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FISCAL IMPACT STATEMENT

LS 6563 **NOTE PREPARED:** Feb 28, 2012
BILL NUMBER: HB 1192 **BILL AMENDED:** Feb 28, 2012

SUBJECT: School Corporation and Local Government Finances.

FIRST AUTHOR: Rep. Cherry **BILL STATUS:** 2nd Reading - 2nd House
FIRST SPONSOR: Sen. Gard

FUNDS AFFECTED: X GENERAL **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: (Amended) *School Debt Levies*: This bill provides that the petition and remonstrance process requirements and referendum requirements that under current law must be met before a school corporation with a circuit breaker impact may restructure its debt do not apply to a school corporation that: (1) adopts a resolution before January 1, 2018, to restructure its debt; and (2) has a circuit breaker impact percentage of at least 20%, as certified by the department of local government finance.

Distressed Schools: This bill provides that a school corporation is eligible to obtain a loan from the state Rainy Day Fund if the school corporation is designated as distressed by the Distressed Unit Appeals Board (DUAB) or the school corporation is otherwise approved for a loan by the DUAB. The bill provides that in the case of a school corporation that petitions the DUAB, the DUAB shall make a recommendation to the State Board of Finance concerning the loan and it provides that the State Board of Finance may not after December 31, 2017, approve such loans to a school corporation from the Rainy Day Fund.

The bill specifies that at the time the DUAB designates a school corporation as distressed or otherwise recommends that a loan from the Rainy Day Fund be approved for the school corporation, the DUAB may also recommend to the State Board of Finance that a loan from the Rainy Day Fund to the school corporation be contingent upon any of the following: (1) The sale of specified unused property by the school board. (2) The school corporation modifying one or more specified contracts entered into by the school corporation. It also provides that in making a loan from the Rainy Day Fund to a school corporation, the state board of finance may make the loan contingent upon any such condition recommended by the DUAB.

The bill provides that a school corporation's loan may not exceed the lesser of $5,000,000 or the result of multiplying the school corporation's ADM by $1,000. The bill provides for the interception of revenues otherwise payable to the school corporation if the school corporation fails to pay an obligation associated with the loan but specifies that the Treasurer of State may not impair the rights of the school corporation's bondholders regarding Rainy Day Fund loan payments. It also provides that the interest rate on Rainy Day Fund loans to a school corporations is equal to the interest rate on state taxes, minus 2%.

Distressed Units: This bill changes the membership of the DUAB. It provides that a political subdivision may file a petition with the 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 specifies that the DUAB may consider whether a political subdivision has exercised all of its local options.

The bill provides that if the DUAB designates a political subdivision as a distressed political subdivision, the board shall (except in the case of a school corporation that is designated as distressed) 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. It provides that a school corporation that is designated as distressed may not carry out certain actions without the approval of the DUAB.

Consolidated School Health Plan: This bill provides that if a school corporation that covers its active and retired employees under a state employee health plan consolidates, reorganizes, or merges after May 1, 2012, with a school corporation that does not cover its active and retired employees under a state employee health plan, the school corporation that results from the consolidation, reorganization, or merger must allow an individual for whom the first school corporation had (as of the effective date of the consolidation, reorganization, or merger) health insurance liability under a state employee health plan to continue the individual's coverage under the state employee health plan for at least five years, as long as the individual otherwise remains eligible for coverage under the plan.

School Transportation Program: The bill provides that a school corporation that carried out a general program in at least one school year beginning after June 30, 2010, to provide transportation to and from school for eligible students must carry out a program to provide transportation to and from school, unless the governing body of the school corporation: (1) approves the termination of the transportation program; and (2) provides public notice of the termination; at least three years before the date after which the transportation will no longer be provided.

It allows the Department of Education to waive these requirements if the Department determines that a transportation plan presented by the school corporation, with or without revisions required by the Department: (1) will protect the safety of eligible students enrolled in the school corporation; and (2) is otherwise in accordance with applicable law.

General Fund Transportation: The bill provides that before January 1, 2018, costs attributable to transportation may be budgeted in and paid from a school corporation's general fund.

School Bus Replacement Fund: This bill provides that the Department of Local Government Finance (DLGF) may upon petition by a school corporation adjust the school corporation's levy for the school bus replacement fund to reflect the school corporation's school bus acquisition plan.

School Pension Debt Neutralization: The bill also reduces (by 75% in 2013, 50% in 2014, and 25% in 2015) the amount by which a school corporation must otherwise reduce the school corporation's other levies to offset a pension debt levy, if the school corporation adopts a resolution to apply such a reduction.

Effective Date: Upon Passage.

Explanation of State Expenditures: *Distressed Schools:* The bill would permit loans of up to $5 M per eligible school corporation through CY 2017. Eligible school corporations are those which are designated as distressed schools by the DUAB or approved for a loan by the DUAB. The loans would carry an interest rate equal to the interest rate set by the Department of State Revenue for late state tax payments, minus 2%.

As of June 30, 2011, the Rainy Day Fund had a balance of $57.2 M, and there were 13 outstanding loans totaling about $14.8 M for about 10 units of government. Projected payments for FY 2012 are $3.2 M.

Distressed Units: Currently, the DUAB is comprised of nine members including the executives of OMB, DLGF, SBA, and the Department of State Revenue, plus four members appointed by the Governor and one member appointed by the House Speaker. The DUAB was established to receive petitions from taxing units for relief from circuit breaker credit losses but has ceased to function as a result of the passage of the constitutional amendment to cap property taxes.

Under this bill, the DUAB would have five members including the executives (or designees of) of the OMB, DLGF, and SBA, the Superintendent of Public Instruction, and an appointee of the Chairperson of the Legislative Council. DUAB members are entitled to reimbursement of travel and other actual 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, a school corporation could petition the Tax Court to review a DUAB determination regarding the corporation’s distressed status.

Explanation of State Revenues:

Explanation of Local Expenditures: *School Transportation Program*: The waiver process might make it more difficult for a school corporation to terminate their student transportation services. For FY 2011, schools spent about $522.4 M from their transportation funds.

General Fund Transportation: The bill would allow schools to pay for transportation expenditures from the school general fund through December 31, 2017. The bill would increase a school’s flexibility to fund transportation. As of December 30, 2010, schools had an operating balance of about $674.4 M in their general funds.

Explanation of Local Revenues: *School Debt Levies*: Under current law, certain school corporations are permitted to transfer certain amounts from their debt service levies to their capital projects, transportation, and school bus replacement funds. Eligible school corporations include corporations that have circuit breaker losses from all funds that are at least 30% of the levies in the nondebt funds (i.e., capital projects, transportation, school bus replacement, and racial balance). Eligible schools may currently refinance up to 50% of their existing bonds for a period not exceeding 10 years past the original term. The difference between the old debt service levy and the levy for the refinanced bond (or 0 for a retired bond) is the incremental levy amount and may be transferred, up to the amount of the circuit breaker losses, to the other funds.

Under current law, if a school corporation's loss is at least 30% and up to 45% of nondebt levies, the refinancing is subject to the referendum process. In 2011, there were 18 school corporations with losses between 30% and up to 45%. Also under current law, if the loss is greater than 45%, the refinancing is subject to the petition and remonstrance process. There are 13 school corporations with losses greater than 45%.

Through CY 2017, school corporations with a loss of at least 20% would be eligible for refinancing under this provision. In 2011, there were 14 school corporations that had losses greater than 20% and less than 30%.

The refinancing for any eligible school corporation would not be subject to either the referendum or petition and remonstrance process if an ordinance is adopted by December 31, 2017. This provision would increase the number of eligible school corporations and speed the process for refinancing.

Under the bill, the DLGF would certify the percentage loss of a school corporation that seeks refinancing.

(Revised) *Distressed Units*: 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 could become a distressed unit only after the DUAB accepts a joint petition from a civil unit's fiscal body and its executive, or from the governing body and superintendent of a school corporation. Designation as a distressed unit may be made only if the DUAB finds that at least one of several adverse conditions exists. A distressed unit designation would be reviewed annually by the DUAB. A newly elected executive or a school corporation with a new superintendent or a newly elected school board member 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 civil taxing unit as a distressed unit, the DUAB would appoint an emergency manager for the unit. The manager's activities would be overseen by the DUAB chairman. 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 new 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, and contract with other taxing units to provide services.

In the case of a distressed school corporation, the DUAB would review a request for a loan from the state Rainy Day Fund. The DUAB would make a recommendation to the State Board of Finance regarding the loan.

Without prior approval from the DUAB, a distressed school corporation may not acquire property, construct, remodel, or renovate buildings, incur a contractual obligation (except for maintenance contracts) greater than $30,000, purchase more than $30,000 worth of personal property, or adopt or advertise a budget, tax levy, or tax rate.

School Bus Replacement Fund: Prior to 2012, the levy limit for the school bus replacement fund was based on the estimated cost to replace the school's bus fleet over a 12-year period. Under current law, for taxes payable in CY 2012, the DLGF must set the maximum levy based on reasonable needs and whether the school corporation transferred money from the fund to the rainy day fund in a previous year. Also under current law, beginning with taxes payable in CY 2013, the levy growth will be limited to the income-based assessed value growth quotient (AVGQ).

Beginning with taxes payable in 2013 under the bill, school corporations would be permitted to petition the DLGF for an increase in the maximum permissible levy for the school bus replacement fund to reflect the school corporation's school bus acquisition plan.

School Pension Debt Neutralization: Under current law, school corporations that have pension bonds must reduce the property tax levy for one of the nondebt funds to offset the levy in the pension bond fund. This provision would permit school corporations to adopt a resolution to adjust the offset for three years. The adjustment amount for the levies in the nondebt funds would be equal to 25% of the pension bond levy in 2013, 50% in 2014, and 75% in 2015. The levy offset would return to 100% of the pension bond levy in 2016.

The DLGF has compiled the pension neutrality amounts only for the school bus replacement fund. According to the DLGF, the total pension neutrality amount applicable to the school bus replacement fund equals about $86 M. So, the additional levy in this fund allowed statewide is estimated at $64.5 M in 2013, $43 M in 2014, and $21.5 M in 2015. The additional levy allowed in the other school funds is not currently available.

An increase in property tax levies would cause tax rates to increase and could result in an increase in circuit breaker losses for the affected school corporations and the civil taxing units that intersect with them.

State Agencies Affected: Distressed Unit Appeals Board; State Board of Finance; Treasurer of State.

Local Agencies Affected: Civil taxing units and school corporations;

Information Sources: Department of Education databases; State Budget Agency FY 2010-2011 *Close-Out Statement*, http://www.in.gov/sba/2583.htm.; Micah Vincent, DLGF, 317-232-3777.

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