

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1633
101ST GENERAL ASSEMBLY

3848H.06C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 105.145, RSMo, and to enact in lieu thereof one new section relating to political subdivisions, with a penalty provision.

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Section A. Section 105.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.145, to read as follows:

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 4. The state auditor shall immediately on receipt of each financial report acknowledge
19 the receipt of the report.

20 5. In any fiscal year no member of the governing body of any political subdivision of
21 the state shall receive any compensation or payment of expenses after the end of the time
22 within which the financial statement of the political subdivision is required to be filed with
23 the state auditor and until such time as the notice from the state auditor of the filing of the
24 annual financial report for the fiscal year has been received.

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

29 7. All reports or financial statements hereinabove mentioned shall be considered to be
30 public records.

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

33 9. Any political subdivision that fails to timely submit a copy of the annual financial
34 statement to the state auditor shall be subject to a fine of five hundred dollars per day.
35 **However, for any municipality with fewer than three thousand five hundred inhabitants,**
36 **the collective total of fines under this subsection shall not exceed ten percent of the total**
37 **sales and use tax revenue of the fiscal year for which the annual financial statement was**
38 **not timely filed.**

39 10. The state auditor shall report any violation of subsection 9 of this section to the
40 department of revenue. Upon notification from the state auditor's office that a political
41 subdivision failed to timely submit a copy of the annual financial statement, the department of
42 revenue shall notify such political subdivision by ~~[certified mail]~~ **regular mail, or by**
43 **electronic means with a delivery confirmation**, that the statement has not been received. **If**
44 **the political subdivision is a municipality with fewer than three thousand five hundred**
45 **inhabitants, the department of revenue shall send the notice by regular mail, or by**
46 **electronic means with a delivery confirmation, to both the chief executive and chief**
47 **financial officer of the municipality.** Such notice shall clearly set forth the following:

48 (1) The name of the political subdivision;

49 (2) That the political subdivision shall be subject to a fine of five hundred dollars per
50 day if the political subdivision does not submit a copy of the annual financial statement to the
51 state auditor's office within thirty days from the ~~[postmarked date stamped on the certified~~
52 ~~mail envelope]~~ **date the notice was sent;**

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

55 (4) That the fine will begin accruing on the thirty-first day from the ~~[postmarked date~~
56 ~~stamped on the certified mail envelope]~~ **date the notice was sent** and will continue to accrue
57 until the state auditor's office receives a copy of the financial statement.

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59 In the event a copy of the annual financial statement is received within such thirty-day period,
60 no fine shall accrue or be imposed. The state auditor shall report receipt of the financial
61 statement to the department of revenue within ten business days. Failure of the political
62 subdivision to submit the required annual financial statement within such thirty-day period
63 shall cause the fine to be collected as provided under subsection 11 of this section.

64 11. The department of revenue may collect the fine authorized under the provisions of
65 subsection 9 of this section by offsetting any sales or use tax distributions due to the political
66 subdivision. The director of revenue shall retain two percent for the cost of such collection.
67 The remaining revenues collected from such violations shall be distributed annually to the
68 schools of the county in the same manner that proceeds for all penalties, forfeitures, and fines
69 collected for any breach of the penal laws of the state are distributed.

70 12. Any transportation development district organized under sections 238.200 to
71 238.275 having gross revenues of less than five thousand dollars in the fiscal year for which
72 the annual financial statement was not timely filed shall not be subject to the fine authorized
73 in this section.

74 **13. If a failure to timely submit the annual financial statement is the result of**
75 **fraud or other illegal conduct by an employee or officer of the political subdivision, the**
76 **political subdivision shall not be subject to a fine authorized under this section if the**
77 **statement is filed within thirty days of the discovery of the fraud or illegal conduct. If a**
78 **fine is assessed and paid prior to the filing of the statement, the department of revenue**
79 **shall refund the fine upon notification by the political subdivision.**

80 **14. If a political subdivision has an outstanding balance for fines or penalties at**
81 **the time it files its first annual financial statement after January 1, 2023, the director of**
82 **revenue shall make a one-time downward adjustment to such outstanding balance in an**
83 **amount that reduces the outstanding balance by ninety percent.**

84 **15. Beginning August 1, 2023, the director of revenue shall have the authority to**
85 **make a one-time downward adjustment to any outstanding penalty imposed on a single**
86 **political subdivision under this section if the director determines the fine is not**
87 **collectable. The director of revenue may prescribe rules and regulations necessary to**
88 **carry out the provisions of this subsection. Any rule or portion of a rule, as that term is**
89 **defined in section 536.010, that is created under the authority delegated in this section**
90 **shall become effective only if it complies with and is subject to all of the provisions of**
91 **chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**

92 nonseverable, and if any of the powers vested with the general assembly pursuant to
93 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
94 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
95 proposed or adopted after August 28, 2022, shall be invalid and void.

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