



shall be classified as a criminal offense. Sixty percent of fines collected related to criminal littering on public highways and public waters shall be transferred to the county treasurer for cleanup and abatement of litter and open dumps.

SB 86 GA clarifies that no other fines assessed and collected by the Cabinet of Energy and Environment or any funds available to the Cabinet shall be used for cleaning up open dumps.

**The fiscal impact on SB 86 GA on local governments is undeterminable but expected to be minimal to moderate.** It is unknown which, if any, local governments will adopt local ordinances. The Department of Environmental Protection does not have any data on what counties or local governments could collect if SB 86 passes. However, they did state that as written, SB 86 does not affect the ability of the Department to take enforcement action on open dumping or other solid waste issues under our statutes.

Information received from the Administrative Office of the Courts reflect 74 counties reporting 240 littering charges for calendar year 2020. Of those counties, 63 counties had 5 or fewer charges; 7 counties had 6-9 charges, and 4 counties had 10 to 16 charges. These charges resulted in 124 fines totaling \$15,484 of which \$1,900 was suspended for net fines of \$13,584, of which 60% went to the county in which the violation occurred and 40% to the agency issuing the citation. The agency receiving 40% may or may not be a local agency.

SB 86 GA imposes civil fines of \$250 to \$500. Based on 240 total charges from CY 2020, that could result in an aggregate total of \$60,000 to \$120,000, which would be transferred to the treasurer in the county where the offense occurred. Whereas 100% of the funds resulting from SB 86 GA shall be returned to the local government and used entirely for the abatement, cleanup, and restoration of illegal dump sites, there is incentive to actively enforce, thus fines may increase overall, and the number of counties actively enforcing may increase. The fines imposed by SB 86 GA are in addition to the fines currently provided for in KRS 30A.190 and detailed in the preceding paragraph.

Counties that choose to create ordinances imposing civil fines on illegal dumping will incur costs associated with the drafting, publication, indexing and recording of adopted ordinances, and at least every five years, review and eliminate redundant, obsolete, inconsistent, and invalid provisions.

According to Kentucky League of Cities, most cities, especially the smaller ones, retain their city attorney on contract and pay on an hourly basis. Time spent drafting an ordinance is influenced by its complexity and the amount of research that is necessary. In FY 2020, the average hourly rate was \$107. Rates for legal notices vary greatly depending on the length of the publication, the number of times it needs to be published and the newspaper in which the publication is placed. Therefore, these costs are unknown.

There might be administrative and possibly programming cost incurred regarding the establishment of a dedicated fund to which the fines will be transferred and later used for waste cleanup.

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

SB 86 GA keeps the provisions of SB 86 as introduced with the following changes:

- Clarifies that a solid waste management facility operating in compliance shall not be penalized.
- Clarifies that no other fines assessed and collected by the Energy and Environment Cabinet or any funds available to the Cabinet shall be used to clean up open dumps.

**Data Source(s):** LRC Staff, Department of Environment Protection (Energy and Environment Cabinet)

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