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Final Analysis
Legislative Service Commission

H.B. 365

124th General Assembly
(As Passed by the General Assembly)

Reps. Setzer, Clancy, Goodman, Husted, Kearns, Webster, Carmichael, Lendrum, Schmidt, Seaver, Roman, Wolpert, Carano, Coates, Distel, Driehaus, Fessler, Flowers, Hughes, Otterman, Salerno, Sferra, Stapleton, Strahorn, White, Widowfield, McGregor, Calvert, Trakas, Aslanides, Schneider, Grendell, Barnes, Evans, Jones, Cirelli, Williams, Raga, Niehaus, Fedor, Manning, Collier, Reidelbach, Cates

Sens. Jacobson, Robert Gardner

Effective date: *

ACT SUMMARY

- Authorizes the Auditor of State to declare a fiscal watch when the projected fiscal year-end deficit of a municipal corporation, county, or township exceeds 1/12th of its general fund revenue from the preceding fiscal year.

CONTENT AND OPERATION

Continuing law

The Local Government Fiscal Emergencies Law provides for a township, county, or municipal corporation to be monitored by a special commission if the Auditor of State determines it to be in a fiscal emergency, until that local government is determined to no longer be in the fiscal emergency. The intent expressed in the Law is to establish ". . . procedures, provide powers, and impose restrictions to assure fiscal integrity . . . while leaving principal responsibility for the conduct of the affairs of a municipal corporation, county, or township in the charge of its duly elected officials . . ." (sec. 118.02(B), not in the act).

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

The Law also permits earlier intervention by the Auditor of State before a local government is in a fiscal emergency and before monitoring by a special commission, by providing for a "fiscal watch review" to determine whether the local government is approaching a state of fiscal emergency. If a municipal corporation, county, or township is under a "fiscal watch," the Auditor of State must provide any technical and support services to the local government that the Auditor of State considers necessary. The Controlling Board must provide sufficient funds for any costs that the Auditor of State incurs in determining if a fiscal watch exists and for those technical and support services. (Sec. 118.022; and secs. 118.021 and 118.023, not in the act.)

A "fiscal watch review" is initiated by a written request to the Auditor of State from the mayor or, when authorized by a majority of the members of the legislative authority, the presiding officer of the legislative authority of a municipal corporation; the board of county commissioners of a county; or the board of township trustees of a township. The Auditor of State, acting independently, also may initiate a fiscal watch review. (Sec. 118.021, not in the act.)

The Auditor of State can declare a fiscal watch if any of the following conditions exists (sec. 118.022(A)):

(1) The difference between (a) all accounts that were due and payable from the general fund at the end of the preceding fiscal year that had been due and payable for at least 30 days at the end of that fiscal year or to which a penalty was added for failure to pay by the end of that fiscal year and (b) the year-end balance in the general fund, exceeded 1/12th of the general fund budget for that year.¹

(2) The difference between (a) all accounts that were due and payable at the end of the preceding fiscal year from all funds of the local government and that had been due and payable for at least 30 days at the end of that fiscal year or to which a penalty was added for failure to pay by the end of that fiscal year and (b) the year-end balance in the general fund and in the respective special funds available to pay those accounts, exceeded 1/12th of the available revenues during the preceding fiscal year (excluding "nonrecurring" receipts) of the general fund and of all special funds from which those accounts are payable.

(3) The difference between (a) the aggregate of deficit amounts of all deficit funds at the end of the preceding fiscal year and (b) the total of any year-

¹ "Accounts" includes final judgments, fringe benefits payments due and payable, amounts due and payable to persons and other governmental entities, and any interest or penalties on those items. "Accounts due and payable" do not include any accounts that are being contested in good faith. (Sec. 118.022(B).)

end balance in the general fund and in any special fund that may be transferred under the Tax Levy Law to meet such a deficit, exceeded 1/12th of the total of (i) the general fund budget for that year and (ii) the receipts to those deficit funds during that year other than from transfers from the general fund.

(4) At the end of the preceding fiscal year, the difference between (a) the moneys in and marketable investments held for the local government's unsegregated treasury and (b) all outstanding checks and warrants, was both (i) less than the sum of the positive balances of the general fund and those special funds the purposes of which the unsegregated treasury is held to meet and (ii) more than 1/12th of the total amount received into the unsegregated treasury during the preceding fiscal year.

Upon determining that one or more of the conditions listed above are present, the Auditor of State must issue to the local government and the county budget commission a written declaration of the existence of a fiscal watch. The fiscal watch remains in effect until the Auditor of State determines (1) that none of the conditions listed above is any longer present and cancels the watch, or (2) that a state of fiscal emergency exists. (Sec. 118.023, not in the act.)

Changes made by the act

The act adds the following condition to the list of factors that can lead to a township, county, or municipal corporation entering into a "fiscal watch": based on an examination of the financial forecast approved by the local government's legislative authority, the Auditor of State certifies that the general fund deficit at the end of the current fiscal year will exceed 1/12th of the general fund revenue from the preceding fiscal year (sec. 118.022(A)(4)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-13-01	p. 830
Reported, H. Local Gov't & Townships	10-25-01	p. 993
Passed House (96-0)	10-30-01	pp. 1035-1036
Reported, S. State & Local Gov't & Veteran Affairs	01-31-02	pp. 1408-1409
Passed Senate (33-0)	02-05-02	pp. 1419-1425

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