



January 26, 2018

SENATE BILL No. 173

DIGEST OF SB 173 (Updated January 23, 2018 12:29 pm - DI 120)

Citations Affected: IC 5-1; IC 5-11.

Synopsis: Audit examinations and disclosure requirements. Provides that the uniform compliance guidelines for audit examinations of state and local units conducted by the state board of accounts must include a requirement that the unit disclose any pledge, covenant, or agreement that the unit has made as security or guarantor for a private bond issue of a private company. Requires any entity that: (1) is subject to examination or audit by the state board accounts; and (2) has made a pledge, covenant, or agreement as security or guarantor for a private bond issue of a private company; to disclose such fact in the notes of the entity's financial statements. Provides that, before a political subdivision that is subject to audit by the state board of accounts may issue or guarantee any debt obligation, the fiscal officer of the political subdivision must first prepare a debt capacity analysis report (report) and present the report to the fiscal body of the political subdivision in a public hearing. Requires the state board of accounts, with the assistance of the department of local government finance, to prescribe a standard form report that must be used by a fiscal officer in the presentation. Requires the report to include a determination of the percentage of the political subdivision's total debt obligations (including guarantees) compared to the political subdivision's prospective revenue available for debt service.

Effective: Upon passage; July 1, 2018.

Buck

January 8, 2018, read first time and referred to Committee on Tax and Fiscal Policy.
January 25, 2018, amended, reported favorably — Do Pass.

SB 173—LS 6841/DI 120



January 26, 2018

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 173

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 5-1-14-18 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 18. (a) This section applies only to a**
4 **political subdivision (as defined in IC 5-11-10.5-1) that is subject to**
5 **audit or examination by the state board of accounts under**
6 **IC 5-11-1-9 or any of other law.**

7 (b) As used in this section, "guarantee" includes any guarantee,
8 pledge, covenant, or agreement made by a political subdivision as
9 security or guarantor in which the political subdivision has
10 incurred or could incur a financial payment obligation in relation
11 to the debt obligation, regardless of whether the political
12 subdivision is the original or primary debtor for the debt
13 obligation.

14 (c) As used in this section, "debt service revenue" means the
15 revenue of a political subdivision that is pledged or assigned to the
16 payment of the political subdivision's debt service obligations.

17 (d) As used in this section, "contingency reserve revenue"

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1 means the revenue of a political subdivision that could be required
 2 to meet the political subdivision's potential financial payment
 3 obligations created by a guarantee.

4 (e) Before July 1, 2018, the state board of accounts, with the
 5 assistance of the department of local government finance, shall
 6 prescribe a standard form debt capacity analysis report that must
 7 be used by a fiscal officer of a political subdivision for the purposes
 8 of subsection (f). The form must require a report of at least the
 9 following:

10 (1) The total amount of the political subdivision's current
 11 outstanding debt obligations.

12 (2) The additional amount of debt obligations that the political
 13 subdivision would incur with the issuance or guarantee of the
 14 debt obligations that are presented to the fiscal body of the
 15 political subdivision under subsection (f).

16 (3) A determination of the percentage of the political
 17 subdivision's total debt obligations compared to the amount
 18 of the political subdivision's prospective revenue available for
 19 debt service using the following formula:

20 STEP ONE: Determine the sum of the amount of the
 21 political subdivision's:

22 (A) debt service revenue requirements; plus

23 (B) contingency reserve revenue requirements.

24 STEP TWO: Determine the amount of the political
 25 subdivision's prospective revenue available for debt
 26 service.

27 STEP THREE: Determine the quotient of the STEP ONE
 28 amount divided by the STEP TWO amount expressed as a
 29 percentage.

30 (4) Any statutory or constitutional limitations affecting the
 31 amount of debt that may be issued, including:

32 (A) the political subdivision's maximum permissible
 33 property tax levy under IC 6-1.1-18.5-3;

34 (B) any limitations on the political subdivision's property
 35 tax revenue that results from credits granted under
 36 IC 6-1.1-20.6;

37 (C) any debt limits that apply to the political subdivision;
 38 and

39 (D) any expenditure rate limits under IC 6-3.6 that apply
 40 to the political subdivision.

41 (f) This subsection applies after June 30, 2018. Before the
 42 issuance or guarantee by a political subdivision of any type of debt



1 obligation, the fiscal officer of the political subdivision must first
 2 prepare a debt capacity analysis report as described in subsection
 3 (e) and present the report to the fiscal body of the political
 4 subdivision in a public hearing. The notice of the hearing shall be
 5 published in accordance with IC 5-3-1. In addition, the political
 6 subdivision shall notify each taxing unit within the political
 7 subdivision of the hearing, including the date and location of the
 8 hearing.

9 SECTION 2. IC 5-11-1-24, AS AMENDED BY P.L.181-2015,
 10 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2018]: Sec. 24. (a) The state board of accounts shall establish
 12 in writing uniform compliance guidelines for the examinations and
 13 reports required by this chapter. The uniform compliance guidelines
 14 must include the standards that an entity must observe to avoid a
 15 finding that is critical of the audited entity for a reason other than the
 16 audited entity's failure to comply with a specific law.

17 (b) The state board of accounts may not establish guidelines for the
 18 auditing of an audited entity that are inconsistent with any federal audit
 19 guidelines that govern the audited entity.

20 (c) The state board of accounts must distribute the uniform
 21 compliance guidelines to each audited entity that the state board of
 22 accounts may audit.

23 (d) If the state board of accounts engages or authorizes the
 24 engagement of a private examiner to perform an examination under this
 25 chapter, the examination and report must comply with the uniform
 26 compliance guidelines established under subsection (a). If a person
 27 subject to examination under this chapter engages a private examiner,
 28 the contract with the private examiner must require the examination
 29 and report to comply with the uniform compliance guidelines
 30 established under subsection (a).

31 (e) An audited entity may not request proposals for performing
 32 examinations of an audited entity unless the request for proposals has
 33 been submitted to and approved by the state board of accounts.

34 (f) **Beginning after June 30, 2018, in the case of an audited entity**
 35 **that is a state office or a unit of local government (as defined in**
 36 **IC 36-1-2-23), the uniform compliance guidelines for examinations**
 37 **and reports established under this section must require the**
 38 **disclosure by the audited entity of any pledge, covenant, or**
 39 **agreement that the audited entity has made as security or**
 40 **guarantor for a private bond issue of a private company. The**
 41 **disclosure should include:**

42 (1) a general description of the conduit debt transactions;



1 **(2) the aggregate amount of all conduit debt obligations**
 2 **outstanding at the end of the audit entity's fiscal year;**

3 **(3) a clear indication of whether the issuer has an obligation**
 4 **for the debt beyond the resources provided by the related**
 5 **leases or loans; and**

6 **(4) an explanation of any obligation to the audited entity that**
 7 **exists in the case of default of the issuance.**

8 SECTION 3. IC 5-11-1-26, AS AMENDED BY P.L.172-2011,
 9 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2018]: Sec. 26. (a) If a state office, municipality, or other
 11 entity has authority to contract for the construction, reconstruction,
 12 alteration, repair, improvement, or maintenance of a public work, the
 13 state board of accounts shall include in each examination report
 14 concerning the state office, municipality, or entity:

15 (1) an opinion concerning whether the state office, municipality,
 16 or entity has complied with IC 5-16-8; and

17 (2) a brief description of each instance in which the state office,
 18 municipality, or entity has exercised its authority under
 19 IC 5-16-8-2(b) or IC 5-16-8-4.

20 (b) If a municipality or a county performs a public work by means
 21 of its own workforce under IC 36-1-12-3, the state board of accounts
 22 shall include the following in each examination report concerning the
 23 municipality or county:

24 (1) An opinion concerning whether the municipality or county has
 25 complied with IC 36-1-12-3 for each public work performed by
 26 the entity's own workforce.

27 (2) A brief description of each public work that the municipality
 28 or county has performed with its own workforce under
 29 IC 36-1-12-3, including a calculation of the actual cost of each
 30 public work under IC 36-1-12-3.

31 (3) An opinion concerning whether the municipality or county has
 32 complied with IC 36-1-12-19 in calculating the actual costs of a
 33 public work project performed under IC 36-1-12-3.

34 (c) If a state agency performs a public work by means of its own
 35 workforce under IC 4-13.6-5-4, the state board of accounts shall
 36 include the following in each examination report concerning the
 37 agency:

38 (1) An opinion concerning whether the agency has complied with
 39 IC 4-13.6-5-4 for each public work performed by the agency's
 40 own workforce.

41 (2) A brief description of each public work that the agency has
 42 performed with its own workforce under IC 4-13.6-5-4, including



- 1 a calculation of the actual cost of each public work under
 2 IC 4-13.6-5-4.
- 3 (3) An opinion concerning whether the agency has complied with
 4 IC 4-13.6-5-4(c) in calculating the actual costs of a public work
 5 project performed under IC 4-13.6-5-4.
- 6 (d) If a state educational institution performs a public work by
 7 means of its own workforce under IC 5-16-1-1.5, the state board of
 8 accounts shall include the following in each examination report
 9 concerning the state educational institution:
- 10 (1) An opinion concerning whether the state educational
 11 institution has complied with IC 5-16-1-1.5 for each public work
 12 performed by the state educational institution's own workforce.
- 13 (2) A brief description of each public work that the state
 14 educational institution has performed with its own workforce
 15 under IC 5-16-1-1.5, including a calculation of the actual cost of
 16 each public work under IC 5-16-1-1.5.
- 17 (3) An opinion concerning whether the state educational
 18 institution has complied with IC 5-16-1-1.5 in calculating the
 19 actual costs of a public work project performed under
 20 IC 5-16-1-1.5.
- 21 (e) The state board of accounts may exercise any of its powers under
 22 this chapter concerning public accounts to carry out this section,
 23 including the power to require a uniform system of accounting or the
 24 use of forms prescribed by the state board of accounts.
- 25 **(f) Beginning after June 30, 2018, if an entity is subject to**
 26 **examination or audit by the state board of accounts, and the entity**
 27 **has made a pledge, covenant, or agreement as security or**
 28 **guarantor for a private bond issue of a private company, the entity**
 29 **shall disclose such fact in the notes of the entity's financial**
 30 **statements. The disclosure should include:**
- 31 (1) a general description of the conduit debt transactions;
 32 (2) the aggregate amount of all conduit debt obligations
 33 outstanding at the end of the audit entity's fiscal year;
 34 (3) a clear indication of whether the issuer has an obligation
 35 for the debt beyond the resources provided by the related
 36 leases or loans; and
 37 (4) an explanation of any obligation to the entity that exists in
 38 the case of default of the issuance.
- 39 SECTION 4. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 173, 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:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert the following:

"SECTION 1. IC 5-1-14-18 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) This section applies only to a political subdivision (as defined in IC 5-11-10.5-1) that is subject to audit or examination by the state board of accounts under IC 5-11-1-9 or any of other law.**

(b) As used in this section, "guarantee" includes any guarantee, pledge, covenant, or agreement made by a political subdivision as security or guarantor in which the political subdivision has incurred or could incur a financial payment obligation in relation to the debt obligation, regardless of whether the political subdivision is the original or primary debtor for the debt obligation.

(c) As used in this section, "debt service revenue" means the revenue of a political subdivision that is pledged or assigned to the payment of the political subdivision's debt service obligations.

(d) As used in this section, "contingency reserve revenue" means the revenue of a political subdivision that could be required to meet the political subdivision's potential financial payment obligations created by a guarantee.

(e) Before July 1, 2018, the state board of accounts, with the assistance of the department of local government finance, shall prescribe a standard form debt capacity analysis report that must be used by a fiscal officer of a political subdivision for the purposes of subsection (f). The form must require a report of at least the following:

- (1) The total amount of the political subdivision's current outstanding debt obligations.**
- (2) The additional amount of debt obligations that the political subdivision would incur with the issuance or guarantee of the debt obligations that are presented to the fiscal body of the political subdivision under subsection (f).**
- (3) A determination of the percentage of the political subdivision's total debt obligations compared to the amount of the political subdivision's prospective revenue available for**



debt service using the following formula:

STEP ONE: Determine the sum of the amount of the political subdivision's:

- (A) debt service revenue requirements; plus
- (B) contingency reserve revenue requirements.

STEP TWO: Determine the amount of the political subdivision's prospective revenue available for debt service.

STEP THREE: Determine the quotient of the STEP ONE amount divided by the STEP TWO amount expressed as a percentage.

(4) Any statutory or constitutional limitations affecting the amount of debt that may be issued, including:

- (A) the political subdivision's maximum permissible property tax levy under IC 6-1.1-18.5-3;
- (B) any limitations on the political subdivision's property tax revenue that results from credits granted under IC 6-1.1-20.6;
- (C) any debt limits that apply to the political subdivision; and
- (D) any expenditure rate limits under IC 6-3.6 that apply to the political subdivision.

(f) This subsection applies after June 30, 2018. Before the issuance or guarantee by a political subdivision of any type of debt obligation, the fiscal officer of the political subdivision must first prepare a debt capacity analysis report as described in subsection (e) and present the report to the fiscal body of the political subdivision in a public hearing. The notice of the hearing shall be published in accordance with IC 5-3-1. In addition, the political subdivision shall notify each taxing unit within the political subdivision of the hearing, including the date and location of the hearing."

Page 2, line 15, after "company." insert "The disclosure should include:

- (1) a general description of the conduit debt transactions;
- (2) the aggregate amount of all conduit debt obligations outstanding at the end of the audit entity's fiscal year;
- (3) a clear indication of whether the issuer has an obligation for the debt beyond the resources provided by the related leases or loans; and
- (4) an explanation of any obligation to the audited entity that exists in the case of default of the issuance."



Page 3, delete lines 33 through 42, begin a new paragraph and insert:

"(f) Beginning after June 30, 2018, if an entity is subject to examination or audit by the state board of accounts, and the entity has made a pledge, covenant, or agreement as security or guarantor for a private bond issue of a private company, the entity shall disclose such fact in the notes of the entity's financial statements. The disclosure should include:

- (1) a general description of the conduit debt transactions;**
- (2) the aggregate amount of all conduit debt obligations outstanding at the end of the audit entity's fiscal year;**
- (3) a clear indication of whether the issuer has an obligation for the debt beyond the resources provided by the related leases or loans; and**
- (4) an explanation of any obligation to the entity that exists in the case of default of the issuance."**

Page 3, after line 42, begin a new paragraph and insert:

"SECTION 4. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 173 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

