

Regular Session, 2014

HOUSE BILL NO. 1164

BY REPRESENTATIVE KATRINA JACKSON

LOCAL FINANCE: Provides relative to fiscal administrators, including provisions for their powers and duties and prohibition of retroactive application of certain provisions of law relative to fiscal administrators

1 AN ACT

2 To amend and reenact R.S. 39:1352(A)(1) and (3)(h) and (B)(1) and (2) and to repeal R.S.  
3 39:1352(A)(3)(e), relative to fiscal administrators for political subdivisions; to  
4 provide relative to the powers and duties of fiscal administrators; to provide relative  
5 to investigations of political subdivisions by fiscal administrators, including time  
6 limits and reports; to provide for powers of fiscal administrators related to personnel;  
7 to provide relative to provisions of Act No. 336 of the 2013 Regular Session and to  
8 provide that such provisions shall be applied prospectively only and shall not be  
9 applied retroactively; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 39:1352(A)(1) and (3)(h) and (B)(1) and (2) are hereby amended and  
12 reenacted to read as follows:

13 §1352. Duties of a fiscal administrator

14 A.(1) A fiscal administrator shall perform such investigation of the financial  
15 affairs of the political subdivision as he deems necessary. If the political subdivision  
16 has an annual budget of less than five hundred thousand dollars, he shall complete  
17 the investigation in six months or less. He shall have access to all papers, books,  
18 records, documents, films, tapes, and other forms of recordation of the political  
19 subdivision or, as they relate to such political subdivision, of the state.

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(3) The fiscal administrator, subject to approval of the court, shall have authority to direct all fiscal operations of the political subdivision and to take whatever action he deems necessary to return the political subdivision to financial stability in accordance with all applicable laws, rules, regulations, and policies with which the political subdivision must comply. Such authority shall include but not be limited to authority to take one or more of the following actions:

\* \* \*

(h) Reorganize, consolidate, or abolish departments, commissions, authorities, boards, offices, or functions of the political subdivision, and if any such action is taken, appoint, remove, supervise, and control personnel affected by such action.

\* \* \*

B.(1) During the course of his investigation, the fiscal administrator shall file a written status report with the political subdivision on the last day of each month. The report shall include a summary of his activities and findings for the month, together with a proposed schedule of activities for the remainder of the investigation.

(2)(a) After his investigation is completed, the fiscal administrator shall file a written report with the court, the governing authority of the political subdivision, the state treasurer, the attorney general, and the legislative auditor.

~~(2)~~ (b) The report shall contain the following:

~~(a)~~ (i) An estimate of the revenue and expenditures of the political subdivision for the remainder of its current fiscal year and the fiscal year following.

~~(b)~~ (ii) Amendments to the comprehensive budget of the political subdivisions adopted pursuant to R.S. 39:1309, or a proposed comprehensive budget if such budget has not been previously adopted, which will insure that payments of debt service are a priority budget item and that they will be timely made by the political subdivision during the remainder of the current fiscal year and the fiscal year following or such amendments which will insure having sufficient revenue to

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1 pay current expenditures, excluding civil judgments, or, in the case of a city, parish,  
2 or other local public school board, such amendments which will insure resolving its  
3 status as financially at risk as that status has been defined by rule by the State Board  
4 of Elementary and Secondary Education.

5 ~~(c)~~(iii) An estimate of the financial aid or new revenue which may be needed  
6 by the political subdivision if the fiscal administrator determines that revenues of the  
7 political subdivision are, or will be, insufficient to insure both timely payments of  
8 debt service as a priority over items in the budget, and a reduced, but adequate,  
9 funding level for other needs of the political subdivision or as is needed to have  
10 sufficient revenue to pay current expenditures, excluding civil judgments, or, in the  
11 case of a city, parish, or other local public school board, as is needed to resolve its  
12 status as financially at risk as that status has been defined by rule by the State Board  
13 of Elementary and Secondary Education.

14 ~~(d)~~(iv) A recommendation as to whether the political subdivision should be  
15 permitted to file a petition in a court of bankruptcy of the United States in order to  
16 provide for a readjustment of its debts.

17 \* \* \*

18 Section 2. R.S. 39:1352(A)(3)(e) is hereby repealed in its entirety.

19 Section 3. The provisions of Act No. 336 of the 2013 Regular Session, which was  
20 effective on August 1, 2013, shall be applicable prospectively from and after that date and  
21 shall not be applied retroactively.

22 Section 4. This Act shall become effective upon signature by the governor or, if not  
23 signed by the governor, upon expiration of the time for bills to become law without signature  
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
26 effective on the day following such approval.

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Katrina Jackson

HB No. 1164

**Abstract:** Relative to fiscal administrators for political subdivisions, provides for time limits on and reports of investigations by fiscal administrators, limits certain powers of fiscal administrators related to personnel, and provides that Act No. 336 of the 2013 Regular Session shall not be applied retroactively.

Present law provides relative to fiscal administrators for political subdivisions. Provides for appointment of a fiscal administrator for a political subdivision if the political subdivision is: (1) reasonably certain to fail to make a debt service payment; (2) reasonably certain to not have sufficient revenue to pay current expenditures, excluding civil judgments; (3) in the case of a local public school board, reasonably certain to fail to resolve its status as financially at risk as that status has been defined by BESE rule; or (4) when a political subdivision has failed to provide an audit required by law 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. Present law provides for the powers of a fiscal administrator, including an investigation of the fiscal affairs of the political subdivision and issuance of a report and authority to direct all fiscal operations of the political subdivision and to take action to return the political subdivision to financial stability. Provides for budget changes by the political subdivision. Provides for further monitoring of revenues and expenditures and for termination of appointment of the fiscal administrator. Provides for violations and penalties.

Present law provides that a fiscal administrator shall perform such investigation of the financial affairs of the political subdivision as he deems necessary. Proposed law provides, if the political subdivision has an annual budget of less than \$500,000, that the fiscal administrator shall complete the investigation in six months or less.

Present law provides that the fiscal administrator, subject to approval of the court, shall have authority to direct all fiscal operations of the political subdivision and to take whatever action he deems necessary to return the political subdivision to financial stability in accordance with all applicable laws, rules, regulations, and policies with which the political subdivision must comply. Provides that his authority includes (among others) authority to: (1) appoint, remove, supervise, and control all personnel and (2) reorganize, consolidate, or abolish departments, commissions, authorities, boards, offices, or functions of the political subdivision. Proposed law limits such personnel authority by providing that if the fiscal administrator reorganizes, consolidates or abolishes departments, commissions, authorities, boards, offices, or functions, he may appoint, remove, supervise, and control personnel affected by such action.

Present law requires, after his investigation, that the fiscal administrator file a written report with the court, the governing authority of the political subdivision, the state treasurer, the attorney general, and the legislative auditor and specifies its contents. Proposed law retains present law and additionally requires that, during the course of his investigation, the fiscal administrator file a written status report with the political subdivision on the last day of each month and that this report include a summary of his activities and findings for the month, together with a proposed schedule of activities for the remainder of the investigation.

Proposed law provides that Act No. 336 of the 2013 R.S., which was effective on August 1, 2013, shall be applicable prospectively from and after that date and shall not be applied retroactively. Act No. 336 of the 2013 R.S. substantially amended the law relative to fiscal

administrators, including adding provisions for financial instability and appointment of a fiscal administrator for failure to file an audit with the legislative auditor for three consecutive years, for fiscal administrator authority to direct all fiscal operations of the political subdivision and to take action to return the political subdivision to financial stability, for local personnel to provide information and materials to the fiscal administrator, and for violations and penalties.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 39:1352(A)(1) and (3)(h) and (B)(1) and (2); Repeals R.S. 39:1352(A)(3)(e))