

2020 Regular Session

SENATE BILL NO. 415

BY SENATOR MIZELL

FISCAL CONTROLS. Provides relative to fiscal administrators of political subdivisions.
(gov sig)

1 AN ACT

2 To amend and reenact R.S. 39:1351(A)(2)(a) and (3), the introductory paragraph of (B)(1)
3 and (1)(a), 1352(A)(1) and (3) and (B)(1), 1353(A) and 1354(A), and to enact R.S.
4 39:1352(B)(2)(e) and (4), relative to fiscal administrators of political subdivisions;
5 to provide relative to appointments; to provide relative to duties of a fiscal
6 administrator; to provide relative to the adoption of budget amendments; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 39:1351(A)(2)(a) and (3), the introductory paragraph of (B)(1) and
10 (1)(a), 1352(A)(1) and (3) and (B)(1), 1353(A), and 1354(A) are hereby amended and
11 reenacted and R.S. 39:1352(B)(2)(e)and (4) are hereby enacted to read as follows:

12 §1351. Appointment of a fiscal administrator

13 A. * * *

14 (2)(a) If it is determined by the unanimous decision of the legislative auditor,
15 the attorney general, and the state treasurer at a public meeting to consider such
16 matters that a political subdivision is reasonably certain to **not maintain financial**
17 **stability including but not limited to, not have having sufficient insufficient**

1 revenue to pay current expenditures, excluding civil judgments, or ~~to fail~~ **failing** to
 2 make a debt service payment, the attorney general shall file a rule to appoint a fiscal
 3 administrator for the political subdivision as provided for in this Chapter.

4 * * *

5 (3) Upon making the decision authorized by Paragraph (2) of this Subsection,
 6 the attorney general shall, on motion in the district court of the domicile of the
 7 political subdivision, take a rule on the political subdivision to show cause why a
 8 fiscal administrator should not be appointed for the political subdivision as provided
 9 for in this Chapter. The hearing on the rule to show cause may be tried out of term
 10 and in chambers, shall always be tried by preference, and shall be held in not less
 11 than ten nor more than twenty days from the date the motion is filed. **If the political**
 12 **subdivision consents to the appointment of a fiscal administrator, a joint motion**
 13 **by the attorney general and the political subdivision, along with a consent**
 14 **judgment, shall be filed in the district court of the domicile of the political**
 15 **subdivision within forty-five days of the decision authorized by Paragraph(2)**
 16 **of this Subsection. The court shall appoint a fiscal administrator within twenty**
 17 **days of filing of the joint motion and consent judgment according to the terms**
 18 **of the consent judgment.**

19 B.(1) The trial court, **in the absence of a joint motion and consent**
 20 **judgment,** shall appoint a fiscal administrator in the following instances:

21 (a) If the court finds **by a preponderance of the evidence** from the facts and
 22 evidence deduced at the hearing of the rule that the political subdivision is
 23 reasonably certain to fail to make a debt service payment or reasonably certain to not
 24 have sufficient revenue to pay current expenditures, excluding civil judgments, or,
 25 in the case of a city, parish, or other local public school board, reasonably certain to
 26 fail to resolve its status as financially at risk as that status has been defined by rule
 27 by the State Board of Elementary and Secondary Education.

28 * * *

29 §1352. Duties of a fiscal administrator

1 A.(1) A fiscal administrator shall perform such **internal** investigation of the
 2 financial affairs of the political subdivision as he deems necessary. He shall have
 3 access to all papers, books, records, documents, films, tapes, and other forms of
 4 recordation of the political subdivision or, as they relate to such political subdivision,
 5 of the state.

* * *

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

* * *

14 B.(1) After his **initial** investigation, the fiscal administrator shall file a
 15 written report with the court, the governing authority of the political subdivision, the
 16 state treasurer, the attorney general, and the legislative auditor. **This report shall be**
 17 **updated on at least a quarterly basis during the term of fiscal administration.**

18 (2) The report shall contain the following:

* * *

20 **(e) A proposed three-year plan with the goal of establishing and**
 21 **maintaining financial stability for the political subdivision once fiscal**
 22 **administration is terminated.**

* * *

24 **(4) Upon the termination of fiscal administration, the fiscal**
 25 **administrator shall submit a final plan for approval by the state treasurer, the**
 26 **attorney general, and the legislative auditor. The approved plan shall remain**
 27 **in place for three years and shall be subject to periodic review by the state**
 28 **treasurer, the attorney general, and the legislative auditor.**

29 §1353. Adoption of budget amendments

1 A. Within seven days after receipt of the **initial** report, the governing
2 authority of the political subdivision shall adopt in an open meeting an appropriate
3 budget adoption instrument which contains the comprehensive budget, or
4 amendments to the original comprehensive budget of the political subdivision, as
5 proposed in the fiscal administrator's report, and only those revisions which do not
6 make it reasonably certain that the political subdivision will fail to make timely debt
7 service payments or which do not make it reasonably certain that the political
8 subdivision will fail to have sufficient revenue to pay current expenditures, excluding
9 civil judgments, or, in the case of a city, parish, or other local, public school board,
10 which do not make it reasonably certain that the school board will fail to resolve its
11 status as financially at risk as that status has been defined by rule by the State Board
12 of Elementary and Secondary Education during the remainder of the current fiscal
13 year and the fiscal year following.

* * *

§1354. Termination of appointment

16 A. The fiscal administrator shall monitor revenues and expenditures of the
17 political subdivision under the adopted budget, issuing such supplemental reports as
18 he deems necessary, **but no less frequently than required in R.S. 39:1352(B)(1)**,
19 until it is reasonably certain that debt service payments by the political subdivision
20 will be timely made during the remainder of the current fiscal year and the fiscal year
21 following or there will be sufficient revenue to pay current expenditure, excluding
22 civil judgments, or, in the case of a city, parish, or other local public school board,
23 its status as financially at risk as that status has been defined by rule by the State
24 Board of Elementary and Secondary Education will be resolved. The supplemental
25 reports shall be subject to adoption, approval, and court review as provided for in
26 R.S. 39:1353.

* * *

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by James Benton III.

DIGEST

SB 415 Engrossed

2020 Regular Session

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Present law provides that 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 have sufficient revenue to pay current expenditures, excluding civil judgments, or to fail to make a debt service payment, the attorney general will file a rule to appoint a fiscal administrator for the political subdivision as provided for in present law.

Proposed law retains present law but makes technical changes.

Present law provides that upon making the decision authorized by present law, the attorney general will, 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 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, will always be tried by preference, and will be held in not less than 10 nor more than 20 days from the date the motion is filed.

Proposed law retains present law but requires that on motion in the district court of the domicile of the political subdivision, a rule will be taken 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.

Proposed law further 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, will be filed in the district court of the domicile of the political subdivision within 45 days of the decision authorized by present law. Further provides that the court shall appoint a fiscal administrator within 20 days of filing of the joint motion and consent judgment according to the terms of the consent judgment.

Present law provides that a fiscal administrator will perform such investigation of the financial affairs of the political subdivision as he deems necessary. He will have access to all papers, books, records, documents, films, tapes, and other forms of recordation of the political subdivision or, as they relate to such political subdivision, of the state.

Proposed law retains present law but provides that the investigation will be internal.

Present law provides that the fiscal administrator, subject to approval of the court, will 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.

Proposed law retains present law but makes technical changes.

Present law provides that after his investigation, the fiscal administrator will file a written report with the court, the governing authority of the political subdivision, the state treasurer,

the attorney general, and the legislative auditor.

Proposed law retains present law but makes technical changes and further provides that the report will be updated on at least a quarterly basis during the term of fiscal administration.

Present law provides that the report will contain the following:

- (1) An estimate of the revenue and expenditures of the political subdivision for the remainder of its current fiscal year and the fiscal year following.
- (2) Amendments to the comprehensive budget of the political subdivisions adopted pursuant to present law or a proposed comprehensive budget if such budget has not been previously adopted, which will ensure 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 will ensure having sufficient revenue to pay current expenditures, excluding civil judgments, or, in the case of a city, parish, or other local public school board, such amendments will ensure resolving its status as financially at risk as that status has been defined by rule by the State Board of Elementary and Secondary Education.
- (3) An estimate of the financial aid or new revenue which may be needed by the political subdivision if the fiscal administrator determines that revenues of the political subdivision are, or will be, insufficient to ensure both timely payments of debt service as a priority over items in the budget, and a reduced, but adequate, funding level for other needs of the political subdivision or as is needed to have sufficient revenue to pay current expenditures, excluding civil judgments, or, in the case of a city, parish, or other local public school board, as is needed to resolve its status as financially at risk as that status has been defined by rule by the State Board of Elementary and Secondary Education.

Proposed law retains present law but adds the additional requirement of a proposed plan with the goal of establishing and maintaining financial stability for the political subdivision once fiscal administration is terminated.

Proposed law provides that upon the termination of fiscal administration, the fiscal administrator will submit a final plan for approval by the state treasurer, the attorney general, and the legislative auditor. The approved plan will remain in place for three years and will be subject to periodic review by the state treasurer, the attorney general, and the legislative auditor.

Present law provides that within seven days after receipt of the report, the governing authority of the political subdivision will adopt in an open meeting an appropriate budget adoption instrument which contains the comprehensive budget, or amendments to the original comprehensive budget of the political subdivision, as proposed in the fiscal administrator's report adoption of those revisions which do not make it reasonably certain that the political subdivision will fail to make timely debt service payments or which do not make it reasonably certain that the political subdivision will fail to have sufficient revenue to pay current expenditures, excluding civil judgments, or, in the case of a city, parish, or other local, public school board, which do not make it reasonably certain that the school board will fail to resolve its status as financially at risk as that status has been defined by rule by the State Board of Elementary and Secondary Education during the remainder of the current fiscal year and the fiscal year following.

Proposed law retains present law but makes technical change.

Present law provides that the fiscal administrator will monitor revenues and expenditures of the political subdivision under the adopted budget, issuing such supplemental reports as he

deems necessary until it is reasonably certain that debt service payments by the political subdivision will be timely made during the remainder of the current fiscal year and the fiscal year following or that there will be sufficient revenue to pay current expenditure, excluding civil judgments, or in the case of a city, parish, or other local public school board, its status as financially at risk as that status has been defined by rule by the State Board of Elementary and Secondary Education will be resolved. The supplemental reports will be subject to adoption, approval, and court review as provided for in present law.

Proposed law retains present law but requires the issuing of supplemental reports no less frequently than required in present law.

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

(Amends R.S. 39:1351(A)(2)(a) and (3) and 1351(B)(1)(intro para) and (a), 1352(A)(1) and (3), 1352(B)(1), 1353(A) and 1354(A); adds R.S. 39:1352(B)(2)(e) and (4))