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FISCAL IMPACT STATEMENT

LS 6395

BILL NUMBER: SB 105

NOTE PREPARED: Apr 21, 2011

BILL AMENDED: Apr 18, 2011

SUBJECT: Adjustments of Debt of a Political Subdivision.

FIRST AUTHOR: Sen. Charbonneau

FIRST SPONSOR: Rep. Soliday

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that a political subdivision may file a petition with the Distressed Unit Appeal Board (DUAB) seeking designation of the political subdivision as a distressed political subdivision, based on any one of several failures by the political subdivision to meet its financial obligations.

The bill provides that if the DUAB designates a political subdivision as a distressed political subdivision, the DUAB shall appoint an emergency manager for the distressed political subdivision. It provides that an emergency manager of a distressed political subdivision has broad powers to effect the financial rehabilitation of the distressed political subdivision.

This bill provides that the DUAB may authorize a distressed political subdivision to file a petition for bankruptcy under the United States Bankruptcy Code.

The bill reduces the number of members on the DUAB to three: the Director of the Office of Management and Budget, the Commissioner of the Department of Local Government Finance, and the State Examiner of the State Board of Accounts.

The bill also specifies additional circumstances under which the pledge of revenues for the repayment of an obligation creates a statutory lien, and prohibits an issuer from changing the provisions of an obligation without the consent of 100% of the owners of all outstanding obligations.

Effective Date: July 1, 2011.

Explanation of State Expenditures: Currently, the DUAB is comprised of nine members including the executives of the Office of Management and Budget (OMB), the Department of Local Government Finance (DLGF), the Department of State Revenue, and the State Board of Accounts, plus four members appointed by the Governor and one member appointed by the House Speaker.

Under this bill, the DUAB would have three members including the executives of the OMB, the DLGF, and the State Board of Accounts. DUAB members are entitled to reimbursement of travel and other actual expenses. The reduction of the DUAB membership could result in a small reduction in state expenses.

Under current law, a distressed unit may petition the Indiana Tax Court for a judicial review of a DUAB final determination. Under this bill, the Tax Court would not have any review function.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: Under current law, a taxing unit that loses at least 5% of its property tax revenue in a calendar year due to the circuit breaker caps is a distressed political subdivision (distressed unit). The fiscal body of a distressed unit may petition the DUAB for relief from the caps. This bill would remove the statutory language regarding the DUAB's authority to provide relief from the circuit breaker caps.

Under the bill a taxing unit would become a distressed unit only after the DUAB accepts a joint petition from the unit's fiscal body and its executive. A distressed unit designation would be reviewed annually by the DUAB. A newly elected executive would be able to petition the DUAB to suspend the distressed status for 180 days so that a new plan may be presented.

If the DUAB designates a taxing unit as a distressed unit, the DUAB would appoint an emergency manager for the unit. The manager would assume all authority and responsibilities of both the executive and the fiscal body concerning the adoption, amendment, and enforcement of ordinances and resolutions that affect the unit's fiscal stability. The manager could not impose taxes or fees. The manager's duties would include a review of budgets, salaries, payroll, contracts, and other claims, the conduct of a financial audit, the development of a financial plan and a plan to pay obligations, and budget adoption. The manager may also renegotiate contracts, reduce or suspend salaries, contract with other taxing units to provide services, and recommend that the unit seek bankruptcy protection.

The DUAB would be able to either file a bankruptcy petition in the taxing unit's name or authorize the taxing unit to make the filing. As agreed to by the parties, bankruptcy could provide financial relief to a taxing unit.

State Agencies Affected: Distressed Unit Appeals Board.

Local Agencies Affected: Civil taxing units and school corporations.

Information Sources:

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