

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 552, Page 2, Section 36.155, Line 20, by
2 inserting after all of said line the following:

3
4 "105.145. 1. The following definitions shall be applied to the terms used in this section:

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

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

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

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

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

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

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

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

31 8. The provisions of this section apply to the board of directors of every transportation
32 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 10. The state auditor shall report any violation of subsection 9 of this section to the
36 department of revenue. Upon notification from the state auditor's office that a political subdivision

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1 failed to timely submit a copy of the annual financial statement, the department of revenue shall
 2 notify such political subdivision by certified mail that the statement has not been received. Such
 3 notice shall clearly set forth the following:

4 (1) The name of the political subdivision;

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

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

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

13
 14 In the event a copy of the annual financial statement is received within such thirty-day period, no
 15 fine shall accrue or be imposed. The state auditor shall report receipt of the financial statement to
 16 the department of revenue within ten business days. Failure of the political subdivision to submit
 17 the required annual financial statement within such thirty-day period shall cause the fine to be
 18 collected as provided under subsection 11 of this section.

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

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

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

34 14. If a political subdivision has an outstanding balance for fines or penalties at the time it
 35 files its first annual financial statement after January 1, 2021, the director of revenue shall make a
 36 one-time downward adjustment to such outstanding balance in an amount that reduces the
 37 outstanding balance by ninety percent.

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

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

1 (1) Fails to file an annual financial statement after August 28, 2020, and before January 1,
 2 2021; or

3 (2) Files an annual financial statement after August 28, 2020, and before January 1, 2021,
 4 but fails to file any annual financial statement thereafter,

5
 6 then the director of revenue shall initiate the process to disincorporate the political subdivision as
 7 prescribed by law.

8 17. If any resident of a political subdivision believes or knows that the political subdivision
 9 has failed to file the annual financial report required under subsection 2 of this section, the resident
 10 may file an affidavit with the director of revenue that attests to the alleged failure. The director of
 11 revenue shall evaluate the allegation and, if true, notify the political subdivision and any
 12 municipality or county encompassing the political subdivision by both certified mail and first-class
 13 mail that the political subdivision has ninety days to comply with subsection 2 of this section. If the
 14 political subdivision has not complied after ninety days, the director of revenue shall initiate the
 15 process to disincorporate the political subdivision as prescribed by law.

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

20 (2) No later than five o'clock p.m. on the tenth Tuesday prior to the election, the director of
 21 revenue shall notify the election authorities responsible for conducting the election according to the
 22 provisions of section 115.125 and the county governing body in which the political subdivision is
 23 located.

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

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

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

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

34
 35 YES NO

36
 37 Upon the affirmative vote of a majority of the qualified voters voting on the question, the director of
 38 revenue shall file an action to disincorporate the political subdivision in the circuit court with
 39 jurisdiction over the political subdivision.

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

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

43 (2) All financial and other institutions holding funds of the political subdivision, as
 44 identified by the director of revenue, to honor the directives of the administrative authority;

45 (3) The director of revenue or other party charged with distributing tax revenue to distribute
 46 the revenues and funds of the political subdivision to the administrative authority; and

47 (4) The disincorporation of the political subdivision and the effective date of the
 48 disincorporation, taking into consideration a reasonable transition period.

1 The administrative authority shall administer all revenues under the name of the political
2 subdivision or its agents and administer all funds collected on behalf of the political subdivision.
3 The administrative authority shall use the revenues and existing funds to pay all debts and
4 obligations of the political subdivision other than the penalties accrued under this section. The
5 circuit court shall have ongoing jurisdiction to enforce its orders and carry out the remedies under
6 this subsection.

7 20. The attorney general shall have the authority to file an action in a court of competent
8 jurisdiction against any political subdivision that fails to comply with this section in order to force
9 the political subdivision into compliance."; and

10
11 Further amend said bill by amending the title, enacting clause, and intersectional references
12 accordingly.