

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 547

101ST GENERAL ASSEMBLY

---

2646S.02C

ADRIANE D. CROUSE, Secretary

---

## AN ACT

To repeal sections 105.145, 316.250, and 537.348, RSMo, and to enact in lieu thereof three new sections relating to political subdivisions, with penalty provisions.

---

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

Section A. Sections 105.145, 316.250, and 537.348, RSMo,  
2 are repealed and three new sections enacted in lieu thereof, to  
3 be known as sections 105.145, 316.250, and 537.348, to read as  
4 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

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

17 the cash balance at the beginning of the reporting period, a  
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 **and the mayor, if the**  
55 **political subdivision is a municipality**, by certified mail  
56 that the statement has not been received. Such notice shall  
57 clearly set forth the following:

- 58           (1) The name of the political subdivision;
- 59           (2) That the political subdivision shall be subject to  
60 a fine of five hundred dollars per day if the political  
61 subdivision does not submit a copy of the annual financial  
62 statement to the state auditor's office within thirty days  
63 from the postmarked date stamped on the certified mail  
64 envelope;
- 65           (3) That the fine will be enforced and collected as  
66 provided under subsection 11 of this section; and
- 67           (4) That the fine will begin accruing on the thirty-  
68 first day from the postmarked date stamped on the certified  
69 mail envelope and will continue to accrue until the state  
70 auditor's office receives a copy of the financial statement.

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

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

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

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

105           14. **If a political subdivision has an outstanding**  
106 **balance for fines or penalties at the time it files its**  
107 **first annual financial statement after January 1, 2022, the**  
108 **director of revenue shall make a one-time downward**  
109 **adjustment to such outstanding balance in an amount that**  
110 **reduces the outstanding balance by ninety 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 any resident of a political subdivision  
130 believes or knows that the political subdivision has failed  
131 to file the annual financial report required under  
132 subsection 2 of this section, the resident may file an  
133 affidavit with the director of revenue that attests to the  
134 alleged failure. The director of revenue shall evaluate the  
135 allegation and, if true, notify the political subdivision  
136 that it has thirty days to comply with subsection 2 of this  
137 section. If the political subdivision has not complied  
138 after thirty days, and if the political subdivision has an  
139 outstanding balance for fines or penalties and is not  
140 levying or collecting any taxes, and has no outstanding  
141 financial obligations, the director of revenue shall

142 initiate the process to disincorporate the political  
143 subdivision under subsection 18 of this section.

144 17. If a political subdivision has an outstanding  
145 balance for fines or penalties and is not levying or  
146 collecting any taxes, and has no outstanding financial  
147 obligations, the director of revenue shall initiate the  
148 process to disincorporate the political subdivision under  
149 subsection 18 of this section.

150 18. (1) The question of whether a political  
151 subdivision subject to possible disincorporation under  
152 subsection 16 or 17 of this section shall be disincorporated  
153 shall be submitted to the voters of the political  
154 subdivision. The election upon the question shall be held  
155 on the next general election day.

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

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

179                            YES                    NO

180           Upon the affirmative vote of a majority of the qualified  
181           voters voting on the question, the director of revenue 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, if any, as identified by the  
193           director of revenue, to honor the directives of the  
194           administrative authority;

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

199           (4) The disincorporation of the political subdivision  
200           and the effective date of the disincorporation, 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.**

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

316.250. 1. This section shall be known and may be  
2 cited as "Ethan's Law".

3 2. Every owner of a for-profit private swimming pool  
4 or facility shall maintain adequate insurance coverage in an  
5 amount of not less than one million dollars per occurrence  
6 for any liability incurred in the event of injury or death  
7 of a patron to such swimming pool or facility, including any  
8 liability incurred under paragraph [(b)] **(a)** of subdivision  
9 (3) of section 537.348. Such owners shall be required to  
10 register with the department of public safety and provide  
11 proof of such insurance coverage at the time of registration  
12 and when requested by any state or local governmental agency  
13 responsible for the enforcement of this section.

14 3. As used in this section, the following terms shall  
15 mean:

16 (1) "Owner", the owner of the land, including but not  
17 limited to a lessee, tenant, mortgagee in possession and the  
18 person in charge of the land on which a swimming pool is  
19 located;



20           (2) "Swimming pool or facility", any for-profit  
21 privately owned tank or body of water with a capacity of  
22 less than five hundred patrons which charges a fee per  
23 admission and is used and maintained for swimming or bathing  
24 purposes which has a maximum depth of greater than twenty-  
25 four inches. "Swimming pool or facility" shall include, but  
26 not be limited to, a swimming pool on lands in connection  
27 with the operation of any type of for-profit privately owned  
28 amusement or recreational park. "Swimming pool or facility"  
29 does not include a swimming pool or facility owned by a  
30 hotel, motel, public or governmental body, agency, or  
31 authority, a naturally occurring body of water or stream, or  
32 a body of water established by a person or persons and used  
33 for watering livestock, irrigation, or storm water  
34 management.

35           4. Any owner who violates the provisions of this  
36 section shall not be permitted to remain in operation until  
37 such owner meets the requirements of this section. Any such  
38 owner who allows operation of a swimming pool or facility in  
39 violation of this section shall be subject to a civil  
40 penalty of two hundred fifty dollars per day for each day of  
41 continued violation up to a maximum of ten thousand dollars  
42 and may be subject to liability for the costs incurred by  
43 the state or a political subdivision for enforcing the  
44 provisions of this section. In a separate court action, the  
45 attorney general may seek reimbursement on behalf of the  
46 state and a political subdivision may seek reimbursement on  
47 behalf of the political subdivision for costs incurred as a  
48 result of enforcing the provisions of this section. For  
49 purposes of this section, "each day of the violation" means  
50 each day that the swimming pool is operational and open for  
51 business and remains in violation of this section. It shall

52 not include days that the swimming pool is not operational  
53 and open for business.

54 5. In addition, any owner who intentionally violates  
55 the provisions of this section is guilty of a class A  
56 misdemeanor. It shall be the duty of each prosecuting  
57 attorney and circuit attorney in their respective  
58 jurisdictions to commence any criminal actions under this  
59 section, and the attorney general shall have concurrent  
60 original jurisdiction to commence such criminal actions  
61 throughout the state where such violations have occurred.

62 6. The department of public safety shall implement  
63 and, with the assistance of local law enforcement agencies,  
64 enforce the provisions of this section.

65 7. An insurance company providing insurance coverage  
66 under this section shall notify the department of public  
67 safety if any owner of a swimming pool or facility as  
68 defined in this section terminates, cancels, or fails to  
69 renew such coverage. The department may utilize local law  
70 enforcement agencies to enforce the provisions of this  
71 section.

537.348. Nothing in this act shall be construed to  
2 create liability, but it does not limit liability that  
3 otherwise would be incurred by those who use the land of  
4 others, or by owners of land for:

5 (1) Malicious or grossly negligent failure to guard or  
6 warn against a dangerous condition, structure, personal  
7 property which the owner knew or should have known to be  
8 dangerous, or negligent failure to guard or warn against an  
9 ultrahazardous condition which the owner knew or should have  
10 known to be dangerous;

11 (2) Injury suffered by a person who has paid a charge  
12 for entry to the land; or

13 (3) Injuries occurring on or in:

14 (a) [Any land within the corporate boundaries of any  
15 city, municipality, town, or village in this state;

16 (b)] Any swimming pool. "Swimming pool" means a pool  
17 or tank, especially an artificial pool or tank, intended and  
18 adapted for swimming and held out as a swimming pool;

19 [(c)] (b) Any residential area. "Residential area" as  
20 used herein means a tract of land of one acre or less  
21 predominately used for residential purposes, or a tract of  
22 land of any size used for multifamily residential services;  
23 or

24 [(d)] (c) Any noncovered land. "Noncovered land" as  
25 used herein means any portion of any land, the surface of  
26 which portion is actually used primarily for commercial,  
27 industrial, mining or manufacturing purposes; provided,  
28 however, that use of any portion of any land primarily for  
29 agricultural, grazing, forestry, conservation, natural area,  
30 owner's recreation or similar or related uses or purposes  
31 shall not under any circumstances be deemed to be use of  
32 such portion for commercial, industrial, mining or  
33 manufacturing purposes.

✓