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SB 54 Engrossed

DIGEST  
2025 Regular Session

Mizell

Present law provides that "financial stability" is defined as a condition in which the political subdivision is capable of meeting its financial obligations in a timely manner as they become due without substantial disposition of assets outside the ordinary course of business, substantial layoffs of personnel, or interruption of statutorily or other legally required services of the political subdivision, restructuring of debt, revision of operations, or similar actions.

Proposed law retains present law but provides that a political subdivision shall not be considered financially stable if any of the conditions described in proposed law exist. Proposed law provides that the existence of a single such condition is sufficient to remove a political subdivision from the category of "financial stability" regardless of its other financial metrics or circumstances.

Proposed law provides that the attorney general shall file a rule to show cause to appoint a fiscal administrator for the political subdivision as provided for in proposed law if it is determined by the unanimous decision of the legislative auditor, the attorney general, and the state treasurer at a public meeting to consider such matters that a political subdivision is reasonably certain to not maintain financial stability including but not limited to any of the following conditions:

- (1) Having insufficient revenue to pay twelve months of operating expenditures, excluding civil judgments.
- (2) Failure to make a debt service payment.
- (3) Material fraud, misappropriation, or intentional misrepresentation in financial records that has been discovered by any regulatory body, law enforcement agency, auditor, or governmental entity.
- (4) File or maintain false public records including knowingly filing, maintaining, or certifying false, fraudulent, or materially misleading financial documents, reports, or records.
- (5) Receive an audit opinion other than an unmodified opinion, or having a material weakness, significant deficiency, or growing concern, or uncertainty identified in the independent audit.
- (6) Violate or is in technical default of bond covenants or financing agreements.
- (7) Recurring or significant reliance on nonrecurring sources of revenue to cover routine operating expenditures. "Significant reliance" includes cashing certificates or deposits or other long-term investments to pay operating expenses, or using funds from loans that are

intended for a purpose other than paying operating expenses.

- (8) Failure to timely adopt a balanced annual budget or repeated mid-year budget adjustments indicative of structural financial imbalance.
- (9) Failure to make timely payments to retirements systems or health benefit programs for employees.
- (10) Failure to make timely payments to the IRS or the La. Dept. of Revenue for employees' payroll taxes.

Present law provides that present law failure of a political subdivision to provide an audit required by R.S. 24:513 to the legislative auditor for a period of three consecutive fiscal years shall automatically remove the political subdivision from the category of "financial stability" as defined in this Section and shall be prima facie evidence that the political subdivision is reasonably certain not to have sufficient revenue to pay current expenditures, excluding civil judgments.

Proposed law retains present law but changes the time period for a political subdivision to provide an audit required by present law to the legislative auditor from a period of three consecutive fiscal years to two consecutive fiscal years.

Present law provides that failure of a city, parish, or other local public school board to provide an audit required by present law to the legislative auditor for a period of three consecutive fiscal years shall automatically place that political subdivision in the category of "financially at risk" and shall be prima facie evidence that the political subdivision is reasonably certain to fail to resolve its status as financially at risk as that status is defined by rule by BESE.

Proposed law retains present law but changes the time period for a city, parish, or other local public school board to provide an audit required by present law to the legislative auditor from a period of three consecutive fiscal years to two consecutive fiscal years.

Present law provides that upon making the decision authorized by present law, the attorney general shall, on motion in the district court of the domicile of the political subdivision, take rule on the political subdivision to show cause why a fiscal administrator should not be appointed for the political subdivision as provided for in present law. The hearing on the rule to show cause may be tried out of term and in chambers, shall always be tried by preference, and shall be held in not less than 10 nor more than 20 days from the date the motion is filed.

Present law provides that if the political subdivision consents to the appointment of a fiscal administrator, a joint motion by the attorney general and the political subdivision, along with a consent judgment, shall be filed in the district court of the domicile of the political subdivision within 45 days of the decision authorized by present law. The court shall appoint a fiscal administrator within 20 days of filing the joint motion and consent judgment according to the terms of the consent judgment.

Proposed law retains present law but provides that the hearing on the rule to show cause shall be tried out of term and does not have to be held in chambers.

Present law provides that if the court finds by a preponderance of the evidence from the facts and evidence deduced at the hearing of the rule that the political subdivision is reasonably certain to fail to make a debt service payment or reasonably certain to not have sufficient revenue to pay current expenditures, excluding civil judgments, or, in the case of a city, parish, or other local public school board, reasonably certain to fail to resolve its status as financially at risk as that status has been defined by rule by BESE.

Proposed law retains present law but further provides an exception for not having sufficient revenue to pay current expenditures to include conditions set forth in proposed law.

Present law provides that if a political subdivision has failed to provide an audit required by (R.S. 24:513) to the legislative auditor for a period of three consecutive fiscal years, unless the political subdivision provides sufficient evidence to establish that the political subdivision has an audit for one or more of three such years.

Proposed law retains present law but changes the time period for a political subdivision to provide an audit required by present law to the legislative auditor from a period of three consecutive fiscal years to two consecutive fiscal years.

Proposed law provides that the legislative auditor, attorney general, and state treasurer, or his designee, shall meet as often as deemed necessary to review the necessity for the appointment of a limited jurisdiction fiscal administrator for political subdivisions of the state to address emergencies affecting the fiscal stability and public health, safety, and welfare of the citizens of a political subdivision or the state.

Proposed law provides that a limited jurisdiction fiscal administrator shall be a fiscal administrator whose oversight is limited to a specific department or functions of a political subdivision necessary to address the emergency affecting the fiscal stability and public health, safety, and welfare of citizens of a political subdivision of the state.

Proposed law provides that the grounds for appointment of a limited jurisdiction fiscal administrator pursuant to present law shall include, but not be limited to the inability of the political subdivision pursuant to present law (R.S. 39:72.1) to receive state and local funds or federal funds due to noncompliance with La. audit law.

Proposed law provides that if it is determined by the unanimous decision of the legislative auditor, attorney general, and state treasurer at a public meeting to consider matters that the appointment of a limited jurisdiction fiscal administrator is required in order to address an emergency, the attorney general shall file a rule to show cause to appoint a limited jurisdiction fiscal administrator.

Proposed law provides that upon making the decision authorized in proposed law, the attorney general shall, on motion in the district court of the domicile of the political subdivision, take a rule

on the political subdivision to show cause why a limited jurisdiction fiscal administrator should not be appointed for the political subdivision as provided in proposed law.

Proposed law provides that the hearing on the rule to show cause may be tried out of term and in chambers, shall always be tried by preference, and shall be held not less than 10, nor more than 20 days from the date the motion was filed.

Proposed law provides that, if the political subdivision consents to the appointment of a limited jurisdiction fiscal administrator, then the parties shall file a joint motion and a consent judgment for the appointment of a limited jurisdiction fiscal administrator for the political subdivision within 45 days.

Proposed law provides that the court shall appoint a limited jurisdiction fiscal administrator according to the terms of the consent judgment within 20 days from the date that the joint motion and consent judgment were filed.

Proposed law provides that the trial court, in the absence of a joint motion and consent judgement, shall appoint a limited jurisdiction fiscal administrator in the following instances:

- (1) If after a hearing, the court finds by a preponderance of the evidence from the facts and evidence that the political subdivision is reasonably certain to be unable to address an emergency affecting the fiscal stability and public health, safety, and welfare of the citizens of a political subdivision or the state.
- (2) If a political subdivision is prohibited from receiving state or local assistance or federal funds necessary to address an emergency affecting public health, safety, or welfare of the citizens of a political subdivision or the state pursuant to present law.

Proposed law provides that the limited jurisdiction fiscal administrator appointed pursuant to proposed law shall be subject to indemnification as a covered individual pursuant to present law.

Proposed law provides that all costs and expenses associated with the independent limited jurisdiction fiscal administration of a political subdivision, including but not limited to all costs and expenses incurred by the limited jurisdiction fiscal administrator, legislative auditor, attorney general, state treasurer, and any other person involved with the independent limited jurisdiction fiscal administration of a political subdivision shall be assessed to the political subdivision subject to independent limited jurisdiction fiscal administration.

Proposed law provides that the limited jurisdiction fiscal administrator shall be recommended by the legislative auditor and attorney general and approved by the court as having sufficient education, experience, and qualifications to perform the duties of limited jurisdiction fiscal administrator.

Proposed law provides that a limited jurisdiction fiscal administrator may be removed by the court only by request of the fiscal administrators, or as provided for in proposed law, or for fraud, negligence, or misconduct.

Proposed law provides that the limited jurisdiction fiscal administrator shall have access to all papers, books, records, documents, films, tapes, and other forms of recordation of the political subdivision or, as related to the political subdivision of the state or emergency.

Proposed law provides that the limited jurisdiction fiscal administrator, subject to state law, shall have authority to direct all fiscal operations of departments and functions of the political subdivision and to take whatever action he deems necessary to address an emergency affecting public health, safety, or welfare of the citizens of a political subdivision or the state. The authority shall include but not be limited to authority to take one or more of the following actions as necessary to address the emergency:

- (1) Amend, formulate, and execute the annual budget and supplemental budgets of the political subdivision.
- (2) Amend, formulate, and execute capital budgets, including authority to amend borrowing authorization or finance or refinance debt in accordance with law.
- (3) Review and approve or disapprove all contracts for goods or services.
- (4) Appoint, remove, supervise, and control all personnel.
- (5) Alter or eliminate the responsibilities of officials, officers, or employees of the political subdivision as required by the emergency.
- (6) Employ, retain, and supervise managerial, professional, and clerical staff necessary to carry out the limited jurisdiction fiscal administrator's responsibilities.
- (7) Reorganize, consolidate, or abolish departments, commissions, authorities, boards, offices, or functions of the political subdivision.
- (8) Make an appropriation, contract, expenditure, or loan, create a new position, fill a vacancy, or approve or disapprove any such action.

Proposed law provides that upon the appointment of a limited jurisdiction fiscal administrator, the officer, officials, and employees of the political subdivision shall serve in an advisory capacity to the limited jurisdiction fiscal administrator concerning the departments and functions necessary to address the emergency. If a conflict arises, the decision of the limited jurisdiction fiscal administrators shall prevail.

Proposed law provides that upon appointment by the court, the limited jurisdiction fiscal administrator shall perform an investigation and file a written report of his findings with the court, governing authority of the political subdivision, state treasurer, attorney general, and legislative auditor. The report shall be updated quarterly during the term of fiscal administration.

Proposed law provides that the report shall contain the following:

- (1) Amendments to the comprehensive budget of the political subdivisions adopted pursuant to present law, or a proposed comprehensive budget if the budget has not been previously adopted, which insures appropriation of funds to address the emergency.
- (2) An estimate of the financial aid or new revenue needed by the political subdivision if the limited jurisdiction fiscal administrator determines that revenues and available funds of the political subdivision are, or will be, insufficient to address the emergency.
- (3) The final report shall also contain a proposed two-year plan with the goal of resolving and addressing any further matters concerning the emergency.
- (4) The limited jurisdiction fiscal administrator shall file any other reports required by the court.

Proposed law provides that in order to perform the investigation and reporting required of the limited jurisdiction fiscal administrator pursuant to present law, the officers, officials, and employees of the political subdivision shall provide within three business days, all information the limited jurisdiction fiscal administrator requests in the performance of his duties. If the officer, official, or employee is unable to provide the information within the required time, then the officer, official, or employee shall send written notice within the three business days of the reason why the information has not been provided to the limited jurisdiction fiscal administrator. If the officer, official, or employee fails to respond within the three business days, or if the limited jurisdiction fiscal administrator fails to receive the requested information, then the attorney general or his designee shall file either or both of the following with the district court:

- (1) A writ of mandamus to compel the officer or official to perform the mandatory or ministerial duties.
- (2) A motion for injunctive relief seeking to compel the officer, official, or employee to act or refrain from acting, pending final resolution of the matter.

Proposed law provides that within seven days after receipt of the initial report, the governing authority of the political subdivision shall adopt in an open meeting the comprehensive budget, or amendments to the original comprehensive budget of the political subdivision, as proposed in the report of the limited jurisdiction fiscal administrator which are necessary to address the emergency during the remainder of the current fiscal year and the following fiscal year.

Proposed law provides that if the governing authority of the political subdivision fails to adopt the budget or budget amendments, or if the revisions made by the governing authority of the political subdivision are not approved by the limited jurisdiction fiscal administrator, then the attorney general shall file a rule to show cause in the manner provided for in proposed law, why the court should not order the adoption and implementation of the budget without the unapproved revisions. The court shall order the adoption and implementation of the budget proposed by the limited jurisdiction fiscal administrator which includes the revisions by the governing authority of the political subdivision, except the revisions which the court finds with reasonable certainty that the political subdivision will not have sufficient funds to address the emergency.

Proposed law provides that the limited jurisdiction fiscal administrator shall monitor revenues and expenditures of the political subdivision under the adopted budget, and make supplemental reports which he considers necessary, but not less than required pursuant to proposed law, until the emergency has been resolved. The supplemental reports shall be subject to adoption, approval, and court review as provided by proposed law.

Proposed law provides that the appointment of the limited jurisdiction fiscal administrator shall terminate upon his own motion, or upon the motion of the attorney general or the political subdivision, if the court finds that the emergency has been resolved.

Present law (R.S. 39:1355) provides that it shall be a violation of present law for any officer, official, or employee of a political subdivision:

- (1) To neglect, fail, or refuse to furnish the fiscal administrator with such papers, accounts, books, documents, films, tapes, and other forms of recordation, including but not limited to computer and recording devices, whether confidential, privileged, or otherwise, that the fiscal administrator has the right to inspect and examine.
- (2) To deny the fiscal administrator access to the office, or to papers, accounts, books, documents, films, tapes, and other forms of recordation, including but not limited to computer and recording devices, whether confidential, privileged, or otherwise, that the fiscal administrator has the right to inspect or examine.
- (3) To refuse, fail, or neglect to transmit to the fiscal administrator reports, statements of accounts, or other documents upon request as provided by law.
- (4) To obstruct or impede the fiscal administrator in any manner, in making the examination authorized by law.

Proposed law retains present law and provides a limited jurisdiction fiscal administrator with the same authority as a fiscal administrator for inspection and examination purposes.

Present law (R.S. 39:1356(E)) provides that neither costs nor attorney fees related to any legal action pursuant to charges of misconduct or malfeasance or to any other matter related to or resulting from the appointment of a fiscal administrator initiated by either the political subdivision or an officer, official, or employee of a political subdivision shall be reimbursed to an officer, official, or employee of a political subdivision unless the officer, official, or employee is acquitted or the suit is dismissed.

Proposed law retains present law and provides that neither costs nor attorney fees related to any legal action pursuant to charges of misconduct or malfeasance or to any other matter related to or resulting from the appointment of a fiscal administrator or limited fiscal administrator initiated by either the political subdivision or an officer, official, or employee of a political subdivision shall be reimbursed to an officer, official, or employee of a political subdivision unless the officer, official, or employee is acquitted or the suit is dismissed.

Effective August 1, 2025.

(Amends R.S. 39:1351(A)(1)(b), (2)(a) and (c), (3), (B)(1)(a) and (b), 1355 and 1356(E); adds R.S. 39:1358, 1358.1, 1358.2 and 1358.3)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill

1. Provides exceptions that exclude a political subdivision from being considered financially unstable.
2. Provides the conditions that necessitate the attorney general appointing a fiscal administrator.
3. Changes the time periods of the required audit to the legislative auditor by certain political subdivisions and entities.