

SENATE BILL NO. 415

BY SENATOR MIZELL AND REPRESENTATIVE WHITE

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§1351. Appointment of a fiscal administrator

A. \* \* \*

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

\* \* \*

(3) Upon making the decision authorized by Paragraph (2) of this Subsection, 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 fiscal administrator should not be appointed for the political subdivision as provided for in this Chapter. The hearing on the rule to show cause may be tried out of term

1 and in chambers, shall always be tried by preference, and shall be held in not less  
 2 than ten nor more than twenty days from the date the motion is filed. **If the political**  
 3 **subdivision consents to the appointment of a fiscal administrator, a joint motion**  
 4 **by the attorney general and the political subdivision, along with a consent**  
 5 **judgment, shall be filed in the district court of the domicile of the political**  
 6 **subdivision within forty-five days of the decision authorized by Paragraph(2)**  
 7 **of this Subsection. The court shall appoint a fiscal administrator within twenty**  
 8 **days of filing of the joint motion and consent judgment according to the terms**  
 9 **of the consent judgment.**

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

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

19 \* \* \*

20 §1352. Duties of a fiscal administrator

21 A.(1) A fiscal administrator shall perform such **internal** investigation of the  
 22 financial affairs of the political subdivision as he ~~deems~~ **considers** necessary. He  
 23 shall have access to all papers, books, records, documents, films, tapes, and other  
 24 forms of recordation of the political subdivision or, as they relate to such political  
 25 subdivision, of the state.

26 \* \* \*

27 (3) The fiscal administrator, subject to ~~approval of the court~~ **state law,** shall  
 28 have authority to direct all fiscal operations of the political subdivision and to take  
 29 whatever action he deems necessary to return the political subdivision to financial  
 30 stability ~~in accordance with all applicable laws, rules, regulations, and policies with~~

1           ~~which the political subdivision must comply.~~ Such authority shall include but not be  
2           limited to authority to take one or more of the following actions:

3   \*           \*           \*

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

8                       (2) The report shall contain the following:

9   \*           \*           \*

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

13   \*           \*           \*

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

19   \*           \*           \*

20           §1353. Adoption of budget amendments

21                       A. Within seven days after receipt of the **initial** report, the governing  
22                       authority of the political subdivision shall adopt in an open meeting an appropriate  
23                       budget adoption instrument which contains the comprehensive budget, or  
24                       amendments to the original comprehensive budget of the political subdivision, as  
25                       proposed in the fiscal administrator's report, and only those revisions which do not  
26                       make it reasonably certain that the political subdivision will fail to make timely debt  
27                       service payments or which do not make it reasonably certain that the political  
28                       subdivision will fail to have sufficient revenue to pay current expenditures, excluding  
29                       civil judgments, or, in the case of a city, parish, or other local, public school board,  
30                       which do not make it reasonably certain that the school board will fail to resolve its

1 status as financially at risk as that status has been defined by rule by the State Board  
2 of Elementary and Secondary Education during the remainder of the current fiscal  
3 year and the fiscal year following.

4 \* \* \*

5 §1354. Termination of appointment

6 A. The fiscal administrator shall monitor revenues and expenditures of the  
7 political subdivision under the adopted budget, issuing such supplemental reports as  
8 he ~~deems~~ **considers** necessary, **but no less frequently than required in R.S.**  
9 **39:1352(B)(1)**, until it is reasonably certain that debt service payments by the  
10 political subdivision will be timely made during the remainder of the current fiscal  
11 year and the fiscal year following or there will be sufficient revenue to pay current  
12 expenditure, excluding civil judgments, or, in the case of a city, parish, or other local  
13 public school board, its status as financially at risk as that status has been defined by  
14 rule by the State Board of Elementary and Secondary Education will be resolved.  
15 The supplemental reports shall be subject to adoption, approval, and court review as  
16 provided for in R.S. 39:1353.

17 \* \* \*

18 Section 2. This Act shall become effective upon signature by the governor or, if not  
19 signed by the governor, upon expiration of the time for bills to become law without signature  
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
22 effective on the day following such approval.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_