

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2018 Regular Session**

Part I: Measure Information

Bill Request #: 254

Bill #: SB 25 GA

Document ID #: 4507

Bill Subject/Title: AN ACT relating to special purpose government entities.

Sponsor: Senator Ralph A. Alvarado

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

Office(s) Impacted: County Clerks

Requirement: Mandatory Optional

Effect on Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

The fiscal impact of SB 25 GA on local government is expected to be minimal to moderate.

Section 1:

SB 25 GA creates a new section of KRS Chapter 65A regarding any ad valorem tax or fee levied by a special purpose governmental entity (SPGE) other than an air board and that is not otherwise required by statute or ordinance to be adopted or approved through an official act of an establishing entity. This act takes effect January 1, 2019.

A SPGE proposing to levy either an ad valorem tax rate(s) which would generate more revenue than the compensating tax rate or an ad valorem tax for the first time, or a new fee must seek approval of its establishing entity. Procedural guidelines and requirements are provided within the proposal. A SPGE may request the Department of Local Government to calculate ad valorem rates. Also in regards to fee requirements, SB 25

GA lists a number of exempted fees and charges that the new fee requirements would not apply.

The Kentucky League of Cities (KLC) identified a number of issues with SB 25 GA, including that 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 some administrative burden would be 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.

Per the Secretary of State: Additional cost to enact the above would include changes to the statewide voter registration system (VRS) to allow county clerks to code voters by taxing district. This ensures voters are provided the correct ballot. This coding will likely be time consuming for county clerks as they enter in VRS the proper taxing district for each registered voter.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The LM statement to SB 25 GA is the same as the LM statement to SB 25 SCS except for the inclusion of SFA1 that exempts air boards from the proposal.

SB 25 SCS removes all language regarding fire protection districts, Sections 3 thru 6, from the proposal as initially filed.

Data Source(s): LRC Staff, Department of Local Governments, KY County Clerks Association

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 2/15/18