

CCS HCS SS SCS SB 5 -- LOCAL GOVERNMENT

This bill changes the laws regarding local government.

The bill requires any city, town, or village located in St. Louis County to meet minimum standards within three years of the effective date of the bill by providing the following:

- (1) An annual balanced budget and an annual audit by a certified public accountant;
- (2) A cash management and accounting system that accounts for all revenues and expenditures;
- (3) Adequate levels of specified insurance coverage to minimize risk;
- (4) Access to a complete set of its municipal ordinances or an on-line version of the regulations or code within 10 business days of any written request;
- (5) An accredited or certified police department or a contract for police services with an accredited or certified police department within six years of the effective date of the bill;
- (6) Written policies regarding the safe operation of emergency vehicles, including a policy on police pursuit, and the use of force by peace officers and written general orders for a police department unless it is contracting with another municipality or county for police services;
- (7) Written policies for collecting and reporting all crime and police stop data for the municipality as required by law that must be forwarded to the Office of the Attorney General;
- (8) Construction code review by existing staff, directly or by contract with an agency; and
- (9) Information published annually on the municipality's, or on the county's website if there is no municipal website, indicating how the municipality met the required standards.

Any resident of a municipality may file an affidavit with the Attorney General if he or she believes that his or her municipality has failed to regularly provide the minimum standards. If the Attorney General believes that the facts stated in the affidavit justify that the municipality is operating below minimum standards, the municipality must have 60 days to rectify the noted deficiencies. If after 60 days the municipality is still deemed by

the Attorney General to have failed to rectify sufficient minimum standards, he or she may file suit in the circuit court of the county.

If the court finds that the municipality is not in compliance with the minimum standards, the circuit court of the county must order the following remedies:

(1) Appointment of an administrative authority for the municipality; and

(2) Enter an order disincorporating the municipality or order the placement of the question on the ballot to the registered voters of the municipality.

The bill requires, by September 1, 2015, the presiding judge of the circuit court in which the municipal division is located to report its name and address and any other requested information to the Missouri Supreme Court 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 Missouri Supreme Court Clerk, and the presiding judge of any new municipal division must complete the required report within 90 days of its establishment.

The Missouri 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.

The following conditions must apply to minor traffic violations:

(1) The court must not assess a fine that will make the total for the fine and court costs exceed \$300;

(2) The court must not sentence a person to confinement, except for specified violations;

(3) A person must not be placed in confinement for failure to pay a fine unless the nonpayment violates his or her terms of probation;

(4) Court costs that apply must be assessed against the defendant with specified exceptions; and

(5) Court costs must not be assessed if the case is dismissed.

If a person fails to pay court costs, fines, fees, or other amounts ordered by a municipal court, the court may report any delinquency in excess of \$25 to the Director of the Department of Revenue and

request that the department seek a setoff of an income tax refund.

The bill changes the provisions commonly known as Mack's Creek Law by reducing the threshold at which a county, city, town, or village must send excess revenues received from minor traffic violations to the Director of the Department of Revenue to be distributed annually to the schools of the county. Beginning January 1, 2016, or on the first day of the fiscal year immediately following for any municipality with a fiscal year start date other than January 1, the percentages are reduced from 30% to 12.5% of the annual general operating revenue from traffic fines for Saint Louis County and municipalities in that county and from 30% to 20% for all other counties and municipalities.

Every county, city, town, and village must submit an addendum with its annual financial report to the State Auditor that contains an accounting of annual general operating revenue; the total revenues from fines, bond forfeitures, and court costs for minor traffic violations occurring within the municipality; and the percent of annual general operating revenue from traffic violations occurring within the municipality. The addendum must be certified and signed by a representative with knowledge of the subject matter as to the accuracy of the addendum contents, under oath and under penalty of perjury, and witnessed by a notary public.

Every county, city, town, and village must file with the State Auditor certification of its substantial compliance signed by its municipal judge with the following municipal court procedures:

- (1) Defendants in custody pursuant to an arrest warrant issued by a municipal court must be given the opportunity to be heard by a judge within 48 hours for a minor traffic violation or within 72 hours for any other violation, otherwise they must be released;
- (2) Defendants in municipal custody must not be held for more than 24 hours without a warrant after arrest;
- (3) Defendants must not be detained in order to coerce payment of fines and costs;
- (4) The municipal court must have established procedures to allow indigent defendants to present proof of their indigency, and the court must take this evidence into account when determining fines and costs and establishing related payment requirements;
- (5) The municipal court may only assess fines and court costs as authorized by law;
- (6) An additional charge cannot be issued for the defendant's

failure to appear for a minor traffic violation;

(7) The municipal court conducts proceedings in a courtroom that is open to the public and can reasonably accommodate the public, the parties, and the attorneys;

(8) The court must make use of alternative payments and community service alternatives; and

(9) The municipal court has adopted a payment by mail or electronic payment system for the payment of minor traffic violations.

The State Auditor must notify the Director of the Department of Revenue whether or not the financial report addendums were timely filed and must forward all addendums to the director. The director must also review the addendums filed by municipalities as required in Sections 479.359 and 479.360, RSMo, to determine if any municipality failed to file the required addendum or failed to remit any excess revenues.

If a county, city, town, or village is determined by the director to have failed to remit the excess amount of annual general operating revenue or file the required addendums, the director must send a notice by certified mail advising the municipality that it has 60 days to correct the issue. It may seek judicial review of any determination by the director in the circuit court in which the municipal division is located by filing a petition within 30 days of receipt of the determination.

If 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, any matters pending in the municipal court must be certified to the circuit court in which the municipal division is located and reassigned to other divisions within the circuit court. All fines, bond forfeitures, and court costs generated from any matter reassigned to the circuit court are considered excess revenue, and the municipality is not entitled to the revenue. Any amount of moneys the municipality is entitled to receive from local sales tax distributions must be paid to the 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 county, city, town, or village fails to send excess revenues to the director, it must have an election upon the question of disincorporation for the county, city, town, or village according to the procedure specified in the bill. Upon the affirmative vote of 60% of the voters on the question, the county governing body is required to disincorporate the city, town, or village.

The bill contains a severability clause and if any provision of the bill or its application to anyone or to any circumstance is held invalid, the remainder of the provisions and the application of the provisions to others or other circumstances must not be affected.