



Reprinted
April 21, 2011

ENGROSSED
SENATE BILL No. 105

DIGEST OF SB 105 (Updated April 20, 2011 7:54 pm - DI 84)

Citations Affected: IC 5-1; IC 5-1.5; IC 6-1.1; IC 20-48; noncode.

Synopsis: Adjustments of debt of a political subdivision. Provides that a political subdivision may file a petition with the distressed unit appeal board (board) seeking designation of the political subdivision as a distressed political subdivision, based on any one of several failures by the political subdivision to meet its financial obligations. Provides that if the board designates a political subdivision as a distressed political subdivision, the board shall appoint an emergency
(Continued next page)

Effective: July 1, 2011.

**Charbonneau, Bray, Rogers,
Randolph, Alting, Head, Hershman,
Eckerty, Arnold, Holdman, Lanane,
Glick, Broden**

(HOUSE SPONSORS — SOLIDAY, FOLEY)

January 5, 2011, read first time and referred to Committee on Judiciary.
January 27, 2011, amended, reported favorably — Do Pass.
February 7, 2011, read second time, amended, ordered engrossed.
February 8, 2011, engrossed. Read third time, passed. Yeas 43, nays 6.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Local Government.
March 30, 2011, reassigned to Committee on Judiciary.
April 18, 2011, amended, reported — Do Pass.
April 20, 2011, read second time, amended, call withdrawn. Re-read second time, amended, ordered engrossed.

**C
O
P
Y**



Digest Continued

manager for the distressed political subdivision. Provides that an emergency manager of a distressed political subdivision has broad powers to effect the financial rehabilitation of the distressed political subdivision. Provides that the board may authorize a distressed political subdivision to file a petition for bankruptcy under the United States Bankruptcy Code. Reduces the number of members on the board to three: the director of the office of management and budget, the commissioner of the department of local government finance, and the state examiner of the state board of accounts. Specifies additional circumstances under which the pledge of revenues for the repayment of an obligation creates a statutory lien, and prohibits an issuer from changing the provisions of an obligation without the consent of 100% of the owners of all outstanding obligations.

**C
o
p
y**



Reprinted
April 21, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 105

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-1-14-4 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2011]: Sec. 4. ~~(a)~~ **(a)** Notwithstanding any other
3 law, a pledge of revenues or other money, or property made by any
4 issuer is binding from the time the pledge is made. Revenues or other
5 money, or property pledged and thereafter received by the issuer are
6 immediately subject to the lien of the pledge without any further act,
7 and the lien of a pledge is binding against all parties having claims of
8 any kind in tort, contract, or otherwise against the issuer, regardless of
9 whether the parties have notice of any lien. No resolution, ordinance,
10 indenture, or any other instrument by which a pledge is created needs
11 to be filed or recorded except in the records of the issuer.
12 ~~(b)~~ **(a)** Notwithstanding any other law, an issuer may pledge any
13 revenues or other money or pledge or mortgage property to pay debt
14 service on or secure any obligations or any lease rental or contractual
15 payments, if:
16 (1) the issuer has the necessary statutory authority to issue
17 obligations, pay lease rentals, or make contractual payments for

ES 105—LS 6395/DI 113+



C
O
P
Y

1 any project or purpose for which the pledge or mortgage is made;
 2 (2) the revenues, money, or property is legally available, under
 3 federal, state, and local laws, to pay or secure debt service, lease
 4 rentals, or contractual payments; and
 5 (3) the pledge or mortgage does not purport to create an
 6 obligation in violation of any statutory or constitutional limitation
 7 to which the issuer is subject.

8 **(b) Notwithstanding any other law, a pledge of revenues or**
 9 **other money or property made by any issuer to secure the**
 10 **repayment of an obligation, regardless of when made, is binding**
 11 **from the time the pledge is, or was, made and the pledge as of the**
 12 **date the pledge is or was made, creates a statutory lien upon the**
 13 **revenues or other money or property of the issuer pledged at the**
 14 **time the pledge is or was made. Revenues or other money, or**
 15 **property pledged and thereafter received by the issuer, or that may**
 16 **thereafter be held, possessed, maintained, or controlled by, or**
 17 **otherwise in the custody of, the state or any other political**
 18 **subdivision, or any department, agency or instrumentality thereof,**
 19 **under any other law, is immediately subject to the statutory lien of**
 20 **the pledge, with this statutory lien immediately and automatically**
 21 **attaching thereto, without any further act, and the statutory lien of**
 22 **a pledge is binding against all parties having claims of any kind in**
 23 **tort, contract, or otherwise against the issuer, regardless of**
 24 **whether the parties have notice of any lien. No resolution,**
 25 **ordinance, indenture, or any other instrument by which a pledge**
 26 **is created must be filed or recorded except in the records of the**
 27 **issuer.**

28 **(c) Notwithstanding any other law, to the extent that an issuer**
 29 **has pledged any revenues or other money or property to secure the**
 30 **repayment of an obligation, the following provisions apply:**

- 31 **(1) Any revenues or other money or property pledged and**
 32 **thereafter received by the issuer, or which may thereafter be**
 33 **held, possessed, maintained, or controlled by, or otherwise in**
 34 **the custody of, the state or any other political subdivision, or**
 35 **any department, agency, or instrumentality thereof, under**
 36 **any other law, up to an amount necessary to pay debt service**
 37 **on or to maintain a reserve fund or any required coverage**
 38 **ratio in any calendar year or bond year with respect to the**
 39 **obligation, must be used for the repayment of the obligation**
 40 **and for no other purpose until the obligation for the calendar**
 41 **year or bond year is fully paid in accordance with its terms.**
 42 **(2) An issuer may not consent to or permit, and may not be**

COPY



1 construed as consenting to or permitting, without the consent
2 of one hundred percent (100%) of the owners of all
3 obligations then outstanding, the use of these pledged
4 revenues for any purpose except as described in subdivision
5 (1).

6 (d) Notwithstanding any other law, to the extent that an issuer
7 has pledged any revenues or other money or property to secure the
8 repayment of an obligation, the following provisions apply:

9 (1) Any revenues or other money or property that may
10 thereafter be held, possessed, maintained, or controlled by, or
11 otherwise in the custody of, the state or any department,
12 agency, or instrumentality thereof, under any other law and
13 that would otherwise be available for distribution to such
14 issuer, is automatically subject to a statutory lien for purposes
15 of IC 5-1.5-8-5.1, IC 6-1.1-20.3-6.5, IC 6-1.1-20.6-10, or
16 IC 20-48-1-11, whether or not such revenues, money, or
17 property has been pledged by the issuer to secure these
18 obligations.

19 (2) An issuer is prohibited from consenting to or permitting,
20 and may not be construed as consenting to or permitting, the
21 use of any revenues or other money or property reduced
22 under IC 5-1.5-8-5.1, IC 6-1.1-20.3-6.5, IC 6-1.1-20.6-10, or
23 IC 20-48-1-11 for any other purpose other than the purposes
24 described in IC 5-1.5-8-5.1, IC 6-1.1-20.6-10, or IC 20-48-1-11,
25 respectively.

26 (e) This section shall be liberally construed so that the state and
27 any distressed political subdivision (as defined in IC 6-1.1-20.3-2)
28 shall, to the extent legally permitted under Indiana law, ensure that
29 all bonds, all lease rental payments, and all warrants of each
30 distressed political subdivision are paid when due in accordance
31 with the original terms thereof irrespective of any other state or
32 federal law. However, this chapter may not be construed to create
33 a debt of the state.

34 SECTION 2. IC 5-1-14-17 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2011]: Sec. 17. (a) Notwithstanding any other law, the issuer of
37 any obligation shall pay in full the principal of, interest on, and
38 premium on, if any, the obligations in accordance with the terms
39 of the obligations.

40 (b) Notwithstanding any other law, any issuer of an obligation
41 is prohibited from consenting to or permitting, and may not be
42 construed as consenting to or permitting, without the consent of

C
O
P
Y



1 one hundred percent (100%) of the owners of all obligations then
2 outstanding:

- 3 (1) an extension of the stated maturity or a reduction in the
- 4 principal amount of, or a reduction in the rate or an extension
- 5 of the time of payment of interest on, any obligations;
- 6 (2) the creation of any lien on the revenues or other money or
- 7 property pledged to the obligations that is senior or prior to
- 8 the lien upon the obligations;
- 9 (3) a reduction in the aggregate principal amount of the
- 10 obligations;
- 11 (4) the granting of a privilege, priority, or preference to any
- 12 of the obligations over any other of the obligations; or
- 13 (5) any amendment or modification of the powers, remedies,
- 14 rights, duties, privileges, or immunities of the owners of the
- 15 obligations.

16 (c) This section shall be liberally construed so that the state and
17 any distressed political subdivision (as defined in IC 6-1.1-20.3-2)
18 shall, to the extent legally permitted under Indiana law, ensure that
19 all bonds, all lease rental payments, and all warrants of each
20 distressed political subdivision are paid when due in accordance
21 with the original terms thereof irrespective of any other state or
22 federal law. However, this chapter may not be construed to create
23 a debt of the state.

24 SECTION 3. IC 5-1.5-8-5.1 IS ADDED TO THE INDIANA CODE
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2011]: Sec. 5.1. (a) Upon receiving notice from the bank that a
27 qualified entity has failed to pay the principal or interest on the
28 securities of the qualified entity then held or owned by or arising
29 from an agreement with the bank when due, the treasurer of the
30 state shall:

- 31 (1) reduce the amount of any revenues or other money or
- 32 property held, possessed, maintained or controlled by, or
- 33 otherwise in the custody of, the state, or any department,
- 34 agency or instrumentality thereof, which would otherwise be
- 35 available for distribution to the qualified entity under any
- 36 other law, by an amount equal to the amount of the qualified
- 37 entity's unpaid securities;
- 38 (2) pay the amount by which the revenues or other money or
- 39 property are reduced under subdivision (1) to the bank for the
- 40 purpose of paying principal of and interest on bonds or other
- 41 obligations of the bank; and
- 42 (3) notify the qualified entity that these revenues or other

C
O
P
Y



1 money or property, which would otherwise be available for
2 distribution to the qualified entity, have been reduced by an
3 amount necessary to satisfy all or a portion of the qualified
4 entity's unpaid securities to the bank.

5 (b) A reduction under subsection (a) must be made:

6 (1) first, from distributions of county adjusted gross income
7 tax distributions under IC 6-3.5-1.1, county option income tax
8 distributions under IC 6-3.5-6, or county economic
9 development income tax distributions under IC 6-3.5-7 that
10 would otherwise be distributed to the county under the
11 schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16,
12 IC 6-3.5-6-17.3, IC 6-3.5-7-17, and IC 6-3.5-7-17.3; and

13 (2) second, from any other revenues or other money or
14 property held, possessed, maintained or controlled by, or
15 otherwise in the custody of, the state, or any department,
16 agency or instrumentality of the state, which would otherwise
17 be available for distribution to the qualified entity under any
18 other law.

19 (c) Any reductions under subsection (a) may be used only for the
20 purpose of paying principal of and interest on the debt service
21 obligations of the qualified entity which the qualified entity has
22 failed to pay to the bank and for no other purpose.

23 (d) However, the reduction of payment from the qualified entity
24 and payment to the bank under this section may not adversely
25 affect the validity of the security in default.

26 (e) This section shall be interpreted liberally so that the state
27 shall, to the extent permitted by law, ensure that the debt service
28 obligations of each qualified entity are paid when due. However,
29 this section does not create a debt of the state or any political
30 subdivision.

31 SECTION 4. IC 6-1.1-20.3-2, AS AMENDED BY P.L.146-2008,
32 SECTION 202, IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2011]: Sec. 2. As used in this chapter,
34 "distressed political subdivision" means a political subdivision that
35 expects to have the political subdivision's property tax collections
36 reduced by at least five percent (5%) in a calendar year as a result of
37 the application of the credit under IC 6-1.1-20.6 for that calendar year;
38 designated as a distressed political subdivision by the board under
39 section 6.5 of this chapter.

40 SECTION 5. IC 6-1.1-20.3-4, AS AMENDED BY P.L.146-2008,
41 SECTION 203, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The distressed unit appeal

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

board is established.

(b) The distressed unit appeal board consists of the following members:

(1) The director of the office of management and budget or the director's designee. The director or the director's designee shall serve as chairperson of the distressed unit appeal board.

(2) The commissioner of the department of local government finance or the commissioner's designee.

~~(3) The commissioner of the department of state revenue or the commissioner's designee.~~

~~(4)~~ (3) The state examiner of the state board of accounts or the state examiner's designee.

~~(5) The following members appointed by the governor:~~

~~(A) One (1) member appointed from nominees submitted by the Indiana Association of Cities and Towns.~~

~~(B) One (1) member appointed from nominees submitted by the Association of Indiana Counties.~~

~~(C) One (1) member appointed from nominees submitted by the Indiana Association of School Superintendents.~~

A member nominated and appointed under this subdivision must be an elected official of a political subdivision.

~~(6) One (1) member appointed by the governor (in addition to members appointed under subdivision (5)).~~

~~(7) One (1) member appointed by the speaker of the house of representatives. A member appointed under this subdivision serves a term of four (4) years.~~

~~(c) The members appointed under subsection (b)(5) and subsection (b)(6) serve at the pleasure of the governor.~~

~~(d)~~ (c) Each member of the commission is entitled to reimbursement for:

(1) traveling expenses as provided under IC 4-13-1-4; and

(2) other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 6. IC 6-1.1-20.3-6, AS AMENDED BY P.L.146-2008, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) For property taxes first due and payable in 2008 and thereafter, The fiscal body **and the executive** of a distressed political subdivision may petition the board for relief as authorized under this chapter from the application of the credit under ~~IC 6-1.1-20.6~~ for a calendar year. **may jointly file a petition with the**

C
o
p
y



1 board seeking to have the political subdivision designated as a
 2 distressed political subdivision under this chapter. However, if the
 3 political subdivision is a school corporation, the school board may
 4 file a petition under this chapter.

5 (b) A petition under subsection (a) must include a proposed
 6 financial plan for the distressed political subdivision. The proposed
 7 financial plan must include the following:

8 (1) Proposed budgets that would enable the distressed political
 9 subdivision to cease being a distressed political subdivision.

10 (2) Proposed efficiencies, consolidations, cost reductions, uses of
 11 alternative or additional revenues, or other actions that would
 12 enable the distressed political subdivision to cease being a
 13 distressed political subdivision.

14 (3) Proposed increases, if any, in the percentage thresholds
 15 (specified as a percentage of gross assessed value) at which the
 16 credit under IC 6-1.1-20.6 will apply, including any varying
 17 percentages for different classes of property.

18 (4) Proposed reductions, if any, to the credits under IC 6-1.1-20.6
 19 (by percentages), including any varying percentage reductions for
 20 different classes of property.

21 (c) (b) The board may adopt procedures governing the timing and
 22 required content of a petition under subsection (a).

23 SECTION 7. IC 6-1.1-20.3-6.5 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2011]: Sec. 6.5. (a) After the board receives
 26 a petition concerning a political subdivision under section 6 of this
 27 chapter, the board may designate the political subdivision as a
 28 distressed political subdivision if at least one (1) of the following
 29 conditions applies to the political subdivision:

30 (1) The political subdivision has defaulted in payment of
 31 principal or interest on any of its bonds or notes.

32 (2) The political subdivision has missed a payroll for thirty
 33 (30) days or two (2) consecutive payrolls.

34 (3) The political subdivision has failed to make required
 35 payments to judgment creditors for sixty (60) days beyond the
 36 date of the recording of the judgment.

37 (4) The political subdivision, for at least thirty (30) days
 38 beyond the due date, has failed to do any of the following:

39 (A) Forward taxes withheld on the incomes of employees.

40 (B) Failed to transfer employer or employee contributions
 41 due under the Federal Insurance Contributions Act
 42 (FICA).

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(C) Failed to deposit its minimum obligation payment to a pension fund.

(5) The political subdivision has accumulated a deficit equal to eight percent (8%) or more of its revenues. For purposes of this subdivision, "deficit" means a negative fund balance calculated as a percentage of revenues at the end of a budget year for any governmental or proprietary fund. The calculation must be presented on an accrual basis according to generally accepted accounting principles.

(6) The political subdivision has sought to negotiate a resolution or an adjustment of claims that in aggregate:

(A) exceed thirty percent (30%) of the political subdivision's anticipated annual revenues; and

(B) are ninety (90) days or more past due.

(7) The state has intercepted money available for distribution to the political subdivision in order to pay unpaid debt service obligations of the political subdivision that are due, as authorized under IC 6-1.1-20.6-10 or any other law.

(8) The political subdivision has interfund loans for the benefit of the same fund carried over year end for two (2) successive years.

(b) If the board designates a political subdivision as distressed under subsection (a), the board shall review the designation annually to determine if the distressed political subdivision meets at least one (1) of the conditions listed in subsection (a).

(c) If the board designates a political subdivision as a distressed political subdivision under subsection (a), the board shall immediately notify:

(1) the treasurer of state; and

(2) the county auditor and county treasurer of each county in which the distressed political subdivision is wholly or partially located;

that the board has designated the political subdivision as a distressed political subdivision.

(d) Upon receiving a notice under subsection (c), the treasurer of state shall immediately and continuously distribute (after any reductions made under IC 5-1.5-8-5.1(a), IC 6-1.1-20.6-10(c), or IC 20-48-1-11(c)) to the board or the board's designee any revenue, other money, or property held, possessed, maintained, controlled, or otherwise in custody of the state, or any department, agency, or instrumentality of the state, that would otherwise be available for distribution to the distressed political subdivision under any other

C
O
P
Y



1 law. The board or the board's designee shall do the following after
2 receiving any revenue, other money, or property from the
3 treasurer of state under this section:

4 (1) Reduce the amount of any revenue, other money, or
5 property received from the treasurer of state under this
6 section by an amount determined to be necessary by the board
7 or the board's designee to pay any of the distressed political
8 subdivision's unpaid obligations (as defined in IC 5-1-3-1(b)).

9 (2) Pay the amount by which the revenue, other money, or
10 property is reduced under subdivision (1) to the creditor to
11 whom the distressed political subdivision's obligations are due
12 and owing.

13 (3) Notify the distressed political subdivision that revenue,
14 other money, or property that would be otherwise available
15 for distribution to the distressed political subdivision, has
16 reduced under this section by an amount necessary to satisfy
17 all or part of the distressed political subdivision's unpaid
18 obligations.

19 (4) Distribute to the distressed political subdivision any
20 revenue, other money, or property remaining after the
21 reduction under subdivision (1).

22 This subsection continues to apply, irrespective of any other state
23 or federal law, until the board terminates control of the distressed
24 political subdivision under IC 6-1.1-20.3-14.

25 SECTION 8. IC 6-1.1-20.3-7.5 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2011]: Sec. 7.5. (a) If the board designates a
28 political subdivision as a distressed political subdivision under
29 section 6.5 of this chapter, the board shall appoint an emergency
30 manager for the distressed political subdivision. An emergency
31 manager serves at the pleasure of the board.

32 (b) The chairperson of the board shall appoint a subcommittee
33 to oversee the activities of an emergency manager.

34 (c) The distressed political subdivision shall pay the emergency
35 fiscal manager's compensation and reimburse the emergency fiscal
36 manager for actual and necessary expenses.

37 SECTION 9. IC 6-1.1-20.3-8.5 IS ADDED TO THE INDIANA
38 CODE AS A NEW SECTION TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2011]: Sec. 8.5. (a) Notwithstanding any
40 other law, an emergency manager of a distressed political
41 subdivision appointed under section 7.5 of this chapter shall do the
42 following:

C
o
p
y



- 1 **(1) Assume and exercise the authority and responsibilities of**
- 2 **both the executive and the fiscal body of the political**
- 3 **subdivision concerning the adoption, amendment, and**
- 4 **enforcement of ordinances and resolutions relating to or**
- 5 **affecting the fiscal stability of the political subdivision.**
- 6 **However, the emergency manager does not have the power to**
- 7 **impose taxes or fees in addition to those taxes or fees**
- 8 **authorized by the political subdivision before the political**
- 9 **subdivision was designated a distressed political subdivision.**
- 10 **(2) Review the political subdivision's budget.**
- 11 **(3) Review salaries of the political subdivision's employees.**
- 12 **(4) Conduct a financial and compliance audit of the internal**
- 13 **operations of the political subdivision.**
- 14 **(5) Develop a written financial plan in consultation with the**
- 15 **officials of the political subdivision not later than six (6)**
- 16 **months after appointment.**
- 17 **(6) Develop a plan for paying all of the political subdivision's**
- 18 **outstanding obligations.**
- 19 **(7) Review existing labor contracts.**
- 20 **(8) Adopt a budget for the political subdivision for each**
- 21 **calendar or fiscal year, as applicable, that the political**
- 22 **subdivision remains a distressed political subdivision.**
- 23 **(9) Review payrolls and other claims against the political**
- 24 **subdivision before payment.**
- 25 **(10) Make, approve, or disapprove the following:**
- 26 **(A) A contract.**
- 27 **(B) An expenditure.**
- 28 **(C) A loan.**
- 29 **(D) The creation of any new position.**
- 30 **(E) The filling of any vacant position.**
- 31 **(11) Submit a written report to the board every three (3)**
- 32 **months describing the work that has been done to remove the**
- 33 **political subdivision from distressed status.**
- 34 **(12) Petition the board to terminate a political subdivision's**
- 35 **status as a distressed political subdivision when the conditions**
- 36 **found in section 6.5 of this chapter are no longer applicable to**
- 37 **the political subdivision.**
- 38 **(b) An emergency manager of a distressed political subdivision**
- 39 **appointed under section 7.5 of this chapter may do the following:**
- 40 **(1) Renegotiate existing labor contracts and act as an agent of**
- 41 **the political subdivision in collective bargaining.**
- 42 **(2) Reduce or suspend salaries of the political subdivision's**

**C
O
P
Y**



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

employees.
(3) Enter into agreements with other political subdivisions for the provision of services.

(c) An emergency manager of a distressed political subdivision retains the powers and duties described in subsections (a) and (b) until the political subdivision's status as a distressed political subdivision is terminated under section 14 of this chapter.

SECTION 10. IC 6-1.1-20.3-10, AS ADDED BY P.L.146-2008, SECTION 209, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. A ~~distressed~~ political subdivision may petition the tax court for judicial review of a ~~final~~ determination of the board **under section 6.5 of this chapter**. The action must be taken to the tax court under IC 6-1.1-15 in the same manner that an action is taken to appeal a final determination of the Indiana board of tax review. The petition must be filed in the tax court not more than forty-five (45) days after the board enters its final determination.

SECTION 11. IC 6-1.1-20.3-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2011]: **Sec. 14. (a) If:**

- (1) an emergency manager of a distressed political subdivision; or**
- (2) the petitioner who moved for designation of the political subdivision as a distressed political subdivision under section 6 of this chapter;**

files a petition with the board for termination of the political subdivision's status as a distressed political subdivision, the board shall conduct a public hearing on the question of whether to terminate control of the distressed political subdivision.

(b) The board shall terminate control of a distressed political subdivision if the board finds that the conditions found in section 6.5 of this chapter are no longer applicable to the political subdivision.

(c) Notwithstanding any other section of this chapter, not later than ninety (90) days after taking office, a new executive of a distressed political subdivision may petition the board for suspension of the political subdivision's distressed status. The executive must include in its petition a written plan to resolve the applicable issues described in section 6.5 of this chapter. If the board approves the executive's written plan, the board may suspend the political subdivision's distressed status for one hundred eighty (180) days. Suspension under this chapter

**C
o
p
y**



1 **terminates automatically upon expiration of the one hundred**
2 **eighty (180) day period. The board may consider a petition to**
3 **terminate the political subdivision's distressed status during a**
4 **period of suspension.**

5 SECTION 12. IC 6-1.1-20.6-10, AS ADDED BY P.L.146-2008,
6 SECTION 226, IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) As used in this section,
8 "debt service obligations of a political subdivision" refers to:

9 (1) the principal and interest payable during a calendar year on
10 bonds, **notes, or warrants**; and

11 (2) lease rental payments payable during a calendar year on
12 leases;

13 of a political subdivision payable from ad valorem property taxes.

14 (b) Political subdivisions are required by law to fully fund the
15 payment of their debt obligations in an amount sufficient to pay any
16 debt service or lease rentals on outstanding obligations, regardless of
17 any reduction in property tax collections due to the application of tax
18 credits granted under this chapter. Any reduction in collections must
19 be applied to the other funds of the political subdivision after debt
20 service or lease rentals have been fully funded.

21 (c) Upon the failure of a political subdivision to pay any of the
22 political subdivision's debt service obligations during a calendar year
23 when due, the treasurer of state, upon being notified of the failure by
24 a claimant, shall pay the unpaid debt service obligations that are due
25 from money in the possession of the state that would otherwise be
26 available for distribution to the political subdivision under any other
27 law, deducting the payment from the amount distributed. A deduction
28 under this subsection must be made:

29 (1) first from distributions of county adjusted gross income tax
30 distributions under IC 6-3.5-1.1; county option income tax
31 distributions under IC 6-3.5-6; or county economic development
32 income tax distributions under IC 6-3.5-7 that would otherwise be
33 distributed to the county under the schedule in IC 6-3.5-1.1-10;
34 IC 6-3.5-1.1-21.1; IC 6-3.5-6-16; IC 6-3.5-6-17.3; IC 6-3.5-7-17;
35 and IC 6-3.5-7-17.3; and

36 (2) second from any other undistributed funds of the political
37 subdivision in the possession of the state.

38 (c) Upon receiving notice from any creditor that a political
39 subdivision has failed to pay any of the political subdivision's debt
40 service obligations during a calendar year when due, the treasurer
41 of the state shall:

42 (1) reduce the amount of any revenues or other money or

C
O
P
Y



1 property held, possessed, maintained or controlled by, or
2 otherwise in the custody of, the state, or any department,
3 agency, or instrumentality of the state, which would otherwise
4 be available for distribution to the political subdivision under
5 any other law, by an amount equal to the amount of the
6 political subdivision’s unpaid debt service obligations;
7 (2) pay the amount by which these revenues or other money
8 or property are reduced under subdivision (1) to the creditor;
9 and
10 (3) notify the political subdivision that the revenues or other
11 money or property, which would otherwise be available for
12 distribution to the political subdivision, have been reduced by
13 an amount necessary to satisfy all or a portion of the political
14 subdivision’s unpaid debt service obligations.
15 (d) A reduction under subsection (c) must be made:
16 (1) first, from distributions of county adjusted gross income
17 tax distributions under IC 6-3.5-1.1, county option income tax
18 distributions under IC 6-3.5-6, or county economic
19 development income tax distributions under IC 6-3.5-7 that
20 would otherwise be distributed to the county under the
21 schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16,
22 IC 6-3.5-6-17.3, IC 6-3.5-7-17, and IC 6-3.5-7-17.3; and
23 (2) second, from any other revenues or other money or
24 property held, possessed, maintained or controlled by, or
25 otherwise in the custody of, the state, or any department,
26 agency or instrumentality thereof, which would otherwise be
27 available for distribution to the political subdivision under
28 any other law.
29 (e) Any reductions under subsection (c) must be used only for
30 the purpose of paying principal of and interest on the debt service
31 obligations of the political subdivision which the political
32 subdivision has failed to pay and for no other purpose.
33 ~~(d)~~ (f) This section shall be interpreted liberally so that the state
34 shall to the extent ~~legally valid~~ **permitted by law** ensure that the debt
35 service obligations of each political subdivision are paid when due.
36 However, this section does not create a debt of the state **or any**
37 **political subdivision.**
38 (g) Notwithstanding this section, the payment of any reduction
39 under subsection (c) to a creditor may not adversely affect the
40 validity of the debt service obligations with respect to which the
41 creditor has notified the treasurer of the state under this section.
42 SECTION 13. IC 20-48-1-11, AS AMENDED BY P.L.146-2008,

C
O
P
Y



1 SECTION 525, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) As used in this section,
 3 "debt service obligations" refers to the principal and interest payable
 4 during a calendar year on a school corporation's general obligation
 5 bonds **under IC 20-48-1-1, IC 20-48-1-2, and a school corporation's**
 6 **lease rentals under IC 20-47-2 and IC 20-47-3, and a school**
 7 **corporations tax anticipation warrants under IC 30-48-1-9.**

8 (b) Before the end of each calendar year, the department of local
 9 government finance shall review the bond and lease rental levies, or
 10 any levies that replace bond and lease rental levies, of each school
 11 corporation that are payable in the next succeeding year and the
 12 appropriations from the levies from which the school corporation is to
 13 pay the amount, if any, of the school corporation's debt service
 14 obligations. If the levies and appropriations of the school corporation
 15 are not sufficient to pay the debt service obligations, the department of
 16 local government finance shall establish for each school corporation:

- 17 (1) bond or lease rental levies, or any levies that replace the bond
 18 and lease rental levies; and
 - 19 (2) appropriations;
- 20 that are sufficient to pay the debt service obligations.

21 (c) ~~Upon the failure of a school corporation to pay any of the school~~
 22 ~~corporation's debt service obligations during a calendar year when due,~~
 23 ~~the treasurer of state, upon being notified of the failure by a claimant,~~
 24 ~~shall pay the unpaid debt service obligations that are due from the~~
 25 ~~funds of the state only to the extent of the amounts appropriated by the~~
 26 ~~general assembly for the calendar year for distribution to the school~~
 27 ~~corporation from state funds, deducting the payment from the~~
 28 ~~appropriated amounts. A deduction under this subsection must be~~
 29 ~~made:~~

- 30 (1) first from all funds except state tuition support; and
- 31 (2) second from state tuition support.

32 (c) **Upon receiving notice from any creditor that a school**
 33 **corporation has failed to pay any of the political subdivision's debt**
 34 **service obligations during a calendar year when due, the treasurer**
 35 **of the state shall:**

- 36 (1) **reduce the amount of any revenues or other moneys or**
 37 **property held, possessed, maintained or controlled by, or**
 38 **otherwise in the custody of, the state, or any department,**
 39 **agency or instrumentality of the state, which would otherwise**
 40 **be available for distribution to the school corporation under**
 41 **any other law, by an amount equal to the amount of the school**
 42 **corporation's unpaid debt service obligations;**

C
O
P
Y



1 **(2) pay the amount by which these revenues or other moneys**
2 **or property are reduced under subdivision (1) to the creditor;**
3 **and**
4 **(3) notify the school corporation that the revenues or other**
5 **moneys or property, which would otherwise be available for**
6 **distribution to the school corporation, have been reduced by**
7 **an amount necessary to satisfy all or a portion of the school**
8 **corporation's unpaid debt service obligations.**
9 **(d) A reduction under subsection (c) must be made:**
10 **(1) first, from any revenues or other moneys or property held,**
11 **possessed, maintained or controlled by, or otherwise in the**
12 **custody of, the state, or any department, agency or**
13 **instrumentality of the state, which would otherwise be**
14 **available for distribution to the school corporation under any**
15 **other law, except state tuition support; and**
16 **(2) second, from state tuition support.**
17 **(e) Any reductions under subsection (c) may be used only for the**
18 **purpose of paying principal of and interest on the debt service**
19 **obligations of the school corporation which the school corporation**
20 **has failed to pay and for no other purpose.**
21 ~~(d)~~ **(f) This section shall be interpreted liberally so that the state**
22 **shall to the extent legally valid permitted by law ensure that the debt**
23 **service obligations of each school corporation are paid. However, this**
24 **section does not create a debt of the state or any political subdivision.**
25 **(g) Notwithstanding this section, the payment of any reduction**
26 **under subsection (c) to a creditor may not adversely affect the**
27 **validity of the debt service obligations with respect to which the**
28 **creditor has notified the treasurer of the state pursuant to this**
29 **section.**
30 **SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE**
31 **JULY 1, 2011]: IC 5-1.5-8-5; IC 6-1.1-20.3-7; IC 6-1.1-20.3-8.**
32 **SECTION 15. [EFFECTIVE JULY 1, 2011] (a) Notwithstanding**
33 **this act, the final determinations of the existing distressed unit**
34 **appeal board remain in effect until the final settlement of the 2011**
35 **Lake County property tax bills.**
36 **(b) This SECTION expires December 31, 2013.**

**C
O
P
Y**



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 105, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 9 with "[EFFECTIVE JULY 1, 2011]".

Between the enacting clause and line 1, begin a new paragraph and insert:

SECTION 1. IC 5-1-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) Notwithstanding any other law, a pledge of revenues or other money, or property made by any issuer is binding from the time the pledge is made. Revenues or other money, or property pledged and thereafter received by the issuer are immediately subject to the lien of the pledge without any further act, and the lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the issuer, regardless of whether the parties have notice of any lien. No resolution, ordinance, indenture, or any other instrument by which a pledge is created needs to be filed or recorded except in the records of the issuer.

(b) (a) Notwithstanding any other law, an issuer may pledge any revenues or other money or pledge or mortgage property to pay debt service on or secure any obligations or any lease rental or contractual payments, if:

- (1) the issuer has the necessary statutory authority to issue obligations, pay lease rentals, or make contractual payments for any project or purpose for which the pledge or mortgage is made;
- (2) the revenues, money, or property is legally available, under federal, state, and local laws, to pay or secure debt service, lease rentals, or contractual payments; and
- (3) the pledge or mortgage does not purport to create an obligation in violation of any statutory or constitutional limitation to which the issuer is subject.

(b) Notwithstanding any other law, a pledge of revenues or other money or property made by any issuer to secure the repayment of an obligation, regardless of when made, is binding from the time the pledge is, or was, made and the pledge as of the date the pledge is or was made, creates a statutory lien upon the revenues or other money or property of the issuer pledged at the time the pledge is or was made. Revenues or other money, or property pledged and thereafter received by the issuer, or that may thereafter be held, possessed, maintained, or controlled by, or

COPY



otherwise in the custody of, the state or any other political subdivision, or any department, agency or instrumentality thereof, under any other law, is immediately subject to the statutory lien of the pledge, with this statutory lien immediately and automatically attaching thereto, without any further act, and the statutory lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the issuer, regardless of whether the parties have notice of any lien. No resolution, ordinance, indenture, or any other instrument by which a pledge is created must be filed or recorded except in the records of the issuer.

(c) Notwithstanding any other law, to the extent that an issuer has pledged any revenues or other money or property to secure the repayment of an obligation, the following provisions apply:

(1) Any revenues or other money or property pledged and thereafter received by the issuer, or which may thereafter be held, possessed, maintained, or controlled by, or otherwise in the custody of, the state or any other political subdivision, or any department, agency, or instrumentality thereof, under any other law, up to an amount necessary to pay debt service on or to maintain a reserve fund or any required coverage ratio in any calendar year or bond year with respect to the obligation, must be used for the repayment of the obligation and for no other purpose until the obligation for the calendar year or bond year is fully paid in accordance with its terms.

(2) An issuer may not consent to or permit, and may not be construed as consenting to or permitting, without the consent of one hundred percent (100%) of the owners of all obligations then outstanding, the use of these pledged revenues for any purpose except as described in subdivision (1).

(d) Notwithstanding any other law, to the extent that an issuer has pledged any revenues or other money or property to secure the repayment of an obligation, the following provisions apply:

(1) Any revenues or other money or property that may thereafter be held, possessed, maintained, or controlled by, or otherwise in the custody of, the state or any other political subdivision, or any department, agency, or instrumentality thereof, under any other law and that would otherwise be available for distribution to such issuer, is automatically subject to a statutory lien for purposes of IC 5-1.5-8-5, IC 6-1.1-20.6-10, or IC 20-48-1-11, whether or not such

C
O
P
Y



revenues, money, or property has been pledged by the issuer to secure these obligations.

(2) An issuer has no legal or equitable right to any revenues or other money or property that may thereafter be held, possessed, maintained, or controlled by, or otherwise in the custody of, the state or any other political subdivision, or any department, agency, or instrumentality thereof, under any other law and that would otherwise be available for distribution to the issuer, whether or not these revenues, money, or property has been pledged to secure the obligations, until:

- (A) any reduction permitted under IC 5-1.5-8-5, IC 6-1.1-20.6-10, or IC 20-48-1-11 has been applied; and
- (B) the revenues or other money or property has been distributed to and received by the issuer.

(3) An issuer is prohibited from consenting to or permitting, and may not be construed as consenting to or permitting, the use of any revenues or other money or property reduced under IC 5-1.5-8-5, IC 6-1.1-20.6-10, or IC 20-48-1-11 for any other purpose other than the purposes described in IC 5-1.5-8-5, IC 6-1.1-20.6-10, or IC 20-48-1-11, respectively.

(e) This section shall be liberally construed so that the state and any distressed political subdivision (as defined in IC 6-1.1-20.3-2) shall, to the extent legally permitted under Indiana law, ensure that all bonds, all lease rental payments, and all warrants of each distressed political subdivision are paid when due in accordance with the original terms thereof irrespective of any other state or federal law. However, this chapter may not be construed to create a debt of the state.

SECTION 2. IC 5-1-14-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. (a) Notwithstanding any other law, the issuer of any obligation shall pay in full the principal of, interest on, and premium on, if any, the obligations in accordance with the terms of the obligations.

(b) Notwithstanding any other law, any issuer of an obligation is prohibited from consenting to or permitting, and may not be construed as consenting to or permitting, without the consent of one hundred percent (100%) of the owners of all obligations then outstanding:

- (1) an extension of the stated maturity or a reduction in the principal amount of, or a reduction in the rate or an extension

C
O
P
Y



- of the time of payment of interest on, any obligations;
- (2) the creation of any lien on the revenues or other money or property pledged to the obligations that is senior or prior to the lien upon the obligations;
- (3) a reduction in the aggregate principal amount of the obligations;
- (4) the granting of a privilege, priority, or preference to any of the obligations over any other of the obligations;
- (5) any amendment or modification of the powers, remedies, rights, duties, privileges, or immunities of the owners of the obligations.

(c) This section shall be liberally construed so that the state and any distressed political subdivision (as defined in IC 6-1.1-20.3-2) shall, to the extent legally permitted under Indiana law, ensure that all bonds, all lease rental payments, and all warrants of each distressed political subdivision are paid when due in accordance with the original terms thereof irrespective of any other state or federal law. However, this chapter may not be construed to create a debt of the state.

SECTION 3. IC 5-1-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 19. Property Held by the State

Sec. 1. Notwithstanding any other law, a political subdivision has no legal or equitable right to any revenues or other money or property held, possessed, maintained, controlled, or otherwise in the custody of the state or any department, agency, or instrumentality thereof, that would otherwise be available for distribution to the political subdivision, unless and until the revenues or other money or property has been distributed to and received by the political subdivision."

Page 2, line 34, delete "Either of the following may".

Page 2, delete lines 35 through 36.

Page 2, line 37, delete "(1)".

Page 2, line 37, reset in roman "a".

Page 2, line 37, after "distressed" delete "the".

Page 2, run in lines 34 through 37.

Page 2, line 40, delete "jointly." and insert "**may jointly file a petition with the board seeking to have the political subdivision designated as a distressed political subdivision under this chapter. However, if the political subdivision is a school corporation, the school board may file a petition under this chapter.**"

**C
O
P
Y**



Page 2, delete lines 41 through 42.

Page 3, delete lines 1 through 3.

Page 3, line 24, after "6.5" insert "(a)".

Page 3, line 34, delete "thirty (30)" and insert "sixty (60)".

Page 4, line 2, delete "in total".

Page 4, line 3, delete "governmental purpose funds".

Page 4, line 3, delete "five" and insert "eight".

Page 4, line 4, delete "(5%)" and insert "(8%)".

Page 4, line 4, delete "current year".

Page 4, line 4, after "revenues." insert "**For purposes of this subdivision, "deficit" means a negative fund balance calculated as a percentage of revenues at the end of a budget year for any governmental or proprietary fund. The calculation must be presented on an accrual basis according to generally accepted accounting principles.**".

Page 4, between lines 16 and 17, begin a new paragraph and insert:

"(b) If the board designates a political subdivision as distressed under subsection (a), the board shall review the designation annually to determine if the distressed political subdivision meets at least one (1) of the conditions listed in subsection (a).

(c) If the board designates a political subdivision as a distressed political subdivision under subsection (a), the board shall immediately notify:

(1) the treasurer of state; and

(2) the county auditor and county treasurer of each county in which the distressed political subdivision is wholly or partially located;

that the board has designated the political subdivision as a distressed political subdivision."

Page 4, line 21, delete "chairperson of the".

Page 4, between lines 26 and 27, begin a new paragraph and insert:

"(c) The distressed political subdivision shall pay the emergency fiscal manager's compensation and reimburse the emergency fiscal manager for actual and necessary expenses."

Page 4, line 36, after "resolutions" insert "**relating to or affecting the fiscal stability of the political subdivision**".

Page 4, line 37, after "taxes" insert "**or fees**".

Page 4, line 38, after "taxes" insert "**or fees**".

Page 5, line 4, after "subdivision" insert "**not later than six (6) months after appointment**".

Page 5, line 7, delete "Renegotiate" and insert "**Review**".

Page 5, line 7, delete "and act as an agent of" and insert ".".

C
O
P
Y



Page 5, delete line 8.

Page 5, line 20, delete "six (6)" and insert "three (3)".

Page 5, between lines 28 and 29, begin a new line block indented and insert:

"(13) Act on behalf of the distressed political subdivision if the distressed political subdivision is authorized under section 13(a)(2) of this chapter to file a petition under Chapter 9, Title 11 of the United States Code."

Page 5, between lines 30 and 31, begin a new line block indented and insert:

"(1) Renegotiate existing labor contracts and act as an agent of the political subdivision in collective bargaining."

Page 5, line 31, delete "(1)" and insert "(2)".

Page 5, line 33, delete "(2)" and insert "(3)".

Page 5, line 35, delete "(3)" and insert "(4)".

Page 5, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 10. IC 6-1.1-20.3-10, AS ADDED BY P.L.146-2008, SECTION 209, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. A ~~distressed~~ political subdivision may petition the tax court for judicial review of a ~~final~~ determination of the board **under section 6.5 of this chapter. The action must be taken to the tax court under IC 6-1.1-15 in the same manner that an action is taken to appeal a final determination of the Indiana board of tax review. The petition must be filed in the tax court not more than forty-five (45) days after the board enters its final determination."**

Page 6, between lines 27 and 28, begin a new paragraph and insert:

"(c) Notwithstanding any other section of this chapter, not later than ninety (90) days after taking office, a new executive of a distressed political subdivision may petition the board for suspension of the political subdivision's distressed status. The executive must include in its petition a written plan to resolve the applicable issues described in section 6.5 of this chapter. If the board approves the executive's written plan, the board may suspend the political subdivision's distressed status for one hundred eighty (180) days. Suspension under this chapter terminates automatically upon expiration of the one hundred eighty (180) day period. The board may consider a petition to terminate the political subdivision's distressed status during a period of suspension."

Page 6, line 29, delete "; IC 6-1.1-20.3-10;" and insert ".".

Page 6, delete line 30, begin a new paragraph and insert:

C
o
p
y



"SECTION 15. [EFFECTIVE JULY 1, 2011] **(a) Notwithstanding this act, the final determinations of the existing distressed unit appeal board remain in effect until the final settlement of the 2011 Lake County property tax bills.**

(b) This SECTION expires December 31, 2013."

Page 6, delete line 31.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 105 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 105 be amended to read as follows:

Page 3, line 15, delete "IC 5-1.5-8-5" and insert "**IC 5-1.5-8-5.1**".

Page 3, line 28, delete "IC 5-1.5-8-5" and insert "**IC 5-1.5-8-5.1**".

Page 3, line 35, delete "IC 5-1.5-8-5" and insert "**IC 5-1.5-8-5.1**".

Page 3, line 37, delete "IC 5-1.5-8-5" and insert "**IC 5-1.5-8-5.1**".

Page 5, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 4. IC 5-1.5-8-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 5.1. (a) Upon receiving notice from the bank that a qualified entity has failed to pay the principal or interest on the securities of the qualified entity then held or owned by or arising from an agreement with the bank when due, the treasurer of the state shall:**

(1) reduce the amount of any revenues or other money or property held, possessed, maintained or controlled by, or otherwise in the custody of, the state, or any department, agency or instrumentality thereof, which would otherwise be available for distribution to the qualified entity under any other law, by an amount equal to the amount of the qualified entity's unpaid securities;

(2) pay the amount by which the revenues or other money or property are reduced under subdivision (1) to the bank for the purpose of paying principal of and interest on bonds or other obligations of the bank; and



C
O
P
Y

(3) notify the qualified entity that these revenues or other money or property, which would otherwise be available for distribution to the qualified entity, have been reduced by an amount necessary to satisfy all or a portion of the qualified entity's unpaid securities to the bank.

(b) A reduction under subsection (a) must be made:

(1) first, from distributions of county adjusted gross income tax distributions under IC 6-3.5-1.1, county option income tax distributions under IC 6-3.5-6, or county economic development income tax distributions under IC 6-3.5-7 that would otherwise be distributed to the county under the schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16, IC 6-3.5-6-17.3, IC 6-3.5-7-17, and IC 6-3.5-7-17.3; and

(2) second, from any other revenues or other money or property held, possessed, maintained or controlled by, or otherwise in the custody of, the state, or any department, agency or instrumentality of the state, which would otherwise be available for distribution to the qualified entity under any other law.

(c) Any reductions under subsection (a) may be used only for the purpose of paying principal of and interest on the debt service obligations of the qualified entity which the qualified entity has failed to pay to the bank and for no other purpose.

(d) Notwithstanding any other law, a qualified entity has no legal or equitable right to any revenues or other money or property held, possessed, maintained, controlled or otherwise in the custody of the state or any political subdivision, or any department, agency, or instrumentality of the state, that would otherwise be available for distribution to the qualified entity, until:

(1) any reduction permitted under this section have been applied; and

(2) the revenues or other money or property have been distributed to and received by the qualified entity.

(e) However, the reduction of payment from the qualified entity and payment to the bank under this section may not adversely affect the validity of the security in default.

(f) This section shall be interpreted liberally so that the state shall, to the extent permitted by law, ensure that the debt service obligations of each qualified entity are paid when due. However, this section does not create a debt of the state or any political subdivision."

Page 11, between lines 10 and 11, begin a new paragraph and insert:

C
O
P
Y



"SECTION 14. IC 6-1.1-20.6-10, AS ADDED BY P.L.146-2008, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) As used in this section, "debt service obligations of a political subdivision" refers to:

- (1) the principal and interest payable during a calendar year on bonds, **notes, or warrants**; and
- (2) lease rental payments payable during a calendar year on leases;

of a political subdivision payable from ad valorem property taxes.

(b) Political subdivisions are required by law to fully fund the payment of their debt obligations in an amount sufficient to pay any debt service or lease rentals on outstanding obligations, regardless of any reduction in property tax collections due to the application of tax credits granted under this chapter. Any reduction in collections must be applied to the other funds of the political subdivision after debt service or lease rentals have been fully funded.

~~(c) Upon the failure of a political subdivision to pay any of the political subdivision's debt service obligations during a calendar year when due, the treasurer of state, upon being notified of the failure by a claimant, shall pay the unpaid debt service obligations that are due from money in the possession of the state that would otherwise be available for distribution to the political subdivision under any other law, deducting the payment from the amount distributed. A deduction under this subsection must be made:~~

- ~~(1) first from distributions of county adjusted gross income tax distributions under IC 6-3.5-1.1; county option income tax distributions under IC 6-3.5-6; or county economic development income tax distributions under IC 6-3.5-7 that would otherwise be distributed to the county under the schedule in IC 6-3.5-1.1-10; IC 6-3.5-1.1-21.1; IC 6-3.5-6-16; IC 6-3.5-6-17.3; IC 6-3.5-7-17; and IC 6-3.5-7-17.3; and~~

- ~~(2) second from any other undistributed funds of the political subdivision in the possession of the state.~~

(c) Upon receiving notice from any creditor that a political subdivision has failed to pay any of the political subdivision's debt service obligations during a calendar year when due, the treasurer of the state shall:

- (1) reduce the amount of any revenues or other money or property held, possessed, maintained or controlled by, or otherwise in the custody of, the state, or any department, agency, or instrumentality of the state, which would otherwise be available for distribution to the political subdivision under**

**C
O
P
Y**



any other law, by an amount equal to the amount of the political subdivision's unpaid debt service obligations;

(2) pay the amount by which these revenues or other money or property are reduced under subdivision (1) to the creditor; and

(3) notify the political subdivision that the revenues or other money or property, which would otherwise be available for distribution to the political subdivision, have been reduced by an amount necessary to satisfy all or a portion of the political subdivision's unpaid debt service obligations.

(d) A reduction under subsection (c) must be made:

(1) first, from distributions of county adjusted gross income tax distributions under IC 6-3.5-1.1, county option income tax distributions under IC 6-3.5-6, or county economic development income tax distributions under IC 6-3.5-7 that would otherwise be distributed to the county under the schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16, IC 6-3.5-6-17.3, IC 6-3.5-7-17, and IC 6-3.5-7-17.3; and

(2) second, from any other revenues or other money or property held, possessed, maintained or controlled by, or otherwise in the custody of, the state, or any department, agency or instrumentality thereof, which would otherwise be available for distribution to the political subdivision under any other law.

(e) Any reductions under subsection (c) must be used only for the purpose of paying principal of and interest on the debt service obligations of the political subdivision which the political subdivision has failed to pay and for no other purpose.

(f) Notwithstanding any other law, a political subdivision has no legal or equitable right to any revenues or other money or property held, possessed, maintained, controlled or otherwise in the custody of the state or any political subdivision, or any department, agency, or instrumentality of the state, that would otherwise be available for distribution to the political subdivision, until:

(1) any reduction permitted under the provisions of this section have been applied; and

(2) the revenues or other money or property have been distributed to and received by the political subdivision.

(g) This section shall be interpreted liberally so that the state shall to the extent ~~legally valid~~ **permitted by law** ensure that the debt service obligations of each political subdivision are paid when due. However, this section does not create a debt of the state or any

**C
O
P
Y**



political subdivision.

(h) Notwithstanding this section, the payment of any reduction under subsection (c) to a creditor may not adversely affect the validity of the debt service obligations with respect to which the creditor has notified the treasurer of the state under this section.

SECTION 15. IC 20-48-1-11, AS AMENDED BY P.L.146-2008, SECTION 525, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) As used in this section, "debt service obligations" refers to the principal and interest payable during a calendar year on a school corporation's general obligation bonds **under IC 20-48-1-1, IC 20-48-1-2, and a school corporation's lease rentals under IC 20-47-2 and IC 20-47-3, and a school corporations tax anticipation warrants under IC 30-48-1-9.**

(b) Before the end of each calendar year, the department of local government finance shall review the bond and lease rental levies, or any levies that replace bond and lease rental levies, of each school corporation that are payable in the next succeeding year and the appropriations from the levies from which the school corporation is to pay the amount, if any, of the school corporation's debt service obligations. If the levies and appropriations of the school corporation are not sufficient to pay the debt service obligations, the department of local government finance shall establish for each school corporation:

- (1) bond or lease rental levies, or any levies that replace the bond and lease rental levies; and
- (2) appropriations;

that are sufficient to pay the debt service obligations.

(c) Upon the failure of a school corporation to pay any of the school corporation's debt service obligations during a calendar year when due, the treasurer of state, upon being notified of the failure by a claimant, shall pay the unpaid debt service obligations that are due from the funds of the state only to the extent of the amounts appropriated by the general assembly for the calendar year for distribution to the school corporation from state funds, deducting the payment from the appropriated amounts. A deduction under this subsection must be made:

- (1) first from all funds except state tuition support; and
- (2) second from state tuition support.

(c) Upon receiving notice from any creditor that a school corporation has failed to pay any of the political subdivision's debt service obligations during a calendar year when due, the treasurer of the state shall:

- (1) reduce the amount of any revenues or other moneys or

**C
O
P
Y**



property held, possessed, maintained or controlled by, or otherwise in the custody of, the state, or any department, agency or instrumentality of the state, which would otherwise be available for distribution to the school corporation under any other law, by an amount equal to the amount of the school corporation's unpaid debt service obligations;

(2) pay the amount by which these revenues or other moneys or property are reduced under subdivision (1) to the creditor; and

(3) notify the school corporation that the revenues or other moneys or property, which would otherwise be available for distribution to the school corporation, have been reduced by an amount necessary to satisfy all or a portion of the school corporation's unpaid debt service obligations.

(d) A reduction under subsection (c) must be made:

(1) first, from any revenues or other moneys or property held, possessed, maintained or controlled by, or otherwise in the custody of, the state, or any department, agency or instrumentality of the state, which would otherwise be available for distribution to the school corporation under any other law, except state tuition support; and

(2) second from state tuition support.

(e) Any reductions under subsection (c) may be used only for the purpose of paying principal of and interest on the debt service obligations of the school corporation which the school corporation has failed to pay and for no other purpose.

(f) Notwithstanding any other law, a school corporation has no legal or equitable right to any revenues or other money or property held, possessed, maintained, controlled or otherwise in the custody of the state or any political subdivision, or any department, agency or instrumentality of the state, that would otherwise be available for distribution to the school corporation, until:

(1) any reduction permitted under the provisions of this section have been applied; and

(2) the revenues or other money or property have been distributed to and received by the school corporation.

~~(d)~~ (g) This section shall be interpreted liberally so that the state shall to the extent ~~legally valid~~ **permitted by law** ensure that the debt service obligations of each school corporation are paid. However, this section does not create a debt of the state or any political subdivision.

(h) Notwithstanding this section, the payment of any reduction under subsection (c) to a creditor may not adversely affect the

C
O
P
Y



validity of the debt service obligations with respect to which the creditor has notified the treasurer of the state pursuant to this section."

Page 11, line 12, after "2011]:" insert "**IC 5-1.5-8-5**";

Renumber all SECTIONS consecutively.

(Reference is to SB 105 as printed January 28, 2011.)

CHARBONNEAU

SENATE MOTION

Madam President: I move that Senate Bill 105 be amended to read as follows:

Page 8, line 17, delete "**may**" and insert "**shall**".

(Reference is to SB 105 as printed January 28, 2011.)

ROGERS

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 105, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 11, delete "or any other political".

Page 3, line 12, delete "subdivision,".

Page 3, line 15, after "IC 5-1.5-8-5.1," insert "**IC 6-1.1-20.3-6.5**".

Page 3, delete lines 19 through 31.

Page 3, line 32, delete "(3)" and insert "**(2)**".

Page 3, line 35, after "IC 5-1.5-8-5.1," insert "**IC 6-1.1-20.3-6.5**".

Page 4, line 25, after ";" insert "**or**".

Page 4, delete lines 37 through 42.

Page 5, delete lines 1 through 6.

Page 6, delete lines 6 through 15.

Page 6, line 16, delete "(e)" and insert "**(d)**".

Page 6, line 19, delete "(f)" and insert "**(e)**".

Page 9, between lines 27 and 28, begin a new paragraph and insert:

"(d) Upon receiving a notice under subsection (c), the treasurer of state shall immediately and continuously distribute (after any

C
O
P
Y



reductions made under IC 5-1.5-8-5.1(a), IC 6-1.1-20.6-10(c), or IC 20-48-1-11(c)) to the board or the board's designee any revenue, other money, or property held, possessed, maintained, controlled, or otherwise in custody of the state, or any department, agency, or instrumentality of the state, that would otherwise be available for distribution to the distressed political subdivision under any other law. The board or the board's designee shall do the following after receiving any revenue, other money, or property from the treasurer of state under this section:

- (1) Reduce the amount of any revenue, other money, or property received from the treasurer of state under this section by an amount determined to be necessary by the board or the board's designee to pay any of the distressed political subdivision's unpaid obligations (as defined in IC 5-1-3-1(b)).
- (2) Pay the amount by which the revenue, other money, or property is reduced under subdivision (1) to the creditor to whom the distressed political subdivision's obligations are due and owing.
- (3) Notify the distressed political subdivision that revenue, other money, or property that would be otherwise available for distribution to the distressed political subdivision, has reduced under this section by an amount necessary to satisfy all or part of the distressed political subdivision's unpaid obligations.
- (4) Distribute to the distressed political subdivision any revenue, other money, or property remaining after the reduction under subdivision (1).

This subsection continues to apply, irrespective of any other state or federal law, until the board terminates control of the distressed political subdivision under IC 6-1.1-20.3-14."

Page 11, line 32, delete "(a)".

Page 14, delete lines 15 through 24.

Page 14, line 25, delete "(g)" and insert "(f)".

Page 14, line 30, delete "(h)" and insert "(g)".

Page 16, line 8, delete "second" and insert "second,".

Page 16, delete lines 13 through 22.

Page 16, line 23, delete "(g)" and insert "(f)".

**C
O
P
Y**



Page 16, line 27, delete "(h)" and insert "(g)".
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 105 as reprinted February 8, 2011.)

FOLEY, Chair

Committee Vote: yeas 9, nays 1.



HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 105 be amended to read as follows:

Page 10, delete lines 34 through 42, begin a new line block indented and insert:

"(12) Petition the board to terminate a political subdivision's status as a distressed political subdivision when the conditions found in section 6.5 of this chapter are no longer applicable to the political subdivision."

Page 11, delete line 1.

Page 11, delete lines 10 through 12.

Page 11, delete lines 27 through 36.

Page 12, delete lines 7 through 12, begin a new paragraph and insert:

"(b) The board shall terminate control of a distressed political subdivision if the board finds that the conditions found in section 6.5 of this chapter are no longer applicable to the political subdivision."

Renumber all SECTIONS consecutively.

(Reference is to ESB 105 as printed April 18, 2011.)

LEONARD

C
O
P
Y

