

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 724

101ST GENERAL ASSEMBLY

4303S.02C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 105.145, RSMo, and to enact in lieu thereof one new section relating to financial statements of political subdivisions, with penalty provisions.

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

Section A. Section 105.145, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 105.145,
3 to read as follows:

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

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

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

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

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 summary of cash receipts, a summary of cash disbursements
19 and the cash balance at the end of the reporting period.

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

25 4. The state auditor shall immediately on receipt of
26 each financial report acknowledge the receipt of the report.

27 5. In any fiscal year no member of the governing body
28 of any political subdivision of the state shall receive any
29 compensation or payment of expenses after the end of the
30 time within which the financial statement of the political
31 subdivision is required to be filed with the state auditor
32 and until such time as the notice from the state auditor of
33 the filing of the annual financial report for the fiscal
34 year has been received.

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

40 7. All reports or financial statements hereinabove
41 mentioned shall be considered to be public records.

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

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

49 10. The state auditor shall report any violation of
50 subsection 9 of this section to the department of revenue.
51 Upon notification from the state auditor's office that a
52 political subdivision failed to timely submit a copy of the
53 annual financial statement, the department of revenue shall
54 notify such political subdivision by certified mail that the
55 statement has not been received. Such notice shall clearly
56 set forth the following:

57 (1) The name of the political subdivision;

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

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

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

70 In the event a copy of the annual financial statement is
71 received within such thirty-day period, no fine shall accrue
72 or be imposed. The state auditor shall report receipt of
73 the financial statement to the department of revenue within
74 ten business days. Failure of the political subdivision to
75 submit the required annual financial statement within such
76 thirty-day period shall cause the fine to be collected as
77 provided under subsection 11 of this section.

78 11. The department of revenue may collect the fine
79 authorized under the provisions of subsection 9 of this

80 section by offsetting any sales or use tax distributions due
81 to the political subdivision. The director of revenue shall
82 retain two percent for the cost of such collection. The
83 remaining revenues collected from such violations shall be
84 distributed annually to the schools of the county in the
85 same manner that proceeds for all penalties, forfeitures,
86 and fines collected for any breach of the penal laws of the
87 state are distributed.

88 12. Any [transportation development district organized
89 under sections 238.200 to 238.275 having] **political**
90 **subdivision that has** gross revenues of less than five
91 thousand dollars **or that has not levied or collected sales**
92 **or use taxes** in the fiscal year for which the annual
93 financial statement was not timely filed shall not be
94 subject to the fine authorized in this section.

95 13. **If a failure to timely submit the annual financial**
96 **statement is the result of fraud or other illegal conduct by**
97 **an employee or officer of the political subdivision, the**
98 **political subdivision shall not be subject to a fine**
99 **authorized under this section if the statement is filed**
100 **within thirty days of the discovery of the fraud or illegal**
101 **conduct. If a fine is assessed and paid prior to the filing**
102 **of the statement, the department of revenue shall refund the**
103 **fine upon notification from the political subdivision.**

104 14. **If a political subdivision has an outstanding**
105 **balance for fines or penalties at the time it files its**
106 **first annual financial statement after January 1, 2022, the**
107 **director of revenue shall make a one-time downward**
108 **adjustment to such outstanding balance in an amount that**
109 **reduces the outstanding balance by no less than ninety**
110 **percent.**

111 15. The director of revenue shall have the authority
112 to make a one-time downward adjustment to any outstanding
113 penalty imposed under this section on a political
114 subdivision if the director determines the fine is
115 uncollectable. The director of revenue may prescribe rules
116 and regulations necessary to carry out the provisions of
117 this subsection. Any rule or portion of a rule, as that
118 term is defined in section 536.010, that is created under
119 the authority delegated in this section shall become
120 effective only if it complies with and is subject to all of
121 the provisions of chapter 536 and, if applicable, section
122 536.028. This section and chapter 536 are nonseverable, and
123 if any of the powers vested with the general assembly
124 pursuant to chapter 536 to review, to delay the effective
125 date, or to disapprove and annul a rule are subsequently
126 held unconstitutional, then the grant of rulemaking
127 authority and any rule proposed or adopted after August 28,
128 2021, shall be invalid and void.

129 16. If a political subdivision with an outstanding
130 balance for fines or penalties:

131 (1) Fails to file an annual financial statement after
132 August 28, 2021, and before January 1, 2022; or

133 (2) Files an annual financial statement after August
134 28, 2021, and before January 1, 2022, but fails to file any
135 annual financial statement thereafter,

136 then the director of revenue shall initiate the process to
137 disincorporate the political subdivision under subsection 18
138 of this section.

139 17. If any resident of a political subdivision
140 believes or knows that the political subdivision has failed
141 to file the annual financial report required under

142 subsection 2 of this section, the resident may file an
143 affidavit with the director of revenue that attests to the
144 alleged failure. The director of revenue shall evaluate the
145 allegation and, if true, notify the political subdivision
146 that it has thirty days to comply with subsection 2 of this
147 section. If the political subdivision has not complied
148 after thirty days, the director of revenue shall initiate
149 the process to disincorporate the political subdivision
150 under subsection 18 of this section.

151 18. (1) The question of whether a political
152 subdivision subject to possible disincorporation under
153 subsection 16 or 17 of this section shall be disincorporated
154 shall be submitted to the voters of the political
155 subdivision. The election upon the question shall be held
156 on the next general election day.

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

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

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

172 (5) The question shall be submitted to the voters of
173 such city, town, or village in substantially the following
174 form:

175 The (city/town/village) of _____ (has an
176 outstanding balance for fines or penalties and)
177 has failed to file an annual financial statement,
178 as required by law. Shall the (city/town/village)
179 of _____ be disincorporated?

180 YES NO

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

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

188 (1) The appointment of an administrative authority for
189 the political subdivision, which may be another political
190 subdivision, the state, a qualified private party, or other
191 qualified entity;

192 (2) All financial and other institutions holding funds
193 of the political subdivision, as identified by the director
194 of revenue, to honor the directives of the administrative
195 authority;

196 (3) The director of revenue or other party charged
197 with distributing tax revenue to distribute the revenues and
198 funds of the political subdivision to the administrative
199 authority; and

200 (4) The disincorporation of the political subdivision
201 and the effective date of the disincorporation, taking into
202 consideration a reasonable transition period.

203 The administrative authority shall administer all revenues
204 under the name of the political subdivision or its agents
205 and administer all funds collected on behalf of the
206 political subdivision. The administrative authority shall
207 use the revenues and existing funds to pay all debts and
208 obligations of the political subdivision other than the
209 penalties accrued under this section. The circuit court
210 shall have ongoing jurisdiction to enforce its orders and
211 carry out the remedies under this subsection.

212 20. The attorney general shall have the authority to
213 file an action in a court of competent jurisdiction against
214 any political subdivision that fails to comply with the
215 provisions of this section.

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