Local Mandate Fiscal Impact Estimate
Kentucky Legislative Research Commission
2016 Regular Session

Part I: Measure Information

Bill Request #: 420

Bill #: SB 71

Bill Subject/Title: AN ACT relating to taxes and fees imposed by special purpose governmental entities.

Sponsor: Senator Ralph A. Alvarado

Unit of Government: **x** City **x** County **x** Urban-County
x Charter County **x** Consolidated Local **x** Unified Local Government

Office(s) Impacted: All of them

Requirement: **x** Mandatory ___ Optional

Effect on
Powers & Duties: **x** Modifies Existing **x** Adds New ___ Eliminates Existing

Part II: Purpose and Mechanics

SB 71 creates a new section of KRS Chapter 65A to require proposed increases in ad valorem taxes and certain fees, and the levy of new ad valorem taxes or fees by special purpose governmental entities to be submitted to the legislative body of the county or city where the special purpose governmental entity is located for review; SB 71 also would amend KRS 132.023 to conform and repeal KRS 65A.100; effective January 1, 2017.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of SB 71 on local government is expected to be minimal to moderate.

The Kentucky League of Cities (KLC) identified several issues with SB 71, including that a number of city-created entities would be affected, particularly relating to fees. SB 71 addresses fees which are currently excluded from the reporting requirement in KRS 65A.100. KLC submits that these fees relate to the normal cost of doing business for special purpose governmental entities (SPGEs), such as rental and admission fees.

KLC states that, complicating matters further, the need for fee approval relates to the revenues produced by it, not the level of the fee. ["…any special purpose governmental entity proposing the imposition of a new fee, or *a fee which is expected to produce increased revenues as compared to revenues generated during the prior fiscal year*…" (emphasis added).] KLC notes that the question becomes whether a fee that was previously established at a certain rate has to be reapproved if the projected revenue in the next fiscal year is more than the revenue collected in the current year. This could happen due to economic growth, population growth, increased usage, etc. This scenario is similar to the way cities calculate their property tax rates, in which cities are unable to keep the same tax rate from year to year without performing the compensating tax rate calculation. KLC adds that if the same concept applies here, then a rate approved to fund long-term debt service could be taken away at any time by the local legislation body, thereby significantly affecting the budgeting and financing authority of the SPGE.

KLC's other major concern relates to which local governing body has the authority to approve or disapprove a proposed tax or fee for a SPGE. The bill says "…shall submit the proposed fee to the governing body of the city or county in which the largest number of citizens served by the special purpose governmental entity reside. If the special purpose governmental entity serves only the residents of a city, the notice shall be provided to the governing body of that city." (The tax portion has a similar clause.) KLC is concerned that this could lead to confusion for the SPGEs, which would ultimately lead to costly litigation. For instance, since "incorporated population" is not distinguished in the bill, a reasonable argument could be made that a SPGE serving the entire city population and even one person outside of the city boundaries would result in the county government having veto authority over a city-created or city-related SPGE (since 100 percent of the population would be county residents, but 99 percent or so would be city residents).

KLC notes that the bill doesn't provide a role for those establishing entities that are separate from the city or county government. Such entities could potentially have ultimate financial liability in the case of bankruptcy or court judgments against the SPGE, but the creating/appointing entity, if it is not the city or county government, would not have the authority to approve or disapprove their tax rates or fees.

KLC notes also that a question arises about who is being served. While the answer for fire districts or utility commissions may be clear, for other SPGEs, such as parks and recreation boards or museums, the question becomes more complicated.

Ultimately, KLC believes the bill as currently drafted would lead to litigation to answer these questions, which could have a moderate financial impact on the cities involved in those cases. KLC also notes that there would be a greater administrative burden placed on city clerks and those responsible in the SPGEs to provide the rate and fee information to the governing body members of the cities. Even though a vote is not required to approve a rate or fee, the clerk would still have to process, maintain, and distribute the information to local legislative body members.

Data Source(s): Kentucky League of Cities, Kentucky Association of Counties

Preparer: John V. Ryan **Reviewer:** JWN **Date:** 1/26/16