

LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6699

BILL NUMBER: SB 355

NOTE PREPARED: Jan 30, 2012

BILL AMENDED: Jan 23, 2012

SUBJECT: Distressed political subdivisions.

FIRST AUTHOR: Sen. Charbonneau

FIRST SPONSOR: Rep. Soliday

BILL STATUS: As Passed Senate

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 Appeals 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 either two unsuccessful referenda or effects from the credit for excessive property taxes that are greater than 75% (excluding debt levies) can be a basis for finding a political subdivision a distressed political subdivision. It specifies that the DUAB may consider whether a political subdivision has exercised all of its local options.

This 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. The bill provides that if a school corporation is a distressed school corporation and that while in that status the school corporation's superintendent is newly employed or its school board has a newly elected or appointed member, the school corporation may petition the distressed unit board for removal as a distressed school corporation.

The bill provides that if a distressed school corporation receives emergency financial relief, the school corporation may not do any of the following without the approval of the DUAB: (1) Acquire real property for school building purposes. (2) Construct new school buildings or remodel or renovate existing school buildings. (3) Incur a contractual obligation (except an employment contract for a new employee whose employment replaces the employment of a former employee) that requires an expenditure of more than ten thousand dollars

(\$10,000). (4) Purchase or enter into an agreement to purchase personal property at a cost of more than ten thousand dollars (\$10,000). (5) Adopt or advertise a budget, tax levy, or tax rate for an ensuing budget year.

This bill specifies that a school corporation may receive a loan with interest from the Counter-cyclical Revenue and Economic Stabilization (State Rainy Day) Fund or the Common School Fund or an authorization to use unobligated reserves or other balances in other funds or to make fund to fund transfers.

The bill also reduces the number of members on the DUAB to five: (1) the Director of the Office of Management and Budget (OMB); (2) the Commissioner of the Department of Local Government Finance (DLGF); (3) the State Examiner of the State Board of Accounts (SBA); (4) the Superintendent of Public Instruction; and (5) an individual appointed by the chair of the Legislative Council. The bill repeals obsolete provisions of the DUAB statute.

Effective Date: January 1, 2012 (retroactive); July 1, 2012.

Explanation of State Expenditures: 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 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. 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, a taxing unit could petition the Tax Court to review a DUAB determination regarding the unit's distressed status.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) 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 the unit's fiscal body and its executive. 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 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 school corporation, if the authority already exists in current law, the manager may: contract with the State Treasurer to obtain a loan from the state's Rainy Day Fund; authorize the use of unobligated reserves or unused balances in a construction, sinking, bond, or debt fund; or authorize transfers between statutory funds.

Without prior approval from the DUAB, a school corporation that receives emergency relief may not acquire property, construct, remodel, or renovate buildings, incur a contractual obligation greater than \$10,000, or adopt or advertise a budget, tax levy, and tax rate.

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

Local Agencies Affected: Civil taxing units and school corporations.

Information Sources:

Fiscal Analyst: Bob Sigalow, 317-232-9859.