

By Senator Kirkpatrick

41-1542-00

1 A bill to be entitled
2 An act relating to the Local Government
3 Financial Emergencies Act; amending ss.
4 218.50-218.504, F.S.; making provisions of the
5 act applicable to district school boards;
6 modifying definitions and purpose; modifying
7 conditions for determining a financial
8 emergency; requiring district school boards to
9 notify the Commissioner of Education and the
10 Legislative Auditing Committee when such
11 conditions exist; prescribing actions to be
12 taken by the commissioner upon notification;
13 providing that on a specified date funds
14 expended to support actions under the act to
15 resolve a financial emergency must be
16 reimbursed to the state; providing an effective
17 date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 218.50, Florida Statutes, is
22 amended to read:

23 218.50 Short title.--Sections 218.50-218.504 ~~may shall~~
24 be cited ~~known~~ as the "Local Government and District School
25 Board Financial Emergencies Act."

26 Section 2. Section 218.501, Florida Statutes, is
27 amended to read:

28 218.501 Purposes.--The purposes of ss. 218.50-218.504
29 are:

30 (1) To preserve and protect the fiscal solvency of
31 local governmental entities and district school boards.

1 (2) To assist local governmental entities and district
2 school boards in providing essential services without
3 interruption and in meeting their financial obligations.

4 (3) To assist local governmental entities and district
5 school boards through the improvement of local financial
6 management procedures.

7 Section 3. Section 218.502, Florida Statutes, is
8 amended to read:

9 218.502 Definition.--As used in ss. 218.50-218.504,
10 the term "local governmental entity" means a county,
11 municipality, or special district, ~~or district school board.~~

12 Section 4. Section 218.503, Florida Statutes, is
13 amended to read:

14 218.503 Determination of financial emergency.--

15 (1) A local governmental entity and a district school
16 board is in a state of financial emergency when any of the
17 following conditions occurs:

18 (a) Failure within the same fiscal year in which due
19 to pay short-term loans from banks or failure to make bond
20 debt service payments when due.

21 (b) Failure to transfer at the appropriate time, due
22 to lack of funds:

23 1. Taxes withheld on the income of employees; or

24 2. Employer and employee contributions for:

25 a. Federal social security; or

26 b. Any pension, retirement, or benefit plan of an
27 employee.

28 (c) Failure for one pay period to pay, due to lack of
29 funds:

30 1. Wages and salaries owed to employees; or

31 2. Retirement benefits owed to former employees.

1 (d) As determined by an independent auditor or
2 affirmed to the Governor by the Auditor General, an unreserved
3 or total fund balance, ~~or~~ retained earnings deficit, or
4 unrestricted or total net-assets deficit, as reported on the
5 balance sheet or statement of net assets on the general
6 purpose or government-wide financial statements for which
7 sufficient resources of the local governmental entity as
8 reported on the balance sheet or statement of net assets on
9 the general purpose or government-wide financial statements,
10 are not available to cover the deficit for 2 successive years.
11 Resources available to cover reported deficits include those
12 resources that are not restricted by state or local laws, bond
13 covenants, contractual agreements, or other legal constraints.
14 Fixed or capital assets the disposal of which would impair a
15 local governmental entity's ability to carry out its functions
16 are not considered resources available to cover reported
17 deficits.

18 (e) Noncompliance of the local government retirement
19 system with actuarial conditions provided by law.

20 (2) A local governmental entity shall notify the
21 Governor and the Legislative Auditing Committee when one or
22 more of the conditions specified in subsection (1) have
23 occurred or will occur if action is not taken to assist the
24 local governmental entity. A district school board shall
25 notify the State Board of Education, the Commissioner of
26 Education, and the Legislative Auditing Committee.In
27 addition, any state agency must, within 30 days after the
28 identification of the financial emergency, notify the Governor
29 and the Legislative Auditing Committee when one or more of the
30 conditions specified in subsection (1) have occurred or will
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1 occur if action is not taken to assist a local governmental
2 entity.

3 (3) Upon notification that one or more of the
4 conditions in subsection (1) exist in a local governmental
5 entity, the Governor or his or her designee shall contact the
6 local governmental entity to determine what actions have been
7 taken by the local governmental entity to resolve the
8 financial emergency. The Commissioner of Education or his or
9 her designee shall contact the district school board if the
10 conditions in subsection (1) exist.The Governor has the
11 authority to implement measures as set forth in ss.
12 218.50-218.504 to resolve the financial emergency in local
13 governmental entities. The Commissioner of Education has the
14 authority to implement these measures in school districts.

15 Such measures may include, but are not limited to:

16 (a) Requiring approval of the local governmental
17 entity's budget by the Governor or the approval of the
18 district school board's budget by the Commissioner of
19 Education.

20 (b) Authorizing a state loan to the local governmental
21 entity or district school board and providing for repayment of
22 same.

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

27 (d) Making such inspections and reviews of records,
28 information, reports, and assets of the local governmental
29 entity or district school board, in which inspections and
30 reviews the appropriate local officials shall cooperate.

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1 (e) Consulting with the officials of the local
2 governmental entity or district school board and the
3 appropriate state agency regarding any steps necessary to
4 bring the books of account, accounting systems, financial
5 procedures, and reports into compliance with state
6 requirements.

7 (f) Providing technical assistance to the local
8 governmental entity or district school board.

9 (g)1. Establishing a financial emergencies board to
10 oversee the activities of the local governmental entity or
11 district school board. The financial emergencies board for a
12 local governmental entity in a state of financial emergency,
13 if established, shall be appointed by the Governor. The State
14 Board of Education shall appoint the financial emergencies
15 board members and select a chair when a district school board
16 is in a state of financial emergency.The Governor shall
17 select a chair and such other officers as are necessary for
18 the financial emergency board created to oversee local
19 governmental entities in a state of financial emergency. The
20 financial emergency board shall adopt such rules as are
21 necessary for conducting board business. The board may:

22 a. Make such reviews of records, reports, and assets
23 of the local governmental entity or district school board, as
24 appropriate,as are needed.

25 b. Consult with the officials of the local
26 governmental entity or district school board and appropriate
27 state officials regarding any steps necessary to bring the
28 books of account, accounting systems, financial procedures,
29 and reports of the local governmental entity into compliance
30 with state requirements.

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1 c. Review the operations, management, efficiency,
2 productivity, and financing of functions and operations of the
3 local governmental entity or district school board.

4 2. The recommendations and reports made by the
5 financial emergency board must be submitted to the Governor
6 for appropriate action when a local governmental entity is
7 being reviewed. The recommendations and reports made by a
8 financial emergency board reviewing a district school board
9 must be submitted to the Commissioner of Education and State
10 Board of Education.

11 (h) Requiring and approving a plan, to be prepared by
12 the appropriate state agency in conjunction with the local
13 governmental entity or district school board, prescribing
14 actions that will cause the local governmental entity or
15 district school board to no longer be subject to this section.
16 The plan must include, but need not be limited to:

17 1. Provision for payment in full of all payments due
18 or to come due on debt obligations, pension payments, and all
19 payments and charges imposed or mandated by federal or state
20 law and for all judgments and past due accounts, as priority
21 items of expenditures.

22 2. Establishment of a basis of priority budgeting or
23 zero-based budgeting, so as to eliminate low-priority items
24 that are not affordable.

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

27 (4) During the financial emergency period, the local
28 governmental entity or district school board may not seek
29 application of laws under the bankruptcy provisions of the
30 United States Constitution except with the prior approval of
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1 the Governor for local governmental entities and the
2 Commissioner of Education for district school boards.

3 (5)(a) The governing authority of any municipality
4 with a resident population of 300,000 or more on April 1,
5 1999, and which has been declared in a state of financial
6 emergency pursuant to this section within the previous 2
7 fiscal years may impose a discretionary per-vehicle surcharge
8 of up to 20 percent on the gross revenues of the sale, lease,
9 or rental of space at parking facilities within the
10 municipality that are open for use to the general public.

11 (b) A municipal governing authority that imposes the
12 surcharge authorized by this subsection may use the proceeds
13 of such surcharge for the following purposes only:

14 1. No less than 60 percent and no more than 80 percent
15 of the surcharge proceeds shall be used by the governing
16 authority to reduce its ad valorem tax millage rate or to
17 reduce or eliminate non-ad valorem assessments.

18 2. A portion of the balance of the surcharge proceeds
19 shall be used by the governing authority to increase its
20 budget reserves; however, the governing authority shall not
21 reduce the amount it allocates for budget reserves from other
22 sources below the amount allocated for reserves in the fiscal
23 year prior to the year in which the surcharge is initially
24 imposed. When a 15-percent budget reserve is achieved, based
25 on the average gross revenue for the most recent 3 prior
26 fiscal years, the remaining proceeds from this subparagraph
27 shall be used for the payment of annual debt service related
28 to outstanding obligations backed or secured by a covenant to
29 budget and appropriate from non-ad valorem revenues.

30 (c) This subsection is repealed on June 30, 2006.

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1 (6) As of January 1, 2000, any funds directly expended
2 to support actions required under ss. 218.50-218.504 to
3 resolve a financial emergency must be reimbursed to the state
4 by such local governmental entity or district school board for
5 which the expenditure of funds was required.

6 Section 5. Section 218.504, Florida Statutes, is
7 amended to read:

8 218.504 Cessation of state action.--The Governor has
9 the authority to terminate all state actions pursuant to ss.
10 218.50-218.504. Cessation of state action must not occur
11 until the Governor has determined that:

12 (1) The local governmental entity or local school
13 board:

14 (a) Has established and is operating an effective
15 financial accounting and reporting system.

16 (b) Has corrected or eliminated the fiscal emergency
17 conditions outlined in s. 218.503.

18 (2) No new fiscal emergency conditions exist.

19 Section 6. This act shall take effect July 1, 2000.
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22 SENATE SUMMARY

23 Makes provisions of the Local Government Financial
24 Emergencies Act applicable to district school boards.
25 Requires a board to notify the Commissioner of Education
26 and the Legislative Auditing Committee when a financial
27 emergency exists. Prescribes actions to be taken by the
28 commissioner upon notification. Specifies a date after
29 which expended funds under the act must be reimbursed to
30 the state.
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