

HCS HB 1397 -- POLITICAL SUBDIVISIONS

SPONSOR: Gatschenberger

COMMITTEE ACTION: Voted "do pass" by the Committee on Local Government by a vote of 10 to 8.

This substitute changes the laws regarding political subdivisions. In its main provisions, the substitute:

(1) Adds Buchanan County to the list of counties authorized to impose, by rule, regulation, or ordinance a civil fine of up to \$1,000 for each violation of any county rule, regulation, or ordinance (Section 49.272, RSMo);

(2) Authorizes certain political subdivisions to enter into a multi-year asset management professional service contract for the engineering, repair, sustainability, water quality management, and maintenance of existing water storage tanks and appurtenant facilities that does not change the size or capacity. The qualifying political subdivisions include counties, municipalities, public water supply districts, soil and water districts, sanitary districts, and sewer districts. The contract must not require the political subdivision to make annual payments in excess of its water utility charges less its operating expenses and debt service costs. All work performed under the contract must be supervised by a licensed professional engineer who certifies that it is performed in compliance with all applicable codes and engineering standards. On the commencement of the contract, if the water storage tank or facilities need service in order to be in compliance with all local, state, and federal requirements, the contractor must provide the necessary services, the cost of which must be itemized separately and may be charged to the political subdivision in payments spread over at least three years. If the contract contains all these stipulations and requirements, the political subdivision does not have to pay prevailing wages for the contracted services (Sections 49.295, 67.285, 71.289, 247.700, 248.210, 249.1200, and 278.157);

(3) Authorizes county collectors to electronically send property tax statements to an email address provided and authorized by the taxpayer. The taxpayer's email address will be a closed record under Chapter 610. If the county commission certifies that the tax statement was mailed less than 30 days before the delinquent date due to system failures or other reasons and the taxpayer pays within 15 days after the delinquent date or 15 days after the certified mailing date, whichever is later, no penalty or interest can be imposed (Sections 52.230 and 52.240);

(4) Removes the requirement that judges of a county municipal court be residents of the county and allows the county to establish qualifications for the position by ordinance (Section 66.010);

(5) Authorizes local governments to use collection agencies to collect certain debts owed to the local government, including court or administrative fines or costs associated with a criminal conviction or entry of a civil judgment (Section 67.136);

(6) Prohibits any city, town, village, sewer district, or water supply district in St. Charles County that does not actually process or treat sewage or wastewater but pays a premium or fee to another entity for the service from increasing the premium or fee it charges and collects from its customers by more than 200% of the premium or fee it pays to the other entity without a majority vote of the qualified voters of the city, town, village, sewer district, or water supply district (Section 67.312);

(7) Authorizes any county of the first classification to prosecute and punish violations of its county orders in the circuit court or in a county municipal court if the creation of a county municipal court is approved by an order of the county commission. The Franklin County Commission must appoint the first judges for the county municipal court for a term of four years, and thereafter the judges must be elected for a term of four years. The commission must establish by order the number of judges to be appointed and the qualifications for their appointment (Section 67.320);

(8) Authorizes the governing body of Carter County to impose, upon voter approval, a transient guest tax on the charges for RV sites, campsites, lodges, bed and breakfasts, cabins, RV parks, and campgrounds. Currently, the tax can be imposed on charges for all sleeping rooms, hotels, and motels. The substitute specifies that it cannot be less than 2% nor more than 5% per occupied room or site per night. All of the revenue generated from the tax must be used to fund the promotion, operation, and development of tourism. Currently, 50% of the revenue from the tax is used to fund county law enforcement and 50% for the promotion of tourism (Section 67.1018);

(9) Authorizes associate circuit judges in Greene County to hear and determine county traffic ordinance violations. Currently, associate circuit judges in only Cass County are authorized to do this. Associate circuit judges in both counties are authorized to hear other county ordinance violations in addition to traffic violations (Section 67.2010);

(10) Authorizes the board of aldermen in a fourth-class city to

enact an ordinance to allow the city marshal to be appointed instead of elected and the ordinance also may allow the same person to hold the office of city marshal and collector at the same time (Sections 79.050 and 79.055);

(11) Authorizes North Kansas City to impose, upon voter approval, a retail sales tax of up to one-half of 1% for the purpose of improving the public safety for the city including, but not limited to, expenditures on equipment, city employee salaries and benefits, and facilities for police, fire, and emergency medical providers (Section 94.902);

(12) Exempts St. Francois County from the requirement that at least 25% of its revenue from the county's special road and bridge tax levied upon property situated in cities, towns, or villages within the county be spent on the repair and improvement of existing roads and bridges within the cities, towns, and villages from which the revenue accrued (Section 137.556);

(13) Allows the City of Kansas City to establish a land bank agency for the management, sale, transfer, and other disposition of tax delinquent lands and other lands in its possession in order to return it to effective use to provide housing, new industry, and jobs and to create new revenue for the city. The agency must be established by ordinance or resolution as provided by the city's charter and will only have authority over tax delinquent lands and other lands in its possession located within the city. The agency is authorized to acquire real property or interests in property by purchase, gift, exchange, transfer, foreclosure, lease, grant assistance, or other devise. It is to exercise all powers that are conferred by Sections 141.210 - 141.810 and Sections 141.980 - 141.1015 relating to the Land Tax Collection Law, and will be deemed a public corporation acting in a governmental capacity. The agency is exempt from all state and local taxation. It cannot possess or exercise the power of eminent domain or the power to tax. The beneficiaries of the agency will be the taxing authorities that held or owned tax bills against the respective parcels of real estate acquired by the agency at a sheriff's foreclosure sale or by deed from land trustees, and each taxing authority's respective interests in each parcel will be to the extent and in the proportion and according to the priorities determined by the court based on the principal amount of their respective tax bills bore to the total principal amount of all the tax bills described in the judgment. The agency will be composed of five to seven commissioners appointed by specified officials; and each commissioner must furnish a surety bond, if the bond is not already covered by a governmental surety bond, in an amount of up to \$25,000 to be paid out of city funds. The agency is authorized to sue and issue deeds in its name and will have the power to operate as any

other corporate body including hiring staff and entering into contracts. It can convey title to any real estate it has sold or conveyed by general or special warranty deed. A deed must include the selling price and whether the selling price represents a value equal to or greater than two-thirds of the appraised value of the real estate. If the selling price is less than two-thirds of the appraised value, the commissioners must first procure the consent of at least a majority of the entire board. The agency must maintain a perpetual inventory of all acquired real estate. All land owned by the agency can be used as it sees fit including consolidating the land or grouping or regrouping it for economy, utility, or convenience. The annual budget of the agency must be prepared by October 1 and delivered to the ad valorem taxing authorities that appointed commissioners for its review and approval. The substitute specifies the procedure if one of the taxing authorities does not approve the proposed budget. The substitute requires an annual audit of the land bank agency by certified public accountants by April 30 and allows performance audits by the State Auditor or the city auditor at any time. If at any time there are not enough funds available to pay the salaries and other expenses of the agency, sufficient funds will be advanced and paid to the agency upon its requisition from the ad valorem taxing authorities in the county that are not appointing authorities of which 7% will be paid by the county commission and 93% from the other ad valorem taxing authorities. The amount cannot exceed 25% of the agency's annual budget unless agreed to and approved by the taxing authorities. These funds will be considered advances and subject to repayment from funds subsequently collected by the agency. A land bank commissioner or salaried agency employee is prohibited from receiving any compensation, emolument, or other profit from the rental, management, acquisition, sale, demolition, repair, rehabilitation, use, operation, ownership or other disposition of any lands held by the agency other than the salaries, expenses, and emoluments provided by law and is prohibited from having any relationship with, being employed by, or receiving compensation from any contractor or developer who purchases property from the agency. Anyone convicted of violating this provision will be guilty of a felony and, upon conviction, sentenced to between two and five years in the state penitentiary (Sections 141.210, 141.220, 141.250, 141.290, 141.300, 141.320, 141.410, 141.430, 141.440, 141.480, 141.500, 141.530, 141.540, 141.550, 141.560, 141.570, 141.580, 141.720, 141.770, 141.785, 141.790, and 141.980 - 141.1015);

(14) Repeals the provisions regarding the Department of Health and Senior Services requesting an offset of an income tax refund to satisfy an outstanding debt owed by a taxpayer. Currently, the department processes claims submitted by hospitals and health care providers requesting an offset. The substitute authorizes

an entity designated as a claim clearinghouse to process and verify requests for an offset for ambulance service providers of taxpayer income tax refunds and lottery winnings to satisfy outstanding debts for ambulance services received. Prior to utilizing the clearinghouse, an ambulance service provider must determine whether the patient is eligible for relief from the claim under the provider's financial hardship policy, and if not, the provider must exhaust all available means of collecting the debt from the patient or third-party payer, and give certain notices to patients and allow for various levels of review and appeals of their claims. A collection assistance fee allocated between the clearinghouse and the Department of Revenue is assessed to each offset for the costs of collecting the debt. Claims for debts owed to ambulance service providers requesting an offset will receive the least priority as specified in Section 143.789 (Sections 143.789 and 143.790);

(15) Adds any emergency medical technician licensed pursuant to Chapter 190 to the list of individuals who can report to the Department of Revenue any person diagnosed or assessed as having a disorder or condition that may prevent him or her from safely operating a motor vehicle in order to provide the department director with good cause to believe that the operator is incompetent or unqualified to retain his or her driver's license (Section 302.291);

(16) Allows any person licensed to sell liquor at retail by the drink for consumption on the premises where sold to use a table tap dispensing system to allow patrons to dispense beer at a table. However, the employee of the licensee must first authorize an amount of beer, not to exceed 32 ounces per patron per authorization, to be dispensed by the system (Section 311.205);

(17) Requires the certification testing and recertification fee that the Division of Fire Safety, within the Department of Public Safety, and the State Fire Marshal charges for the voluntary training and certification program for firefighters and other persons in the field of emergency response, rescue, and fire prevention and preparedness to be deposited into the Fire Education Fund established in Section 320.094 instead of being deposited into the General Revenue Fund (Section 320.202);

(18) Requires any fire protection district director who has been found guilty of or pled guilty to any felony offense to immediately forfeit his or her office. The substitute also prohibits a person from serving as a director or having the person's name appear on the ballot as a candidate for that office, if the person is in arrears for any unpaid or past due county taxes (Section 321.130);

(19) Requires members appointed to a board of directors of a fire protection district to complete specified educational training. The requirement to complete educational training is in addition to the qualifications for the office otherwise prescribed by law (Section 321.162);

(20) Specifies that if any city, town, village, or county adopts, implements, and enforces a residential construction regulatory system applicable to residential construction within its jurisdiction, any fire protection district wholly or partially located therein is prohibited from enforcing or implementing a residential construction regulatory system. Any regulatory system adopted by a fire protection district or its board will be treated as advisory only and cannot be enforced. Fire protection districts will have final regulatory authority regarding the location and specifications of fire hydrants, fire hydrant flow rates, and fire lanes and can inspect residential dwellings but cannot charge a fee for the services (Section 321.228);

(21) Allows two or more fire protection districts to consolidate if they are located within the same county, in whole or in part. Currently, two or more districts may consolidate with each other only if the districts have one or more common boundaries, in whole or in part (Section 321.460);

(22) Lowers the number of qualified signatures required in order to recall an officer of a fire protection district board from 25% to 20% of the number of voters who voted in the most recent gubernatorial election in that district (Section 321.711); and

(23) Requires an anemometer tower, which is a wind speed testing tower, that is located outside of a municipality's boundaries and is 50 feet or more in height to have certain safety markings. The top third of the tower must be painted in equal, alternating bands of aviation orange and white, each outside guy wire must have two attached marker balls, the vegetation around guy wire anchor points must contrast with surrounding vegetation, and guy wires must have safety sleeves. An owner of an anemometer tower in existence as of August 28, 2012, is given one year after the substitute's effective date to comply with these requirements. A violation of these provisions is a class C misdemeanor (Section 1).

FISCAL NOTE: Estimated Net Effect on General Revenue Fund of a cost of \$220,167 to an income of Unknown in FY 2013, FY 2014, and FY 2015. Estimated Net Income on Other State Funds of \$108,033 in FY 2013, \$129,640 in FY 2014, and \$129,640 in FY 2015.

PROPONENTS: Supporters say that the bill is necessary to prevent

certain public water supply districts from raising rates just because they have the authority to do so.

Testifying for the bill was Representative Gatschenberger.

OPPONENTS: Those who oppose the bill say that authorizing a fee increase only upon voter approval could be very detrimental to the district. If an increase is not approved, necessary repairs may not be made due to lack of funding, potentially affecting the health of the public.

Testifying against the bill was Mike Dougherty, Public Water Supply District #1 of St. Charles County.