

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB138**

**Amendment Number: S1**

**Bill Subtitle: TO CREATE A PROCEDURE FOR THE REVOCATION OF A CHARTER OF A MUNICIPAL CORPORATION AS A RESULT OF THE MUNICIPAL CORPORATION'S NONCOMPLIANCE WITH THE LAW.**

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### **Basic Change :**

#### **Sponsor: Senator Hickey**

Senate Amendment 1 --- Amends the bill to add cosponsors and to provide additional provisions regarding public utilities that were operated by the extinct municipal corporation. The amendment also provides that if the Legislative Joint Auditing Committee determines that a municipality has had a finding for the second time in the immediately subsequent 3-year period, the Legislative Joint Auditing Committee may notify the Attorney General and the Governor of the municipality's actions. The amendment adds language as to retirement funds of the extinct municipal corporation. Clarifying language is added regarding the collections of sales taxes that were levied by the extinct municipal corporation by the Department of Finance and Administration and their disposition.

Original Bill --- SB138 would create a procedure for the revocation of a charter of a municipal corporation, have its offices abolished, and the territory and inhabitants to be returned to the county in which the municipal corporation is located. The bill provides that if the Legislative Joint Auditing Committee determines that a municipality has had two (2) or more findings of noncompliance regarding § 14-59-117 in the preceding three (3) years, the Legislative Joint Auditing Committee could provide their findings to the Attorney General who would file pleadings in the Circuit Court of the Sixth Judicial Circuit (Pulaski and Perry Counties) to revoke the municipality's charter.

Upon issuance of an order of the court to revoke the charter, the Governor would appoint a receiver who would take possession of all books and records pertaining to assessment and collection of taxes, take possession of all municipal property, hire staff, resolve outstanding debts, collect fees, and take all actions necessary and beneficial to the municipality's former inhabitants, creditors, and other interested parties.

On a monthly basis, the receiver would remit to the State Treasury all monies collected from taxes and deposit into a bank all monies collected from nontax sources. A report to the court would be submitted every six (6) months reflecting an accounting of monies and taxes collected and settled. After the revocation of the charter, the receiver would continue to collect taxes levied by the municipality that secured the municipality's indebtedness. These taxes would continue to be collected until the time of the satisfaction of the indebtedness for which the taxes were levied. Sales and use taxes and other types of taxes that were not pledged or dedicated would end on the date of the revocation. The receiver nor the circuit court would be allowed to raise any tax rate in effect as of the date of the revocation of the charter. The circuit court of the Sixth Judicial Circuit would enter a final order of dissolution upon the satisfaction of all of the indebtedness of the municipality.

### **Revenue Impact :**

No Impact on State General Revenues.

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### **Taxpayer Impact :**

None.

### **Resources Required :**

None.

### **Time Required :**

Adequate time if provided for implementation.

### **Procedural Changes :**

If necessary, work with the court appointed receiver of an extinct municipal corporation if regards to collection of sales taxes.

### **Other Comments :**

None.

### **Legal Analysis :**

Senate amendment 1 to SB138 addresses most of DFA's comments regarding the bill as originally introduced. The amendment provides that a local sales and use tax levy is to end when a final order of dissolution is entered by the circuit court. DFA shall discontinue collecting the local sales and use tax for the dissolved municipal corporation for any months after the circuit court enters an order of dissolution. DFA is required to continue collecting local sales and use taxes of the extinct municipal corporation for any periods that were due prior to entry of that final order of dissolution. Any tax collections are to be paid to the appointed receiver. DFA and the receiver are directed to work together to file legal actions necessary to collect delinquent taxes of the extinct municipal corporation.

The major tax issue left unresolved by Senate amendment #1 is whether the local sales and use tax of the extinct municipal corporation should continue to be collected after the order of dissolution if the local tax is pledged to bond repayment. As the bill is currently written, the tax would end when the order of dissolution is entered regardless of whether there are outstanding bonds.