

SENATE BILL NO. 724

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

4303S.01H

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Section A. Section 105.145, RSMo, is repealed and one new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 herein above
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 August 28, 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 ninety percent.**

110 15. **The director of revenue shall have the authority**
111 **to make a one-time downward adjustment to any outstanding**

112 penalty imposed under this section on a political
113 subdivision if the director determines the fine is
114 uncollectable. The director of revenue may prescribe rules
115 and regulations necessary to carry out the provisions of
116 this subsection. Any rule or portion of a rule, as that
117 term is defined in section 536.010, that is created under
118 the authority delegated in this section shall become
119 effective only if it complies with and is subject to all of
120 the provisions of chapter 536 and, if applicable, section
121 536.028. This section and chapter 536 are nonseverable, and
122 if any of the powers vested with the general assembly
123 pursuant to chapter 536 to review, to delay the effective
124 date, or to disapprove and annul a rule are subsequently
125 held unconstitutional, then the grant of rulemaking
126 authority and any rule proposed or adopted after August 28,
127 2022, shall be invalid and void.

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

130 (1) Fails to file an annual financial statement after
131 August 28, 2022, and before January 31, 2023; or

132 (2) Files an annual financial statement after August
133 28, 2022, and before January 31, 2023, but fails to file any
134 annual financial statement thereafter,

135 then the director of revenue shall notify the attorney
136 general, and the attorney general shall initiate the process
137 to disincorporate the political subdivision under subsection
138 18 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 attorney general that attests to the
144 alleged failure. The attorney general 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 still has not
148 complied after thirty days, the attorney general shall
149 initiate the process to disincorporate the political
150 subdivision under subsection 18 of this section.

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

156 (2) No later than 5:00 p.m. on the tenth Tuesday prior
157 to the election, the attorney general shall notify the
158 election authorities responsible for conducting the election
159 according to the provisions of section 115.125 and the
160 county governing body in which the political subdivision is
161 located.

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

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

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

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

179 YES NO

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

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

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

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

195 (3) The director of revenue or other party charged
196 with distributing tax revenue, as identified by the attorney
197 general, to distribute the revenues and funds of the
198 political subdivision to the administrative authority; and

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

202 The administrative authority shall administer all revenues
203 under the name of the political subdivision or its agents
204 and administer all funds collected on behalf of the

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

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