)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Loss</u> – School districts receiving less fine revenue (from savings above) (§105.145)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs</u> – Election costs to disincorporation (§105.145.18)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Savings</u> – 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 8/28/21 (§105.145)	\$0 or up to \$63,005,408	\$0	\$0
<u>Loss</u> – School Districts – reduction in fine revenue from one-time adjustment of fine revenue (§105.145)	\$0 or up to (\$61,745,300)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	Unknown, less than <u>\$1,260,108</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

Under current law, any transportation development district having gross revenues of less than \$5,000 in a fiscal year for which an annual financial statement was not timely filed to the State Auditor is not subject to a fine.

This act provides that any political subdivision that has gross revenues of less than \$5,000 or that has not levied or collected sales or use taxes in the fiscal year for which the annual financial statement was not timely filed shall not be subject to a fine.

Additionally, if failure to timely submit the annual financial statement is the result of fraud or other illegal conduct by an employee or officer of the political subdivision, the failure shall not be subject to a fine if the statement is filed within 30 days of discovery of the fraud or illegal conduct.

If the political subdivision has an outstanding balance or fines at the time it files its first annual financial statement after January 1, 2021, the Director of Revenue shall make a one-time downward adjustment to such outstanding balance in an amount that reduces the outstanding balance by 90%. If the Director of Revenue determines a fine is uncollectible, the Director shall have the authority to make a one-time downward adjustment to any outstanding penalty.

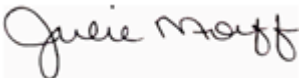
The Director of Revenue shall initiate the process to disincorporate a political subdivision if such political subdivision has an outstanding balance for fines or penalties and fails to file an annual financial statement as provided in the act. A resident of a political subdivision may file an affidavit with the Director of Revenue with information regarding the political subdivision's failure to report.

The question of whether a political subdivision may be subject to disincorporation shall be submitted to the voters of the political subdivision as provided in the act. Upon the affirmative vote of a majority of voters in the political subdivision, the Director of Revenue shall file an action to disincorporate the political subdivision in the circuit court with jurisdiction over the political subdivision. The circuit court shall enforce such orders and carry out remedies as provided in the act. Additionally, the Attorney General shall have the authority to file an action in a court of competent jurisdiction against any political subdivision that fails to comply with this act.

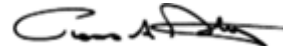
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Budget and Planning
Department of Revenue
Kansas City Board of Elections
Platte County Board of Elections
Joint Committee on Administrative Rules
Office of the Secretary of State
Office of the State Auditor
Attorney General's Office
Office of the State Courts Administrator
City of Kansas City
City of O'Fallon
City of Springfield
St. Louis City
St. Louis County Board of Elections
Clinton County
Claycomo
Corder
Hughesville
Department of Commerce and Insurance
Department of Natural Resources
Department of Public Safety - Office of the Director
Missouri Department of Conservation
City of Brentwood
City of Norborne
Southwest City
City of Tipton
City of Ballwin



Julie Morff
Director
March 9, 2021



Ross Strobe
Assistant Director
March 9, 2021