

HCS SS SCS SB 5 -- LOCAL GOVERNMENT

SPONSOR: Schmitt (Cornejo)

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Judiciary by a vote of 12 to 0. Voted "Do Pass with HCS" by the Select Committee on the Judiciary by a vote of 10 to 0.

This bill requires the conduct of municipal court judges to conform to the rules governing the judiciary set fourth in Supreme Court rules.

By September 1, 2015, the presiding judge of the circuit court in which the municipal division is located must report to the Clerk of the Supreme Court the name and address of the municipal division and any other information requested by the clerk on a standardized form developed by the clerk. If a municipality elects to abolish or establish a municipal division, the presiding judge of the circuit court in which the municipal division is located must notify the clerk, and the presiding judge of any new municipal division must complete the required report within 90 days of the establishment of the division.

The Supreme Court must develop rules regarding conflict of interest for any prosecutor, defense attorney, or judge that has a pending case before the municipal division of any circuit court.

"Annual general operating revenue" is defined as revenue that can be used to pay any bill or obligation of a county, city, town, or village, including specified taxes, but does not include revenue designated for specified purposes; user fees; grant funds; funds for expenditures for technological assistance in collecting, storing, and disseminating criminal history record information and facilitating criminal identification activities for the purpose of sharing criminal justice-related information among political subdivisions; or other revenue designated for a specific purpose.

The following conditions must apply to minor traffic violations:

- (1) The court must not assess a fine, if combined with the amount of court costs, totaling in excess of \$200;
- (2) The court must not sentence a person to confinement;
- (3) A person must not be placed in confinement for failure to pay a fine;
- (4) Court costs that apply must be assessed against the defendant with specified exceptions; and

(5) No court costs must be assessed if the case is dismissed.

The bill repeals the provisions commonly referred to as the Macks Creek Law and reduces the threshold at which a county, city, town, or village must send excess revenues from traffic violations to the department director to be distributed annually to the schools of the county in the same manner other penalty proceeds are distributed from 30% to 15% in Saint Louis County and from 30% to 20% in other counties, beginning January 1, 2016, or the first day of the fiscal year immediately following for any municipality with a fiscal year start date other than January 1.

Every county, city, town, and village must file with the State Auditor, together with its report due under Section 105.145, RSMo, its certification of its substantial compliance signed by its municipal judge with the municipal court procedures established in the bill during the preceding fiscal year. An addendum to the annual financial report submitted to the State Auditor must contain an accounting of its annual general operating revenue; the total revenues; the total revenues from fines, bond forfeitures, and court costs for minor traffic violations occurring within the entity; and the percent of annual general operating revenue from fines, bond forfeitures, and court costs for minor traffic violations occurring within the entity. On or before December 31, 2015, the State Auditor must establish by rule a procedure for including the addendum information required by these provisions. The rule must also allow reasonable opportunity for demonstration of compliance without unduly burdensome calculations. The department director must report any excess amount it has received to the State Auditor who must review the information filed in the addendum and the information as reported to him or her by the department and determine if any entity failed to file the addendum or failed to remit the excess amount. The auditor must send a notice by certified mail to each entity that fails to make the required filing or excess payment advising that it is to correct the failure within 60 days. The entity may seek judicial review of any determination made by the State Auditor by filing a petition within 30 days of receipt of the determination.

If after a final determination is made that a county, city, town, or village failed to make an accurate or timely report or to send excess revenues to the director, all fines, bond forfeitures, and court costs generated from any matter reassigned to other divisions within the court must be considered excess revenue and the entity must not be entitled to the revenue and any amount of moneys the county, city, town, or village is entitled to receive from local sales tax distributions must be turned over to the department director for distribution to the schools within the county in the

same manner that all penalty proceeds are distributed to the extent the municipality failed to remit excess revenues. If any city, town, or village fails to send excess revenues to the director, the county must have an election upon the question of disincorporation for the city, town, or village according to the procedure specified in the bill. Upon the affirmative vote of 60% of voters on the question, the county governing body is required to disincorporate the city, town, or village.

PROPOSERS: Supporters say that municipal courts need to be reformed because the public no longer trusts them in the current configuration to be agents of public safety. Due to declines in traditional forms of revenue generation, municipalities have put pressure on their municipal courts to generate operating revenue for municipalities via citations for ordinance violations. This pressure has caused municipal courts to become revenue collectors, rather than providers of public safety. The operating procedures of municipal courts have created poverty traps which affect the poorest Missouri residents. Municipal courts are operated outside the traditional ethical and operating rules imposed by the Missouri Supreme Court and this has led to predatory practices in some cases. These practices need to be reigned in.

Testifying for the bill were Representative Schmitt; Paul Berry III; Missouri Alliance For Freedom; Kate Durkin, St. Louis University Law Clinic; Timothy Fitch; Dan Hyatt; Marius Johnson-Malone, Better Together; St. Louis Regional Chamber; Brendan Roediger; Michael John Voss, Arch City Defenders; Jason Cadell; American Civil Liberties Union; and Matthew Hay.

OPPONENTS: Those who oppose the bill say that municipal courts enforce laws for public safety purposes and not for revenue. Municipal courts and police fill a gap in law enforcement that the state courts, county police and sheriffs, and highway patrol do not have the manpower to fill and have already made improvements to their operating systems without legislative scrutiny.

Testifying against the bill were Jeff Chapple, Missouri Association of Court Administration; Mel Gilbert; and Michael Padella, City of Weldon Spring and City of Old Monroe.