

## RS 39:1351

### CHAPTER 9-B. FISCAL ADMINISTRATOR FOR POLITICAL SUBDIVISIONS

#### §1351. Appointment of a fiscal administrator

A.(1)(a) The legislative auditor, the attorney general, and the state treasurer, or their designees, shall meet as often as deemed necessary to review the financial stability of the political subdivisions of this state.

(b) As used in this Chapter, "financial stability" is defined as a condition in which the political subdivision is capable of meeting its financial obligations in a timely manner as they become due without substantial disposition of assets outside the ordinary course of business, substantial layoffs of personnel, or interruption of statutorily or other legally required services of the political subdivision, restructuring of debt, revision of operations, or similar actions.

(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 have sufficient revenue to pay current expenditures, excluding civil judgments, or to fail 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.

(b) In addition to either of the determinations in Subparagraph (a) of this Paragraph, in the case of a city, parish, or other local public school board, upon notification by the state superintendent of education as he is directed to do by the State Board of Elementary and Secondary Education, the attorney general shall file such a rule when, by the unanimous decision of the legislative auditor, the attorney general, and the state treasurer at a public meeting to consider such matters, a determination is made that such local public school board is reasonably certain to fail to resolve its status as financially at risk as that status has been defined by rule by the State Board of Elementary and Secondary Education for ensuring the fiscal soundness of all public school systems, pursuant to R.S. 17:10.1(C).

(c)(i) Failure of a political subdivision to provide an audit required by R.S. 24:513 to the legislative auditor for a period of three consecutive fiscal years shall automatically remove the political subdivision from the category of "financial stability" as defined in this Section and shall be prima facie evidence that the political subdivision is reasonably certain not to have sufficient revenue to pay current expenditures, excluding civil judgments.

(ii) Failure of a city, parish, or other local public school board to provide an audit required by R.S. 24:513 to the legislative auditor for a period of three consecutive fiscal years shall automatically place that political subdivision in the category of "financially at risk" and shall be prima facie evidence that the political subdivision is reasonably certain to fail to resolve its status as financially at risk as that status is defined by rule by the State Board of Elementary and Secondary Education.

(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 and in chambers, shall always be tried by preference, and shall be held in not less than ten nor more than twenty days from the date the motion is filed.

B.(1) The trial court shall appoint a fiscal administrator in the following instances:

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

(b) If a political subdivision has failed to provide an audit required by R.S. 24:513 to the

legislative auditor for a period of three consecutive fiscal years, unless the political subdivision provides sufficient evidence to establish that the political subdivision has an audit for one or more of three such years.

(2) The fiscal administrator shall be a person recommended by the legislative auditor and the attorney general and approved by the court as having sufficient education, experience, and qualifications to enable him to perform the duties of fiscal administrator as provided for in this Chapter.

(3) The fiscal administrator appointed under this Chapter shall be indemnified as a covered person as defined in R.S. 13:5108.1.

(4) All costs and expenses associated with the independent fiscal administration of a political subdivision, including but not limited to all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and any other persons engaged in connection with the independent fiscal administration of a political subdivision shall be borne by the political subdivision subject to independent fiscal administration.

C. Once appointed, a fiscal administrator may only be removed by the court at his own request, or as provided for in R.S. 39:1354, or for fraud, negligence, or misconduct.

Acts 1990, No. 532, §1; Acts 2005, No. 7, §2, eff. May 27, 2005; Acts 2013, No. 336, §1.