

SECOND REGULAR SESSION

# HOUSE BILL NO. 1854

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PFAUTSCH.

3153H.02I

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

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

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Section A. Section 105.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.145, to read as follows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

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

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

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

27           7. All reports or financial statements herein above mentioned shall be considered to be  
28 public records.

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

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

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

38           (1) The name of the political subdivision;

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

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

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

48

49 In the event a copy of the annual financial statement is received within such thirty-day period,  
50 no fine shall accrue or be imposed. The state auditor shall report receipt of the financial  
51 statement to the department of revenue within ten business days. Failure of the political

52 subdivision to submit the required annual financial statement within such thirty-day period shall  
53 cause the fine to be collected as provided under subsection 11 of this section.

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

60 12. Any [~~transportation development district organized under sections 238.200 to~~  
61 ~~238.275 having~~] **political subdivision that has** gross revenues of less than five thousand dollars  
62 **or that has not levied or collected sales or use taxes** in the fiscal year for which the annual  
63 financial statement was not timely filed shall not be subject to the fine authorized in this section.

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

70 **14. If a political subdivision has an outstanding balance for fines or penalties at the**  
71 **time it files its first annual financial statement after August 28, 2020, the director of**  
72 **revenue shall make a one-time downward adjustment to such outstanding balance in an**  
73 **amount that reduces the outstanding balance by ninety percent.**

74 **15. The director of revenue shall have the authority to make a one-time downward**  
75 **adjustment to any outstanding penalty imposed under this section on a political subdivision**  
76 **if the director determines the fine is uncollectable. The director of revenue may prescribe**  
77 **rules and regulations necessary to carry out the provisions of this subsection. Any rule or**  
78 **portion of a rule, as that term is defined in section 536.010, that is created under the**  
79 **authority delegated in this section shall become effective only if it complies with and is**  
80 **subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**  
81 **section and chapter 536 are nonseverable, and if any of the powers vested with the general**  
82 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**  
83 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
84 **authority and any rule proposed or adopted after August 28, 2020, shall be invalid and**  
85 **void.**

86 **16. If a political subdivision with an outstanding balance for fines or penalties:**

87 (1) Fails to file an annual financial statement after August 28, 2020, and before  
88 January 31, 2021; or

89 (2) Files an annual financial statement after August 28, 2020, and before January  
90 31, 2021, but fails to file any annual financial statement thereafter,

91  
92 then the director of revenue shall notify the attorney general, and the attorney general shall  
93 initiate the process to dissolve the political subdivision under subsection 18 of this section.

94 17. If any resident of a political subdivision believes or knows that the political  
95 subdivision has failed to file the annual financial report required under subsection 2 of this  
96 section, the resident may file an affidavit with the attorney general that attests to the  
97 alleged failure. The attorney general shall evaluate the allegation and, if true, notify the  
98 political subdivision that it has thirty days to comply with subsection 2 of this section. If  
99 the political subdivision still has not complied after thirty days, the attorney general shall  
100 initiate the process to dissolve the political subdivision under subsection 18 of this section.

101 18. (1) The question of whether a political subdivision subject to possible  
102 dissolution under subsection 16 or 17 of this section shall be dissolved shall be submitted  
103 to the voters of the political subdivision. The election upon the question shall be held on  
104 the next general election day.

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

109 (3) The election authority shall give notice of the election for eight consecutive  
110 weeks prior to the election by publication in a newspaper of general circulation published  
111 in the political subdivision or, if there is no such newspaper in the political subdivision, in  
112 the newspaper in the county published nearest the political subdivision.

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

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

The (city/town/village) of \_\_\_\_\_ (has an outstanding balance for fines  
or penalties and) has failed to file an annual financial statement, as required  
by law. Shall the (city/town/village) of \_\_\_\_\_ be dissolved?

YES       NO

121 **Upon the affirmative vote of a majority of the qualified voters voting on the question, the**  
122 **attorney general shall file an action to dissolve the political subdivision in the circuit court**  
123 **with jurisdiction over the political subdivision.**

124 **19. In an action to dissolve a political subdivision, the circuit court shall order:**

125 **(1) The appointment of an administrative authority for the political subdivision,**  
126 **which may be another political subdivision, the state, a qualified private party, or other**  
127 **qualified entity;**

128 **(2) All financial and other institutions holding funds of the political subdivision, as**  
129 **identified by the attorney general, to honor the directives of the administrative authority;**

130 **(3) The director of revenue or other party charged with distributing tax revenue,**  
131 **as identified by the attorney general, to distribute the revenues and funds of the political**  
132 **subdivision to the administrative authority; and**

133 **(4) The dissolution of the political subdivision and the effective date of the**  
134 **dissolution, taking into consideration a reasonable transition period.**

135

136 **The administrative authority shall administer all revenues under the name of the political**  
137 **subdivision or its agents and administer all funds collected on behalf of the political**  
138 **subdivision. The administrative authority shall use the revenues and existing funds to pay**  
139 **all debts and obligations of the political subdivision other than the penalties accrued under**  
140 **this section. The circuit court shall have ongoing jurisdiction to enforce its orders and**  
141 **carry out the remedies under this subsection.**

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