

IC 6-1.1-20.3

Chapter 20.3. Distressed Political Subdivisions

IC 6-1.1-20.3-1

"Distressed unit appeals board"

Sec. 1. As used in this chapter, "board" refers to the distressed unit appeal board established by section 4 of this chapter.

As added by P.L.224-2007, SEC.36. Amended by P.L.146-2008, SEC.201.

IC 6-1.1-20.3-2

"Distressed political subdivision"

Sec. 2. As used in this chapter, "distressed political subdivision" means a political subdivision that expects to have the political subdivision's property tax collections reduced by at least five percent (5%) in a calendar year as a result of the application of the credit under IC 6-1.1-20.6 for that calendar year.

As added by P.L.224-2007, SEC.36. Amended by P.L.146-2008, SEC.202.

IC 6-1.1-20.3-3

"Political subdivision"

Sec. 3. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.224-2007, SEC.36.

IC 6-1.1-20.3-4

Board established; members

Sec. 4. (a) The distressed unit appeal 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) 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) 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.

As added by P.L.224-2007, SEC.36. Amended by P.L.146-2008, SEC.203.

IC 6-1.1-20.3-5

Staff; funding; contracts

Sec. 5. (a) The department of local government finance shall provide the board with the staff and assistance that the board reasonably requires.

(b) The department of local government finance shall provide from the department's budget funding to support the board's duties under this chapter.

(c) The board may contract with accountants, financial experts, and other advisors and consultants as necessary to carry out the board's duties under this chapter.

As added by P.L.224-2007, SEC.36. Amended by P.L.146-2008, SEC.204.

IC 6-1.1-20.3-6

Petition to board; financial plan

Sec. 6. (a) For property taxes first due and payable in 2008 and thereafter, the fiscal body 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.

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

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

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

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

(4) Proposed reductions, if any, to the credits under

IC 6-1.1-20.6 (by percentages), including any varying percentage reductions for different classes of property.

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

As added by P.L.224-2007, SEC.36. Amended by P.L.146-2008, SEC.205.

IC 6-1.1-20.3-7

Actions by board

Sec. 7. (a) If the fiscal body of a distressed political subdivision submits a petition under section 6 of this chapter, the board shall review the petition and assist in establishing a financial plan for the distressed political subdivision.

(b) In reviewing a petition submitted under section 6 of this chapter, the board:

(1) shall consider:

(A) the proposed financial plan;

(B) comparisons to similarly situated political subdivisions;

(C) the existing revenue and expenditures of political subdivisions in the county; and

(D) any other factor considered relevant by the board; and

(2) may establish subcommittees or temporarily appoint nonvoting members to the board to assist in the review.

As added by P.L.224-2007, SEC.36. Amended by P.L.146-2008, SEC.206; P.L.1-2009, SEC.43.

IC 6-1.1-20.3-8

Relief granted board

Sec. 8. (a) The board may authorize relief as provided in subsection (b) from the application of the credit under IC 6-1.1-20.6 for a calendar year if the governing body of each political subdivision in the county that is affected by the financial plan has adopted a resolution agreeing to the terms of the financial plan.

(b) If the conditions of subsection (a) are satisfied, the board may, notwithstanding IC 6-1.1-20.6, do any of the following:

(1) Increase the percentage thresholds (specified as a percentage of gross assessed value) at which the credit under IC 6-1.1-20.6 applies to a person's property tax liability in the political subdivision.

(2) Provide for percentage reductions to credits otherwise provided under IC 6-1.1-20.6 in the political subdivision.

(3) Provide that some or all of the property taxes that:

(A) are being imposed to pay bonds, leases, or other debt obligations; and

(B) would otherwise be included in the calculation of the credit under IC 6-1.1-20.6 in the political subdivision;

shall not be included for purposes of calculating a person's credit under IC 6-1.1-20.6.

(c) If the board provides relief described in subsection (b), the board shall conduct audits and reviews as necessary to determine

whether the affected political subdivision is abiding by the terms of the financial plan agreed to under subsection (a).

As added by P.L.224-2007, SEC.36. Amended by P.L.146-2008, SEC.207.

IC 6-1.1-20.3-9

Record of proceedings

Sec. 9. The board shall keep a record of its proceedings and its orders.

As added by P.L.146-2008, SEC.208.

IC 6-1.1-20.3-10

Petition for judicial review

Sec. 10. A distressed political subdivision may petition the tax court for judicial review of a final determination of the board. 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.

As added by P.L.146-2008, SEC.209.

IC 6-1.1-20.3-11

Court rules; procedure

Sec. 11. The tax court shall adopt rules and procedures under which proceedings are heard and decided.

As added by P.L.146-2008, SEC.210.

IC 6-1.1-20.3-12

Burden of proof; findings of fact; grounds for relief

Sec. 12. (a) The burden of demonstrating the invalidity of an action taken by the board is on the party to the judicial review proceeding asserting the invalidity.

(b) The validity of an action taken by the distressed unit appeal board shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(c) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(d) The tax court shall grant relief under IC 33-26-6-7 only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the board that is:

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (2) contrary to constitutional right, power, privilege, or immunity;
- (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;
- (4) without observance of procedure required by law; or
- (5) unsupported by substantial or reliable evidence.

As added by P.L.146-2008, SEC.211.