

1 A bill to be entitled
2 An act relating to local financial emergencies;
3 amending s. 218.503, F.S.; expanding the entities that
4 have oversight over local governmental entities,
5 charter schools, charter technical career centers, and
6 district school boards under certain circumstances;
7 specifying the number of members to be on a financial
8 emergency board; specifying the manner of appointing
9 members to the board; providing qualifications of
10 members and chair of the board; revising the
11 information to which the board has access; authorizing
12 the board to hire or retain legal counsel; requiring
13 the adoption of rules to conduct board business;
14 requiring recommendations and reports to be submitted
15 to specified entities; authorizing the suspension of
16 certain board members of a local governmental entity
17 or district school board who fail to vote
18 affirmatively to take certain actions in certain
19 circumstances; amending s. 218.504, F.S.; conforming
20 provisions to changes made in the act; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (1), (2), and (3) of section

26 | 218.503, Florida Statutes, are amended, subsections (4), (5),
 27 | and (6) are renumbered as subsections (5), (6), and (7),
 28 | respectively, and a new subsection (4) is added to that section,
 29 | to read:

30 | 218.503 Determination of financial emergency.—

31 | (1) Local governmental entities, charter schools, charter
 32 | technical career centers, and district school boards shall be
 33 | subject to review and oversight by the Governor, the Senate, the
 34 | House of Representatives, the Legislative Auditing Committee,
 35 | the charter school sponsor, the charter technical career center
 36 | sponsor, or the Commissioner of Education, as appropriate, when
 37 | any one of the following conditions occurs:

38 | (a) Failure within the same fiscal year in which due to
 39 | pay short-term loans or failure to make bond debt service or
 40 | other long-term debt payments when due, as a result of a lack of
 41 | funds.

42 | (b) Failure to pay uncontested claims from creditors
 43 | within 90 days after the claim is presented, as a result of a
 44 | lack of funds.

45 | (c) Failure to transfer at the appropriate time, due to
 46 | lack of funds:

- 47 | 1. Taxes withheld on the income of employees; or
 48 | 2. Employer and employee contributions for:
 49 | a. Federal social security; or
 50 | b. Any pension, retirement, or benefit plan of an

51 employee.

52 (d) Failure for one pay period to pay, due to lack of
53 funds:

- 54 1. Wages and salaries owed to employees; or
55 2. Retirement benefits owed to former employees.

56 (2) A local governmental entity shall notify the Governor,
57 the President of the Senate, the Speaker of the House of
58 Representatives, and the Legislative Auditing Committee; a
59 charter school shall notify the charter school sponsor, the
60 Commissioner of Education, and the Legislative Auditing
61 Committee; a charter technical career center shall notify the
62 charter technical career center sponsor, the Commissioner of
63 Education, and the Legislative Auditing Committee; and a
64 district school board shall notify the Commissioner of Education
65 and the Legislative Auditing Committee, when one or more of the
66 conditions specified in subsection (1) have occurred or will
67 occur if action is not taken to assist the local governmental
68 entity, charter school, charter technical career center, or
69 district school board. In addition, any state agency must,
70 within 30 days after a determination that one or more of the
71 conditions specified in subsection (1) have occurred or will
72 occur if action is not taken to assist the local governmental
73 entity, charter school, charter technical career center, or
74 district school board, notify the Governor, charter school
75 sponsor, charter technical career center sponsor, or the

76 Commissioner of Education, as appropriate, and the President of
77 the Senate, the Speaker of the House of Representatives, and the
78 Legislative Auditing Committee.

79 (3) Upon notification that one or more of the conditions
80 in subsection (1) have occurred or will occur if action is not
81 taken to assist the local governmental entity or district school
82 board, the Governor or his or her designee, in cooperation with
83 the President of the Senate or his or her designee, the Speaker
84 of the House of Representatives or his or her designee, and the
85 Legislative Auditing Committee, shall contact the local
86 governmental entity or the Commissioner of Education or his or
87 her designee ~~shall contact the district school board to~~
88 determine what actions have been taken by the local governmental
89 entity or the district school board to resolve or prevent the
90 condition. The information requested must be provided within 45
91 days after the date of the request. If the local governmental
92 entity or the district school board does not comply with the
93 request, the Governor or his or her designee or the Commissioner
94 of Education or his or her designee shall notify the members of
95 the Legislative Auditing Committee who may take action pursuant
96 to s. 11.40. The Governor or the Commissioner of Education, as
97 appropriate, shall determine whether the local governmental
98 entity or the district school board needs state assistance to
99 resolve or prevent the condition into the future. If state
100 assistance is needed, the local governmental entity or district

101 school board is considered to be in a state of financial
102 emergency. The Governor or the Commissioner of Education, as
103 appropriate, may ~~has the authority to~~ implement measures as set
104 forth in ss. 218.50-218.504 to assist the local governmental
105 entity or district school board in resolving the financial
106 emergency. Such measures may include, but are not limited to:

107 (a) Requiring approval of the local governmental entity's
108 budget by the Governor or approval of the district school
109 board's budget by the Commissioner of Education.

110 (b) Authorizing a state loan to a local governmental
111 entity and providing for repayment of same.

112 (c) Prohibiting a local governmental entity or district
113 school board from issuing bonds, notes, certificates of
114 indebtedness, or any other form of debt until such time as it is
115 no longer subject to this section.

116 (d) Making such inspections and reviews of records,
117 information, reports, and assets of the local governmental
118 entity or district school board as are needed. The appropriate
119 local officials shall cooperate in such inspections and reviews.

120 (e) Consulting with officials and auditors of the local
121 governmental entity or the district school board and the
122 appropriate state officials regarding any steps necessary to
123 bring the books of account, accounting systems, financial
124 procedures, and reports into compliance with state requirements.

125 (f) Providing technical assistance to the local

126 governmental entity or the district school board.

127 (g)~~1~~. Establishing and empowering a financial emergency
 128 board to oversee the activities of the local governmental entity
 129 or the district school board as set forth in subsection (4). ~~If~~
 130 ~~a financial emergency board is established for a local~~
 131 ~~governmental entity, the Governor shall appoint board members~~
 132 ~~and select a chair. If a financial emergency board is~~
 133 ~~established for a district school board, the State Board of~~
 134 ~~Education shall appoint board members and select a chair. The~~
 135 ~~financial emergency board shall adopt such rules as are~~
 136 ~~necessary for conducting board business. The board may:~~

137 a. ~~Make such reviews of records, reports, and assets of~~
 138 ~~the local governmental entity or the district school board as~~
 139 ~~are needed.~~

140 b. ~~Consult with officials and auditors of the local~~
 141 ~~governmental entity or the district school board and the~~
 142 ~~appropriate state officials regarding any steps necessary to~~
 143 ~~bring the books of account, accounting systems, financial~~
 144 ~~procedures, and reports of the local governmental entity or the~~
 145 ~~district school board into compliance with state requirements.~~

146 c. ~~Review the operations, management, efficiency,~~
 147 ~~productivity, and financing of functions and operations of the~~
 148 ~~local governmental entity or the district school board.~~

149 d. ~~Consult with other governmental entities for the~~
 150 ~~consolidation of all administrative direction and support~~

151 ~~services, including, but not limited to, services for asset~~
152 ~~sales, economic and community development, building inspections,~~
153 ~~parks and recreation, facilities management, engineering and~~
154 ~~construction, insurance coverage, risk management, planning and~~
155 ~~zoning, information systems, fleet management, and purchasing.~~

156 ~~2. The recommendations and reports made by the financial~~
157 ~~emergency board must be submitted to the Governor for local~~
158 ~~governmental entities or to the Commissioner of Education and~~
159 ~~the State Board of Education for district school boards for~~
160 ~~appropriate action.~~

161 (h) Requiring and approving a plan, to be prepared by
162 officials of the local governmental entity or the district
163 school board in consultation with the appropriate state
164 officials, prescribing actions that will cause the local
165 governmental entity or district school board to no longer be
166 subject to this section. The plan must include, but need not be
167 limited to:

168 1. Provision for payment in full of obligations outlined
169 in subsection (1), designated as priority items, which are
170 currently due or will come due.

171 2. Establishment of priority budgeting or zero-based
172 budgeting in order to eliminate items that are not affordable.

173 3. The prohibition of a level of operations which can be
174 sustained only with nonrecurring revenues.

175 4. Provisions implementing the consolidation, sourcing, or

176 | discontinuance of all administrative direction and support
177 | services, including, but not limited to, services for asset
178 | sales, economic and community development, building inspections,
179 | parks and recreation, facilities management, engineering and
180 | construction, insurance coverage, risk management, planning and
181 | zoning, information systems, fleet management, and purchasing.

182 | (4) (a) Any financial board established must consist of an
183 | odd number of members comprised of at least 7 but not more than
184 | 13 members.

185 | 1. If a financial emergency board is established for a
186 | local governmental entity, the President of the Senate and the
187 | Speaker of the House of Representatives shall each nominate five
188 | individuals as candidates for appointment to the board. The
189 | Governor shall choose two candidates from each list and appoint
190 | them as four of the members of the board. The Governor shall
191 | appoint the remainder of the board members and shall designate
192 | the chair of the board.

193 | 2. If a financial emergency board is established for a
194 | district school board, the President of the Senate, the Speaker
195 | of the House of Representatives, and the State Board of
196 | Education shall each nominate five individuals as candidates for
197 | appointment to the board. The Governor shall choose two
198 | candidates from each list and appoint them as six of the members
199 | to the board. The State Board of Education shall appoint the
200 | remainder of the board members and shall designate the chair of

201 the board.

202 (b) Appointees to a financial emergency board should
 203 collectively possess the knowledge, skills, and competencies
 204 needed to perform their individual responsibilities and
 205 accomplish the mission of the financial emergency board,
 206 including, but not limited to, internal quality control,
 207 finance, business administration, and public works. The chair of
 208 the financial emergency board must have experience in at least
 209 one of the following positions or areas:

210 1. Inspector general.

211 2. Supervisory experience in an office of inspector
 212 general or an investigative public agency similar to an office
 213 of inspector general.

214 3. Local, state, or federal law enforcement officer.

215 4. Local, state, or federal court judge.

216 5. Senior-level auditor or comptroller.

217 6. The administration and management of complex audits and
 218 investigations.

219 7. Managing programs for prevention, examination,
 220 detection, elimination of fraud, waste, abuse, mismanagement,
 221 malfeasance, or misconduct in government or other organizations.

222 8. Certified fraud examiner.

223 (c) The financial emergency board shall have access to
 224 records, data, and other information of the local governmental
 225 entity or the district school board that the board deems

226 necessary to carry out its duties and shall be given the
227 technical and financial resources necessary to complete those
228 duties. The financial emergency board shall adopt such rules as
229 are necessary for conducting board business. The board may:
230 1. Hire or retain legal counsel.
231 2. Obtain external advice and assistance if the financial
232 emergency board or the staff of the entity under review lacks
233 the knowledge, skills, or other competencies needed to perform
234 all or part of the duties necessary to resolve the financial
235 emergency conditions.
236 3. Request and obtain assistance from any federal agency,
237 state agency, or local entity.
238 4. Issue and serve subpoenas or subpoenas duces tecum to
239 compel the attendance of witnesses and the production of
240 documents, reports, answers, records, accounts, and data in any
241 format. In the event of noncompliance with a subpoena issued
242 pursuant to this subparagraph, the chair of the financial
243 emergency board may petition the circuit court of the county for
244 an order requiring the subpoenaed person to appear and testify
245 and to produce documents.
246 5. Require a person to file a statement in writing, under
247 oath, as to all the facts and circumstances concerning the
248 matter to be audited, examined, or investigated.
249 6. Make such reviews of records, reports, and assets of
250 the local governmental entity or the district school board as

251 are needed.

252 7. Consult with officials and auditors of the local
253 governmental entity or the district school board and the
254 appropriate state officials regarding any steps necessary to
255 bring the books of account, accounting systems, financial
256 procedures, and reports of the local governmental entity or the
257 district school board into compliance with state requirements.

258 8. Review the operations, management, efficiency,
259 productivity, and financing of functions and operations of the
260 local governmental entity or the district school board.

261 9. Consult with other governmental entities for the
262 consolidation of all administrative direction and support
263 services, including, but not limited to, services for asset
264 sales, economic and community development, building inspections,
265 parks and recreation, facilities management, engineering and
266 construction, insurance coverage, risk management, planning and
267 zoning, information systems, fleet management, and purchasing.

268 (d)1. Each recommendation and report made by the financial
269 emergency board addressing a local entity must be submitted to
270 the Governor, the President of the Senate, the Speaker of the
271 House of Representatives, the Legislative Auditing Committee,
272 and the local governmental entity under review.

273 2. Each recommendation and report made by the financial
274 emergency board addressing a district school board must be
275 submitted to the Governor, the President of the Senate, the

276 Speaker of the House of Representatives, the Legislative
 277 Auditing Committee, the district school board under review, the
 278 Commissioner of Education, and the State Board of Education for
 279 appropriate action.

280 (e) If a local governmental entity or the district school
 281 board, as appropriate, fails to remedy or take action on
 282 recommendations made in any report submitted under paragraph (d)
 283 within 60 days after receiving the recommendations, a member of
 284 the governing body of the local governmental entity or the
 285 district school board, as appropriate, who failed to vote
 286 affirmatively to remedy or take action on the recommendations is
 287 subject to suspension from office by the Governor for
 288 malfeasance and misfeasance in office.

289 Section 2. Paragraph (b) of subsection (1) and subsection
 290 (2) of section 218.504, Florida Statutes, is amended to read:

291 218.504 Cessation of state action.—The Governor or the
 292 Commissioner of Education, as appropriate, has the authority to
 293 terminate all state actions pursuant to ss. 218.50-218.504.

294 Cessation of state action must not occur until the Governor or
 295 the Commissioner of Education, as appropriate, has determined
 296 that:

297 (1) The local governmental entity, charter school, charter
 298 technical career center, or district school board:

299 (b) Has resolved the conditions outlined in s. 218.503(1)
 300 or (4) s. ~~218.503(1)~~.

301 (2) None of the conditions outlined in ss. 218.503(1) or
302 (4) ~~s. 218.503(1)~~ exists.

303 Section 3. This act shall take effect upon becoming a law.