
SENATE BILL No. 355

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20.3.

Synopsis: Distressed political subdivisions. Provides that a taxing unit other than a school corporation (civil taxing unit) may file a petition with the distressed unit appeal board (board) seeking designation of the civil taxing unit as a distressed political subdivision, based on any one of several failures by the civil taxing unit to meet its financial obligations. Provides that if the board designates a civil taxing unit as a distressed political subdivision, the board shall appoint an emergency manager for the distressed political subdivision. Provides that an emergency manager of a distressed political subdivision has broad powers to effect the financial rehabilitation of the distressed political subdivision. Reduces the number of members on the board to three: (1) the director of the office of management and budget; (2) the commissioner of the department of local government finance; and (3) the state examiner of the state board of accounts. Repeals obsolete provisions of the distressed unit appeals board statute.

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

Charbonneau

January 9, 2012, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 355



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-20.3-2, AS AMENDED BY P.L.146-2008,
2 SECTION 202, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: Sec. 2. As used in this chapter,
4 "distressed political subdivision" means a ~~political subdivision that~~
5 **expects to have the political subdivision's property tax collections**
6 **reduced by at least five percent (5%) in a calendar year as a result of**
7 **the application of the credit under IC 6-1.1-20.6 for that calendar year:**
8 **civil taxing unit designated as a distressed political subdivision by**
9 **the board under section 6.5 of this chapter.**

10 SECTION 2. IC 6-1.1-20.3-3 IS REPEALED [EFFECTIVE JULY
11 1, 2012]. ~~Sec. 3: As used in this chapter, "political subdivision" has the~~
12 ~~meaning set forth in IC 36-1-2-13.~~

13 SECTION 3. IC 6-1.1-20.3-4, AS AMENDED BY P.L.146-2008,
14 SECTION 203, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The distressed unit appeal
16 board is established.

17 (b) The distressed unit appeal board consists of the following



- 1 members:
- 2 (1) The director of the office of management and budget or the
- 3 director's designee. The director or the director's designee shall
- 4 serve as chairperson of the distressed unit appeal board.
- 5 (2) The commissioner of the department of local government
- 6 finance or the commissioner's designee.
- 7 ~~(3) The commissioner of the department of state revenue or the~~
- 8 ~~commissioner's designee.~~
- 9 ~~(4) (3) The state examiner of the state board of accounts or the~~
- 10 ~~state examiner's designee.~~
- 11 ~~(5) The following members appointed by the governor:~~
- 12 ~~(A) One (1) member appointed from nominees submitted by~~
- 13 ~~the Indiana Association of Cities and Towns:~~
- 14 ~~(B) One (1) member appointed from nominees submitted by~~
- 15 ~~the Association of Indiana Counties:~~
- 16 ~~(C) One (1) member appointed from nominees submitted by~~
- 17 ~~the Indiana Association of School Superintendents:~~
- 18 ~~A member nominated and appointed under this subdivision must~~
- 19 ~~be an elected official of a political subdivision:~~
- 20 ~~(6) One (1) member appointed by the governor (in addition to~~
- 21 ~~members appointed under subdivision (5)):~~
- 22 ~~(7) One (1) member appointed by the speaker of the house of~~
- 23 ~~representatives. A member appointed under this subdivision~~
- 24 ~~serves a term of four (4) years:~~
- 25 ~~(e) The members appointed under subsection (b)(5) and subsection~~
- 26 ~~(b)(6) serve at the pleasure of the governor:~~
- 27 ~~(d) (c) Each member of the commission is entitled to reimbursement~~
- 28 ~~for:~~
- 29 ~~(1) traveling expenses as provided under IC 4-13-1-4; and~~
- 30 ~~(2) other expenses actually incurred in connection with the~~
- 31 ~~member's duties as provided in the state policies and procedures~~
- 32 ~~established by the Indiana department of administration and~~
- 33 ~~approved by the budget agency.~~
- 34 SECTION 4. IC 6-1.1-20.3-6, AS AMENDED BY P.L.146-2008,
- 35 SECTION 205, IS AMENDED TO READ AS FOLLOWS
- 36 [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) ~~For property taxes first due~~
- 37 ~~and payable in 2008 and thereafter, The fiscal body and the executive~~
- 38 ~~of a distressed political subdivision may petition the board for relief as~~
- 39 ~~authorized under this chapter from the application of the credit under~~
- 40 ~~IC 6-1.1-20.6 for a calendar year: **civil taxing unit may jointly file a**~~
- 41 ~~**petition with the board seeking to have the civil taxing unit**~~
- 42 ~~**designated as a distressed political subdivision under this chapter.**~~

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1 (b) A petition under subsection (a) must include a proposed
 2 financial plan for the distressed political subdivision. The proposed
 3 financial plan must include the following:

4 (1) Proposed budgets that would enable the distressed political
 5 subdivision to cease being a distressed political subdivision.

6 (2) Proposed efficiencies, consolidations, cost reductions, uses of
 7 alternative or additional revenues, or other actions that would
 8 enable the distressed political subdivision to cease being a
 9 distressed political subdivision.

10 (3) Proposed increases, if any, in the percentage thresholds
 11 (specified as a percentage of gross assessed value) at which the
 12 credit under IC 6-1.1-20.6 will apply, including any varying
 13 percentages for different classes of property.

14 (4) Proposed reductions, if any, to the credits under IC 6-1.1-20.6
 15 (by percentages), including any varying percentage reductions for
 16 different classes of property.

17 (e) (b) The board may adopt procedures governing the timing and
 18 required content of a petition under subsection (a).

19 SECTION 5. IC 6-1.1-20.3-6.5 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2012]: **Sec. 6.5. (a) After the board receives
 22 a petition concerning a civil taxing unit under section 6 of this
 23 chapter, the board may designate the civil taxing unit as a
 24 distressed political subdivision if at least one (1) of the following
 25 conditions applies to the civil taxing unit:**

26 (1) The civil taxing unit has defaulted in payment of principal
 27 or interest on any of its bonds or notes.

28 (2) The civil taxing unit has missed a payroll for thirty (30)
 29 days or two (2) consecutive payrolls.

30 (3) The civil taxing unit has failed to make required payments
 31 to judgment creditors for sixty (60) days beyond the date of
 32 the recording of the judgment.

33 (4) The civil taxing unit, for at least thirty (30) days beyond
 34 the due date, has failed to do any of the following:

35 (A) Forward taxes withheld on the incomes of employees.

36 (B) Failed to transfer employer or employee contributions
 37 due under the Federal Insurance Contributions Act
 38 (FICA).

39 (C) Failed to deposit the civil taxing unit's minimum
 40 obligation payment to a pension fund.

41 (5) The civil taxing unit has accumulated a deficit equal to
 42 eight percent (8%) or more of the civil taxing unit's revenues.

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1 For purposes of this subdivision, "deficit" means a negative
 2 fund balance calculated as a percentage of revenues at the end
 3 of a budget year for any governmental or proprietary fund.
 4 The calculation must be presented on an accrual basis
 5 according to generally accepted accounting principles.

6 (6) The civil taxing unit has sought to negotiate a resolution or
 7 an adjustment of claims that in the aggregate:

8 (A) exceed thirty percent (30%) of the civil taxing unit's
 9 anticipated annual revenues; and

10 (B) are ninety (90) days or more past due.

11 (7) The civil taxing unit has interfund loans for the benefit of
 12 the same fund carried over year end for two (2) successive
 13 years.

14 (b) If the board designates a civil taxing unit as distressed under
 15 subsection (a), the board shall review the designation annually to
 16 determine if the distressed political subdivision meets at least one
 17 (1) of the conditions listed in subsection (a).

18 (c) If the board designates a civil taxing unit as a distressed
 19 political subdivision under subsection (a), the board shall
 20 immediately notify:

21 (1) the treasurer of state; and

22 (2) the county auditor and county treasurer of each county in
 23 which the distressed political subdivision is wholly or partially
 24 located;

25 that the board has designated the civil taxing unit as a distressed
 26 political subdivision.

27 SECTION 6. IC 6-1.1-20.3-7 IS REPEALED [EFFECTIVE JULY
 28 1, 2012]. Sec. 7. (a) If the fiscal body of a distressed political
 29 subdivision submits a petition under section 6 of this chapter, the board
 30 shall review the petition and assist in establishing a financial plan for
 31 the distressed political subdivision:

32 (b) In reviewing a petition submitted under section 6 of this chapter,
 33 the board:

34 (1) shall consider:

35 (A) the proposed financial plan;

36 (B) comparisons to similarly situated political subdivisions;

37 (C) the existing revenue and expenditures of political
 38 subdivisions in the county; and

39 (D) any other factor considered relevant by the board; and

40 (2) may establish subcommittees or temporarily appoint
 41 nonvoting members to the board to assist in the review.

42 SECTION 7. IC 6-1.1-20.3-7.5 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2012]: **Sec. 7.5. (a) If the board designates a**
 3 **civil taxing unit as a distressed political subdivision under section**
 4 **6.5 of this chapter, the board shall appoint an emergency manager**
 5 **for the distressed political subdivision. An emergency manager**
 6 **serves at the pleasure of the board.**

7 **(b) The chairperson of the board shall oversee the activities of**
 8 **an emergency manager.**

9 **(c) The distressed political subdivision shall pay the emergency**
 10 **manager's compensation and reimburse the emergency fiscal**
 11 **manager for actual and necessary expenses.**

12 SECTION 8. IC 6-1.1-20.3-8 IS REPEALED [EFFECTIVE JULY
 13 1, 2012]. **Sec. 8: (a) The board may authorize relief as provided in**
 14 **subsection (b) from the application of the credit under IC 6-1.1-20.6 for**
 15 **a calendar year if the governing body of each political subdivision in**
 16 **the county that is affected by the financial plan has adopted a resolution**
 17 **agreeing to the terms of the financial plan:**

18 **(b) If the conditions of subsection (a) are satisfied, the board may,**
 19 **notwithstanding IC 6-1.1-20.6, do any of the following:**

20 (1) Increase the percentage thresholds (specified as a percentage
 21 of gross assessed value) at which the credit under IC 6-1.1-20.6
 22 applies to a person's property tax liability in the political
 23 subdivision;

24 (2) Provide for percentage reductions to credits otherwise
 25 provided under IC 6-1.1-20.6 in the political subdivision;

26 (3) Provide that some or all of the property taxes that:

27 (A) are being imposed to pay bonds, leases, or other debt
 28 obligations; and

29 (B) would otherwise be included in the calculation of the
 30 credit under IC 6-1.1-20.6 in the political subdivision;

31 shall not be included for purposes of calculating a person's credit
 32 under IC 6-1.1-20.6.

33 (c) If the board provides relief described in subsection (b), the board
 34 shall conduct audits and reviews as necessary to determine whether the
 35 affected political subdivision is abiding by the terms of the financial
 36 plan agreed to under subsection (a):

37 SECTION 9. IC 6-1.1-20.3-8.5 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2012]: **Sec. 8.5. (a) Notwithstanding any**
 40 **other law, an emergency manager of a distressed political**
 41 **subdivision appointed under section 7.5 of this chapter shall do the**
 42 **following:**

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1 (1) Assume and exercise the authority and responsibilities of
 2 both the executive and the fiscal body of the civil taxing unit
 3 concerning the adoption, amendment, and enforcement of
 4 ordinances and resolutions relating to or affecting the fiscal
 5 stability of the civil taxing unit. However, the emergency
 6 manager does not have the power to impose taxes or fees in
 7 addition to the taxes or fees authorized by the civil taxing unit
 8 before the civil taxing unit was designated a distressed
 9 political subdivision.

10 (2) Review the civil taxing unit's budget.

11 (3) Review salaries of the civil taxing unit's employees.

12 (4) Conduct a financial and compliance audit of the internal
 13 operations of the civil taxing unit.

14 (5) Develop a written financial plan in consultation with the
 15 officials of the civil taxing unit not later than six (6) months
 16 after appointment.

17 (6) Develop a plan for paying all the civil taxing unit's
 18 outstanding obligations.

19 (7) Review existing labor contracts.

20 (8) Adopt a budget for the civil taxing unit for each calendar
 21 or fiscal year, as applicable, that the civil taxing unit remains
 22 a distressed political subdivision.

23 (9) Review payrolls and other claims against the civil taxing
 24 unit before payment.

25 (10) Make, approve, or disapprove the following:

26 (A) A contract.

27 (B) An expenditure.

28 (C) A loan.

29 (D) The creation of any new position.

30 (E) The filling of any vacant position.

31 (11) Submit a written report to the board every three (3)
 32 months describing the work that has been done to remove the
 33 civil taxing unit from distressed status.

34 (12) Petition the board to terminate a civil taxing unit's status
 35 as a distressed political subdivision when the conditions found
 36 in section 6.5 of this chapter are no longer applicable to the
 37 civil taxing unit.

38 (b) An emergency manager of a distressed political subdivision
 39 appointed under section 7.5 of this chapter may do the following:

40 (1) Renegotiate existing labor contracts and act as an agent of
 41 the civil taxing unit in collective bargaining.

42 (2) Reduce or suspend salaries of the civil taxing unit's

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1 employees.

2 (3) Enter into agreements with other civil taxing units for the
3 provision of services.

4 (c) Except as provided in section 13(c) of this chapter, an
5 emergency manager of a distressed political subdivision retains the
6 powers and duties described in subsections (a) and (b) until:

7 (1) the emergency manager resigns or dies;

8 (2) the board removes the emergency manager; or

9 (3) the civil taxing unit's status as a distressed political
10 subdivision is terminated under section 13(b) of this chapter.

11 SECTION 10. IC 6-1.1-20.3-10, AS ADDED BY P.L.146-2008,
12 SECTION 209, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2012]: Sec. 10. A distressed political
14 subdivision ~~civil taxing unit~~ may petition the tax court for judicial
15 review of a ~~final~~ determination of the board **under section 6.5 of this**
16 **chapter**. The action must be taken to the tax court under IC 6-1.1-15
17 in the same manner that an action is taken to appeal a final
18 determination of the Indiana board of tax review. The petition must be
19 filed in the tax court not more than forty-five (45) days after the board
20 enters its final determination.

21 SECTION 11. IC 6-1.1-20.3-13 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2012]: **Sec. 13 (a) If:**

24 (1) an emergency manager of a distressed political
25 subdivision; or

26 (2) the petitioner who moved for designation of the civil taxing
27 unit as a distressed political subdivision under section 6 of this
28 chapter;

29 files a petition with the board for termination of the civil taxing
30 unit's status as a distressed political subdivision, the board shall
31 conduct a public hearing on the question of whether to terminate
32 the civil taxing unit's status as a distressed political subdivision.

33 (b) The board shall terminate the civil taxing unit's status as a
34 distressed political subdivision if the board finds that the
35 conditions found in section 6.5 of this chapter are no longer
36 applicable to the civil taxing unit.

37 (c) Notwithstanding any other section of this chapter, not later
38 than ninety (90) days after taking office, a new executive of a
39 distressed political subdivision may petition the board for
40 suspension of the civil taxing unit's distressed status. The executive
41 must include in its petition a written plan to resolve the applicable
42 issues described in section 6.5 of this chapter. If the board approves

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1 the executive's written plan, the board may suspend the civil taxing
2 unit's distressed status for one hundred eighty (180) days.
3 Suspension under this chapter terminates automatically upon
4 expiration of the one hundred eighty (180) day period. The board
5 may consider a petition to terminate the civil taxing unit's
6 distressed status during a period of suspension.

7 SECTION 12. [EFFECTIVE JANUARY 1, 2012
8 (RETROACTIVE)] (a) Notwithstanding this act, the final
9 determinations of the distressed unit appeal board made before
10 January 1, 2012, remain in effect until the final settlement of the
11 2011 Lake County property tax bills.

12 (b) This SECTION expires December 31, 2013.

13 SECTION 13. An emergency is declared for this act.

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