

Local Government Mandate Statement
Kentucky Legislative Research Commission
2022 Regular Session

Part I: Measure Information

Bill Request #: 1130

Bill #: HB 301 HCS 1

Document ID #: 4712

Bill Subject/Title: AN ACT relating to elections.

Sponsor: Representative Patrick Flannery

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

Section 1 and Section 2(1)(2) create new sections of KRS Chapter 45A, and KRS Chapter 65, respectively, to provide that election administration expenses be paid for with public funds and no employee shall accept any private contribution, donation or anything of value to assist with elections administration unless entered into as a lawful contract for goods and services. **Per Section 5**, an employee who knowingly and willfully violates this will be guilty of a Class D felony for the first offense; and a Class C felony for a second or subsequent offense.

Section 4 provides that a county clerk or employee of a governmental body shall not accept any private monetary funds to assist with voter registration activities unless accepted as part of a valid contract for good and services.

The fiscal impact of HB 301 HCS 1 on local governments could be significant in regards to funding. The Kentucky County Clerks Association has concerns regarding the language prohibiting election funding from private sources. During the 2020 election

cycle, 43 Kentucky counties requested and received grants from the Center for Tech and Civic Life, a private source. These funds were used to administer the 2020 elections and to pay for the unexpected COVID-related expenses including personal protective equipment, training, voting equipment, and voter education about all of the new rules and voting locations. Additionally, the Kentucky State Board of Election received \$1.6 million from the Center for Election Innovation and Research, another private source. HB 301 HCS 1 would prohibit the receipt of grant funding to assist with future election expenses. It is believed that grant funding would not fall under the definition of a lawful contract for goods and services, as the bill states is the requirement for utilizing private funding sources.

The State Board of Elections reports that the state pays each county clerk \$0.34 per voter who was registered at the time of the election. (KRS 117.343 allows payment up to \$0.50 per registered voter, but this is contingent upon funding.) Reimbursement is based on personnel expenses and is only reimbursed after a primary election. The eligibility of the county varies because of the number of registered voters at the time of the election. Also, under KRS 117.345, which allows payment of \$255 per precinct, each fiscal court is actually paid \$200 per precinct registered in the county upon certification of the election as reimbursement to the county for election related expenses. The difference between the statutory and actual amounts is attributable to General Assembly funding.

The funds currently received are not sufficient to cover election costs, and the counties must cover the remainder.

Currently, there are no statutes regarding, or similar to, accepting private funds for election administration outside of a valid contract, thus no criminal statistics available to calculate the number of people who might be charged with such a crime.

It is not likely there would be many people prosecuted or incarcerated for the new felony created by the statute. However, when a court denies bail to a Class D or Class C felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 74 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an average cost to incarcerate of \$35.43, which includes the \$31.34 per diem and medical expenses that the Department of Corrections pays jails 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. 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 Department of Corrections pays a jail \$31.34 per day to house a Class D or Class C felon. The per diem may be less than, equal to, or greater than the actual housing cost.

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

HB 301 HCS 1 removes the following from HB 301 as introduced:

- Removes language regarding communication related to elections law and administration from any federal executive branch agency.

- Removes language prohibiting unbudgeted appropriations from being spent on election administration.

The above changes will not affect the fiscal impact.

Part II refers to HB 301 as introduced. There are no prior versions of this bill.

Data Source(s): LRC Staff; Kentucky County Clerks Association; Kentucky Department of Corrections; State Board of Elections

Preparer: Wendell F. Butler (ms) **Reviewer:** KHC **Date:** 2/11/22