

Other changes that could impact local governments:

Section 9 clarifies the appointment of a county alcoholic beverage control administrator for each county by the county judge/executive and removes the requirement that the administrator be bonded with the cost of the bond being covered by the county.

Sections 11, 15, and 18 of the bill would formalize the process for appeal of a decision or order of a local administrator to the Alcoholic Beverage Control Board and would require service of a notice of appeal on the local administrator.

Section 12 would prohibit cities with less than three thousand citizens within a county containing a consolidated local government from creating the office of city alcoholic beverage control administrator, unless done before August 1, 2014.

Section 20 of HB 183 GA would remove the prohibition on holding a local option election on the same day a primary or general election is held, and would expand the time frame for scheduling a local option election to 150 days after a petition for local option election is filed.

Section 21 of the bill would extend to a dry or moist county or city the authority to hold a local option election for the limited sale of alcohol in a precinct containing a nine (9) or 18-hole golf course that meets certain criteria.

Section 22 would extend authority to hold a local option election for limited sale of alcohol, not only wine, in a dry or moist city or county precinct containing a small farm winery, in addition to a moist precinct.

Section 23 would extend authorization to hold a limited sale precinct election to authorize the sale of alcoholic beverages on Sunday at a small farm winery to a moist territory in addition to a wet territory.

Section 28 would establish the qualifications and terms for a sampling license.

Section 32 would authorize a distillery located in a wet territory or a territory that has authorized the limited sale of alcohol by local option election to be issued a NQ2 retail drink license (may be issued to hotels of certain capacity, restaurants of certain capacity, airports, or riverboats) rather than NQ3.

Section 33 would allow licensed caterers to transport, sell, serve, and deliver alcoholic beverages (not just malt beverages) by the drink at off-site locations in wet cities and counties where quota retail drink licenses are not available if the receipts from catering food are at least 50% of the gross receipts from catering of both food and alcohol.

Section 37 would extend to nonprofit organizations in addition to charitable organizations the ability to conduct an auction of alcoholic beverages.

Section 43 would prohibit a county issuing a county alcoholic beverage license to, or imposing a county alcoholic beverage license fee on, any person who holds a city license issued under Section 44 of the bill.

Section 44 would repeal and reenact KRS 243.070 to re-structure the maximum fees the legislative body of a city or a consolidated local government may charge for listed licenses.

Section 62 would eliminate the population requirement for cities to issue quota retail drink licenses but would prohibit their issuance if the city or county has enacted an ordinance preventing their issuance.

Sections 80 and 81 change venue of an appeal from orders of the board from Franklin Circuit Court to the circuit court of the county where the appellant resides or where the appellant's licensed premises is located.

Section 106 and 109 would provide that a licensee authorized to sell distilled spirits, wine, and malt beverages at retail that is located in a jurisdiction allowing Sunday sales may also sell on Sunday and during hours and times permitted by local ordinance, but would prohibit local governments from disallowing sale or delivery of alcohol between 6 am and midnight **except** on Sunday.

Section 113 would amend KRS 244.990 (1) to include officers of a limited liability company or other business entity as persons who may be imprisoned if the business violates KRS Chapter 244. Section 113 would also amend KRS 244.990 (4) to include limited liability companies or other business entities as business associations that may be held to have violated KRS 244.083 and 244.085, statutes that prohibit sales of alcohol to minors and enacted for the protection of minors.

Section 119 would repeal numerous alcoholic beverage control statutes, including:

- KRS 241.130-241.240, requiring that cities and counties post a bond on behalf of their alcoholic beverages administrator;
- KRS 243.072, eliminating the necessity for an economic hardship determination before a wet city of a certain population or a county containing such a city may license hotels, motels, inns, or restaurants in the city for sales of alcoholic beverages by the drink on the premises.

HB 183 SCS retains all provisions of the General Assembly version of the bill that would impact local governments and adds no additional provisions that would impact local governments.

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

Passage of HB 183 SCS would have a minimal to moderate positive fiscal impact on local jurisdictions.

HB 183 SCS would generally expand licensing and sales of alcoholic beverages and so would increase license fees and tax revenues to local jurisdictions, though it's not expected to be a significant increase, as these fees generally make up a very small portion of a local jurisdiction's revenue.

Eliminating the necessity of a bond for administrators would be a very minimal savings to local jurisdictions, as the bond required was only in the amount of \$1,000.

Currently, state law allows holders of city alcoholic beverage licenses who have paid a license fee to credit the fee paid the city against the fee imposed by the county. Prohibiting a county from requiring a county alcoholic beverage license and fee where the licensee holds a city license could reduce revenue to counties. Removing the population requirement for cities to issue a quota retail license could increase revenue to cities, and perhaps generate other economic activity.

Perhaps the most significant positive impact would be the authorization for local option elections to be held on the same day as a primary or general election. KRS 242.030 currently prohibits holding a local option election on the same date as a primary or general election. County governments must pay the expenses of elections, and they can be significant. The average cost to a county of conducting an election is \$2,000 per precinct. Counties vary in the number of precincts; for example, Fayette County has 291 precincts. If only one (1) precinct in Fayette County holds a local option election on a date other than a primary or general election then the cost is \$2,000. On the other hand, if all 291 precincts participate in the local option election, then the cost is \$582,000. Even if the local option election is held on the same date as a primary or general election, a county still incurs some costs. According to Harp Enterprises, a vendor providing electronic voting machines to 97 Kentucky counties, the costs range from \$14 per precinct for larger counties such as Fayette with 291 precincts, to \$45 per precinct for smaller counties such as Franklin, with 44 precincts. Primary and general election costs are minimally offset by state reimbursement to counties of \$198 per precinct.

The provisions of HB 183 SCS that expands the type of individuals potentially liable for violations of KRS Chapter 244 could very minimally increase the number of persons incarcerated in local jails. Some violations of KRS Chapter 244 are classified as Class A or B misdemeanors and some are classified as Class C or D felonies.

A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 76 full service jails or five life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections (DOC) pays a jail to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 76 full service jails or five life safety jails. Again, while the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the DOC pays a jail to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. The DOC pays a jail \$31.34 per day to house a Class D felon. Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

When a court denies bail to a Class C felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 76 full service jails or five life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the DOC pays jails to house felony offenders. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date. The DOC pays local jails \$31.34 per day to house these Class C felons. Since the per diem pays for the estimated average cost of housing a Class C felon, the per diem may be less than, equal to, or greater than the actual housing cost.

Data Sources: Kentucky Association of Counties; Kentucky Revised Statutes; Kentucky Office of Alcoholic Beverage Control; LRC staff

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 3/7/17