

## RÉSUMÉ DIGEST

ACT 358 (SB 415)

2020 Regular Session

Mizell

Prior law required a public meeting and the unanimous decision of the legislative auditor, the attorney general, and the state treasurer to place a political subdivision under financial administration.

Prior law provided two alternative criteria for making such a determination: (1) a finding of reasonable certainty that the political subdivision will not have sufficient revenue to pay current expenditures, excluding civil judgments, or (2) a finding of reasonable certainty that the political subdivision will fail to make a debt service payment.

New law changes the criteria to a finding of reasonable certainty that the political subdivision will not maintain financial stability, and uses prior law criteria as non-limiting examples of indicia that could justify such a finding.

Prior law required that upon the unanimous decision of the legislative auditor, attorney general, and state treasurer that a political subdivision should be under financial administration, the attorney general shall implement proceedings in the district court of the domicile of the political subdivision to appoint a fiscal administrator. Provides that upon the unanimous finding that a political subdivision is insolvent, as provided in prior law, the attorney general will, on motion, 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 prior law.

New law retains prior law if the political subdivision contests financial administration.

New law further provides that if the political subdivision consents to fiscal administration, within 45 days of the state officials' finding of insolvency the attorney general and the attorney for the political subdivision must file a joint motion for fiscal administration. Further requires the court to appoint a fiscal administrator within 20 days of the filing of such a joint motion.

Prior law was silent on the burden of proof required for the court to order a political subdivision into fiscal administration.

New law explicitly states that the burden on such a motion is a preponderance of the evidence.

Prior law provided 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 records of the political subdivision or, as they relate to such political subdivision, of the state. New law retains prior law but provides that the investigation will be internal.

Prior law provided 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.

New law removes "subject to approval of the court" and provides that the administrator is subject to state law.

New law authorizes the fiscal administrator to take whatever action he deems necessary to return the political subdivision to financial stability.

Prior law required the fiscal administrator to perform an investigation of the financial affairs of the political subdivision, as the administrator deems necessary, and file a report of his findings with the court, the governing authority of the political subdivision, the state treasurer, the attorney general, and the legislative auditor.

New law requires the administrator to file an initial report of the findings of his financial investigation and to update that report at least quarterly during the term of fiscal administration.

Prior law required the report to 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 prior law or a new comprehensive budget if such budget has not been previously adopted, which will ensure that payments of debt service are a priority budget item and will be timely made.
- (3) An estimate of the financial aid or new revenue which may be needed by the political subdivision.
- (4) A recommendation as to whether the political subdivision should be allowed to file for bankruptcy.

New law retains prior law and adds an additional requirement that the report contain a New three-year plan with the goal of establishing and maintaining financial stability for the political subdivision once fiscal administration is terminated.

New law requires that upon the termination of fiscal administration, the fiscal administrator must 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.

Prior law required that within seven days after receipt of the financial administrator's report, the governing authority of the political subdivision must hold an open meeting and adopt an appropriate budget instrument which contains the comprehensive budget, or amendments to the original comprehensive budget in line with the fiscal administrator's report. New law requires the governing authority of the political subdivision to take such action within seven days after receiving the financial administrator's initial report.

Prior law required the fiscal administrator to monitor revenues and expenditures of the political subdivision under the adopted budget and issue such supplemental reports as he deems necessary. New law requires such supplemental reports to be filed no less than quarterly.

Effective upon signature of the governor (June 12, 2020).

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