



January 30, 2019

SENATE BILL No. 608

DIGEST OF SB 608 (Updated January 29, 2019 12:21 pm - DI 133)

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

Synopsis: State and local audit examinations. 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 of 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, 2019.

Buck

January 15, 2019, read first time and referred to Committee on Tax and Fiscal Policy.
January 29, 2019, reported favorably — Do Pass.

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January 30, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 608

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 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, 2019, 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 result 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, 2019. 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, 2019]: 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, 2019, 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;



- (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.

SECTION 3. IC 5-11-1-26, AS AMENDED BY P.L.172-2011, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 26. (a) If a state office, municipality, or other entity has authority to contract for the construction, reconstruction, alteration, repair, improvement, or maintenance of a public work, the state board of accounts shall include in each examination report concerning the state office, municipality, or entity:

- (1) an opinion concerning whether the state office, municipality, or entity has complied with IC 5-16-8; and
- (2) a brief description of each instance in which the state office, municipality, or entity has exercised its authority under IC 5-16-8-2(b) or IC 5-16-8-4.

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

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

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

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

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

- (1) An opinion concerning whether the agency has complied with IC 4-13.6-5-4 for each public work performed by the agency's own workforce.
- (2) A brief description of each public work that the agency has 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, 2019, 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. 608, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 608 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 0

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