



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### The Local Government Financial Emergencies Act

Chapter 218, part V, F.S., known as the Local Government Financial Emergencies Act, was enacted to preserve and protect the fiscal solvency of local government entities, and to assist these entities in providing essential services without interruption and in meeting their financial obligations through the improvement of local financial management procedures. Section 218.503(1), F.S., provides that a local governmental entity is in a state of financial emergency if one or more specified conditions occur.

##### Bond Validation Complaints

Section 75.05(3), F.S., requires independent special districts to submit copies of bond validation complaints filed pursuant to s. 75.02, F.S. to the State Board of Administration, Division of Bond Finance (Division). Section 218.37(1)(h), F.S., requires the Division to use the complaints to verify compliance with the provisions of s. 218.38, F.S., which requires that local governments provide information concerning debt-financing activities.

##### Group Insurance/Local Governments

Section 112.08(2)(a), F.S., authorizes units of local government to provide group health and life insurance for their officers and employees.

##### The Department of Management Services, Division of Retirement, Oversight of Local Governments Pension Plans

Chapter 112, part VII, F.S., the Florida Protection of Public Employee Retirement Benefits Act, is designated by s. 11.45(3)(c), F.S., as a component of the Local Government Financial Reporting System. This act includes general provisions regarding the management, administration, operation and funding of governmental retirement systems. Responsibility for administration of the Florida Protection of Public Employee Retirement Benefits Act has been assigned primarily to the Florida Department of Management Services, Division of Retirement (Division). The Division's Bureau of Local Retirement Systems is responsible for reviewing actuarial reports and impact statements for general employee, police and fire retirement plans. For local governments that have established retirement systems for their employees, proper management and adequate funding of those systems is vital. To help ensure that local governments maintain funding of retirement systems at an appropriate level, local

governments are required to submit regularly scheduled actuarial reports to the Division for its review and approval.

As provided by s. 112.61, F.S., the intent of the Legislature is to prohibit the use of any procedure, methodology, or assumptions, the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers and to establish minimum standards for the operation and funding of public employee retirement systems and plans. In those instances in which a local government does not submit complete and adequate data necessary for the Division of Retirement to perform its statutorily required functions, the Division requests additional information needed to determine and ensure the actuarial soundness of the local government's pension plans or requests a clarification of the information submitted. This additional information may include, for example, legal clarification, copies of ordinances, and/or explanations of logic. These requests may or may not result in the Division rejecting the actuarial reports. In addition, the Division, upon completing a review, may notify the local government about concerns it has regarding the actuarial soundness of a plan.

### Municipality and Special District Budget Amendment Procedures

While state law specifically addresses budget amendments for counties, similar statutory guidance does not exist for municipalities and special districts. Sections 166.241(3) and 218.34(1), F.S., require municipalities and special districts, respectively, to adopt a budget; however, these sections do not address whether municipalities and special districts can amend the budget, the manner in which the budget may be amended, or the time frame in which the budget may be amended. In some instances, a municipality's or special district's charter may address budget amendments; however, in other instances, the charter is silent or unclear, creating confusion as to whether budget amendments are permitted, how the amendments are to be done, and the time frame in which budget amendments may be made. This situation could result in governing bodies of municipalities and special districts making unauthorized budget amendments or failing to make necessary budget amendments.

### Dissolution of Special Districts

Section 189.4044, F.S., requires the Department of Community Affairs (DCA) to declare any special district in this state inactive by filing a report with the Speaker of the House of Representatives and President of the Senate, based on two years of inactivity, and that notice of the proposed declaration had been published in a newspaper of general circulation once a week for two weeks within the county or municipality wherein the territory of the special district is located. Sixty days after the last publication of the proposed declaration is allowed for any claims against assets of the special district to be filed with the DCA. After the district is declared inactive, and all payments of debts of the special district are resolved, the remainder of its property or assets escheat to the county or municipality. DCA must notify the Speaker of the House of Representatives and President of the Senate of each special act creating or amending the charter of any special district declared to be inactive, and a special district declared inactive must be dissolved by repeal of its enabling laws.

Section 189.421, F.S., requires the DCA to investigate noncompliance of special districts to report financial information filed when notified by entities that are required to receive such information pursuant to s. 189.419, F.S. If the DCA determines that the special district has made a good faith effort to comply with the reporting requirement, it must grant a reasonable time for filing the required reports and notify the special district of the granting of the extension. If the DCA determines that the special district has not made a good faith effort to comply with the reporting requirement or the special district has not responded to its notice of noncompliance, the DCA may request an administrative hearing, pursuant to ss. 120.569 and 120.57, F.S., on the question of the inactivity of the district. Notice of the hearing must be served on the district's registered agent and published at least once a week for two successive weeks prior to the hearing in a newspaper of general circulation in the area affected. The notice must state the time, place and nature of the hearing and that all interested parties may appear

and be heard. Within 30 days of the hearing, the administrative law judge must file a report with the department in the manner provided in ch. 120, F.S.

### Classification of Special Districts

Florida law provides for the establishment of special districts to perform specific governmental functions such as water management, community development, fire control, mosquito control and health care. Recognizing the importance of special districts to the delivery of government services to the citizens of Florida, the Legislature has enacted laws intended to establish accountability on the part of special districts. Chapter 189, F.S., contains general provisions for the definition, creation and operation of special districts and creates the Special District Information Program (SDIP) within the Florida Department of Community Affairs.

Section 189.412, F.S., sets forth the SDIP's responsibilities regarding special districts. The SDIP serves a vital role in administering the Local Government Financial Reporting System. For example, the SDIP is responsible for maintaining the Official List of Special Districts. In addition, the SDIP has established procedures for following up on special districts reported as not being in compliance with the various reporting requirements established in ch. 218, part III, F.S. According to the SDIP, there were 551 dependent and 646 independent special districts in the State of Florida as of February 17, 2004. The proper classification of special districts as either dependent or independent is important because legal and accountability requirements differ depending on a special district's classification. For example, dependent special districts may be audited as part of another local governmental entity (i.e., county or municipality) whereas independent special districts meeting the audit threshold established by s. 11.45(3)(a), F.S., must provide for a separate audit.

Section 189.403, F.S., distinguishes special districts as either dependent or independent. A dependent special district is defined as a special district that meets at least one of several criteria, including a criterion that specifies that all members of its governing body are appointed by the governing body of a single county or a single municipality. An independent special district is defined as a special district that is not a dependent special district as defined in law. In addition, a special district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality. The SDIP is responsible for classifying special districts in a manner consistent with s. 189.403, F.S.

### Independent Fire Control Districts

Chapter 191, F.S., is the Independent Fire Control District Act. Section 191.005(1)(a), F.S., requires non-appointed Fire Control District boards be elected, non-partisan five-member boards. All candidates for these boards may qualify by paying a filing fee of \$25 or by obtaining the signatures of at least 25 registered electors of the district on petition forms provided by the supervisor of elections. Section 106.021, F.S., requires each candidate for political office to appoint a campaign treasurer and designate a primary campaign depository prior to qualifying for office.

Section 191.005(2), F.S., requires that each member of the board must be a qualified elector at the time he or she qualifies and continually throughout his or her term.

### County Officer Fee Reports

Section 218.36(1), F.S., requires each county officer who receives any expenses or compensation in fees, commissions or other remuneration to keep a complete record of all such amounts received and make an annual report to the board of county commissioners within 31 days of the close of the fiscal year. Pursuant to s. 218.36(3), F.S., the board of county commissioners is required to notify the Governor of the failure of any county officer to comply with the provisions of s. 218.36(1), F.S., even if such failure is a one-day delay in the filing of the report. Such notification subjects said officer to suspension from office at the Governor's discretion.

## Bond Refunding Issues

Pursuant to Article VII, Section 12 of the State Constitution, counties, municipalities and special districts with taxing powers may issue bonds, certificates of indebtedness, or any other form of tax anticipation certificates, payable from ad valorem taxation and maturing more than 12 months after issuance only:

- to finance or refinance capital projects authorized by law and only when approved by a vote of the electors who are owners of freeholds therein not wholly exempt from taxation, or
- to refund outstanding bonds and interest and redemption premium thereon at a lower net average interest cost rate. Certain Florida Statutes (e.g., chs.130, 131, 132 and 166, part II, F.S.) and special acts of the Legislature grant local governments the authority to issue bonds.

In 1980, the Legislature enacted s. 218.385, F.S., which requires that local government general obligation and revenue bonds be sold at public sale by competitive bid unless the governing body determines by resolution that a negotiated sale of such bonds is in the best interest of the issuer. The Legislature has recognized that there may be legitimate circumstances under which a negotiated sale is preferable over a competitive bid sale.

Chapters 131 and 132, F.S., with respect to refunding issues, include provisions that differ from the provisions of s. 218.385, F.S., and/or other laws granting local governments the authority to issue bonds, and could inhibit a local government's ability to issue refunding bonds, or to issue such bonds by negotiated sale. These conflicting provisions are as follows:

- Chapter 131, F.S., provides that refunding bonds may be issued within three months prior to the date of maturity of the obligations proposed to be refunded or within three months prior to the callable date. However, other laws authorizing local government bond issues such as chs. 130 and 166, part II, F.S., do not include language that restricts when refunding bonds may be issued. Therefore, local governments that issue refunding bonds pursuant to ch.131, F.S., may be subjected to more restrictions than those local governments that issue refunding bonds under other laws that authorize local government bond issues.
- Section 132.09, F.S., provides that local governments may issue refunding bonds through negotiated sale only after attempting to issue bonds by competitive bid at a public sale using detailed procedures as described therein. If all bids are rejected, the local government may sell bonds by negotiated sale provided that the terms are more favorable than each of the bids rejected at the public sale. Therefore, for those local governments that issue refunding bonds pursuant to ch. 132, F.S., an apparent conflict exists with s. 218.385, F.S., which requires only that a resolution be adopted by the governing body authorizing a negotiated sale.

## Dissolution of Municipalities/Financial Reporting

Section 165.052(1), F.S., requires that the Florida Secretary of State, by proclamation, declare inactive any municipality in the state upon a report being filed by the DCA showing that such municipality is no longer active based on the following criteria:

- That the municipality has not conducted an election for membership in its legislative body within the 4 years immediately preceding, or as otherwise provided by law;
- That a notice of the proposed proclamation has been published at least once each week for two consecutive weeks; and
- That 60 days have elapsed from the last publication date of the notice of proposed proclamation and no sustained objections have been filed.

## HB 547

This bill addresses issues of local government financial accountability based on the Auditor General's performance audit of the Local Government Financial Reporting System (AG Report 01-075) and recommendations from other state agencies and local governments. The bill:

- gives the Legislative Auditing Committee the authority to direct the Department of Revenue and the Department of Financial Services to withhold funds not pledged for bond debt service satisfaction from local governmental entities that have failed to provide financial reports (Section 1);
- clarifies the Auditor General's authority to determine the scope of biannual performance audits of local governments (Section 2);
- requires that the Auditor General notify the Commissioner of Education regarding school boards that meet a condition indicating financial difficulty (Section 2);
- simplifies statutory provisions relating to the filing of complaints for bond validation and bond refunding issues (Sections 5, 43 & 47);
- provides that local government units have the authority to provide insurance benefits to their officers and employees, regardless of any general law or special act to the contrary (Section 6);
- provides additional authority to the Department of Management Services, Division of Retirement, to compel local governments to respond timely to requests for actuarial information for local pension plans (Section 8);
- provides procedures for amending budgets of municipalities and special districts (Sections 14 & 19);
- amends and clarifies procedures for dissolving municipalities and special districts (Section 17 & 39);
- requires information to clarify classification of special districts upon creation (Section 19);
- permits a candidate of a district board of trustees of a fire control board to not appoint a campaign treasurer or designate a primary campaign depository if they don't collect any contributions and whose only expense is the filing fee, and provides that any board member who ceases to be a qualified elector is automatically removed from the board (Section 24);
- amends notification requirements for counties to report missing county officer fee reports to match current practice (Section 28);
- revises the Local Government Financial Emergencies Act to reflect new accounting standards, to provide for an improved process for designating local governments as being in a financial emergency, and to clarify the applicability of the financial emergency law to district school boards (Sections. 31-36); and
- repeals ch. 131, and ss. 132.10, 165.052, 189.409, 189.422, 200.0684, 218.321, and 218.37(1)(h), F.S., that place unnecessary restrictions, and restrictions inconsistent with other provisions in law, on local governments regarding bond or local government reporting issues.

This bill amends the following sections of the Florida Statutes: 11.40, 11.45, 11.51, 61.181, 75.05, 112.08, 112.625, 112.63, 130.04, 132.02, 132.09, 163.05, 166.121, 166.241, 189.4044, 189.412, 189.418, 189.419, 189.421, 189.428, 189.439, 191.005, 215.195, 215.97, 218.075, 218.32, 218.36, 218.369, 218.39, 218.50, 218.501, 218.502, 218.503, 218.504, 288.9610 & 1010.47.

This bill repeals the following provisions of the Florida Statutes: ch. 131, and ss. 32.10, 165.052, 189.409, 189.422, 200.0684, 218.321, 218.37(1)(h) and 373.556, F.S.

Section 1 amends subsection (5) of s. 11.40, F.S., to give the Legislative Auditing Committee the authority to direct, as opposed to request, the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to local governmental entities, district school boards, charter schools and charter technical career centers that have failed to provide financial reports to the state.

Section 2 amends s. 11.45, F.S., relating to the duties of the Auditor General, to conform with revisions to ch. 218, part V, F.S. (See, sections 27-32 of this bill.) In addition, this section is amended to:

- clarify the Auditor General's authority to determine the scope of biannual performance audits of local governments;
- transfer provisions authorizing the Auditor General's authority to promote audit organizations in the offices administered by governmental entities and to provide consultation services to governmental entities on their financial and accounting systems, procedures and related matters;
- specify the procedures to petition for an audit by the Auditor General; and
- require that the Auditor General notify the Commissioner of Education, rather than the Governor, regarding school boards that meet a condition indicating financial difficulty.

Section 3 amends s. 11.51, F.S., relating to the Office of Program Policy Analysis and Government Accountability, to correct a cross reference.

Section 4 amends s. 61.181(10), F.S. to correct a reference regarding county audit requirements.

Section 5 amends s. 75.05(3), F.S., to strike the requirement for independent special districts to file a copy of any bond validation complaint with the Division of Bond Finance. This eliminates an unnecessary requirement and conforms the law to the current practice<sup>1</sup>.

Section 6 amends s. 112.08(2), F.S., to provide that any local governmental unit has the authority to provide insurance benefits to its officers and employees, notwithstanding any general law or special act. This provision was added in response to a recent Attorney General Opinion (2002-03) which opined that a particular mosquito control independent district's commissioners were prohibited from participating in the district's insurance plans.

Section 7 amends s. 112.625(5), F.S., to add "county" and "district school board" to the definition of "governmental entity." This is clarifying language, and there is no impact on counties and school boards because they participate in the Florida Retirement System and are currently subject to the reporting requirements in s. 112.63, F.S.

Section 8 amends s. 112.63(4), F.S., to authorize the Division of Retirement, Department of Management Services, to request additional material information necessary to complete an actuarial valuation of local government retirement plans. If the request is not complied with, DMS may notify the Department of Revenue and the Department of Financial Services, who then are required to withhold state shared revenues (un-bonded only) from the local government until it complies with such request. The proposed subsection (4)(b) directs DMS to also notify the Department of Community Affairs, and DCA is directed to proceed pursuant to the provisions of s.189.421, F.S., regarding failure of a special district to disclose financial reports.<sup>2</sup> This section also amends s. 112.63(2), F.S. to remove a reference to a provision which is repealed by this act.

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<sup>1</sup> The Division has established other effective means for ensuring that local governments file the required bond information. For example, the Division reviews a weekday periodical, the Bond Buyer, to verify that the required information has been submitted by local governments that have issued bonds.

<sup>2</sup> Auditor General Report No. 01-075 disclosed that many local governments have not timely responded to the Division's notifications. According to Division records, 21 local governments had been sent written requests for additional information regarding 74 actuarial reports or impact statements relating to 26 plans without a response (the requests/notifications had been sent from one to 55 months prior to August 31, 2000). These included six local governments, regarding 17 actuarial reports or impact statements relating to seven plans, that had been notified that their plans currently were not state-accepted (i.e., the plans were not accepted as being actuarially sound).

Section 9 amends s. 130.04, F.S., to delete obsolete provisions governing notice of bids and disposition of county bonds authorized as the result of an election, and to require the sale of such bonds in the manner provided in s. 218.385, F.S.

Section 10 amends s. 132.02(1), F.S., relating to the authority of counties, municipalities, school districts, and specific special districts to refund obligations, to apply the provision to counties, municipalities, school districts, and other taxing districts, to clarify that subsection and remove arcane language.

Section 11 amends s. 132.09, F.S., to delete existing obsolete provisions and provide for the sale of county refunding bonds in the manner provided in s. 218.385, F.S.

Section 12 amends s. 163.05(2), F.S., relating to the Small County Technical Assistance Program, to conform with revisions to ch. 218, part V, F.S., and change the term “fiscal emergencies” to “financial difficulties.”

Section 13 amends s. 166.121(2), F.S., regarding the issuance of bonds by municipalities, to provide a cross reference to s. 218.385, F.S.

Section 14 deletes current subsection (1) of s. 166.241, F.S., (which is unnecessary) and renumbers subsections (2) and (3) as subsections (1) and (2), and adds a new subsection (3) to provide procedures for amending budgets of municipalities. Subsection (3) provides that the governing body of a municipality at any time within a fiscal year, or within up to 60 days following the end of the fiscal year, may amend a budget for that year as follows:

- Appropriations for expenditures within a fund may be decreased or increased by a motion recorded in the minutes, provided the total of the appropriations of the funds is not changed.
- The governing body may establish procedures by which the designated budget officer may authorize certain budget amendments within a department, provided that the total of the appropriations of the department is not changed.
- If a budget amendment is required for a purpose not specifically authorized in the two points immediately above, the budget amendment must be adopted in the same manner as the original budget unless otherwise specified in the respective municipality’s charter.

These provisions are modeled after similar authority granted to counties in subsection (2) of s. 129.06, F.S.

Section 15 amends s. 175.261(1), F.S., relating to annual reports to the Division of Retirement, to correct references to a deleted subsection.

Section 16 amends s. 185.221(1), F.S., relating to annual reports to the Division of Retirement, to correct references to a deleted subsection.

Section 17 amends s. 189.4044, F.S., to clarify and streamline<sup>3</sup> procedures for declaring a special district inactive and dissolving it. DCA is required to declare any special district in this state inactive by documenting one of the following:

- If notified by the district’s registered agent, or chair of the district’s governing body, or the governing body of the appropriate local general-purpose government in writing that the district has taken no action for two or more years;
- Following an inquiry from DCA, if notified by the districts’ registered agent, or chair of the district’s governing body, or the governing body of the appropriate local general-purpose government in writing that the district has not had a governing board or a sufficient number of

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<sup>3</sup> DCA staff indicated that the cost of publication of two notices of inactivity is burdensome and the time allowed for claims against assets of the special district to be filed with the DCA after publication of notice is excessive.



- governing board members to constitute a quorum for two or more years (rather than 18 months in current law), or the district fails to respond to DCA's inquiry within 21 days; or
- DCA determines, pursuant to ch. 189.421, F.S., that the district has failed to file any of the financial reports listed in s. 189.419, F.S. The DCA, special district, or general-purpose government must publish a notice of the Proposed Declaration of Inactive Status, once, rather than twice as required in current law, in a newspaper of general circulation within the county or municipality wherein the territory of the special district is located. A copy of such notice must be sent by certified mail to the registered agent or of the board, if any. Any objections must be filed pursuant to ch. 120, F.S., within 21 days of the publication date, rather than 60 days. If the district was created by special act of the Legislature, DCA must send a notice of declaration of inactive status to the Speaker of the House of Representatives and the President of the Senate. If the district was created by one or more general purpose local governments, DCA must send a notice of declaration of inactive status to the governing body of each local general purpose government that created the district. Language specifies that the entity that created a special district must dissolve the special district.

Section 18 amends s. 189.412(1), F.S., to delete the obsolete requirement that the Special District Information Program collect compliance reports from DOR and the Commission on Ethics. Subsection (8) is created to correct cross references and create duties for providing assistance to general-purpose governments and certain state agencies in collecting delinquent reports or information, helping special districts comply with reporting requirements, declaring special districts inactive when appropriate, and, when directed by the Joint Legislative Auditing Committee, initiating enforcement provisions as provided in ss. 189.4044, 189.419 and 189.421, F.S.

Section 19 amends s. 189.418, F.S., to require that when a new special district is created, a written statement be provided to the Department of Community Affairs that includes a reference to the status of the special district as dependent or independent and the basis for such classification. The section is further amended to authorize the governing body of each special district at any time within a fiscal year or within up to 60 days following the end of the fiscal year to amend a budget for that year. The budget amendment must be adopted by resolution. Other technical cross-referencing changes are made.

Section 20 amends s. 189.419, F.S., to revise language relating to the effect of failure by special districts to file certain reports. The section provides that the governing district must grant an extension of up to 30 days if requested by the district. This section is further amended to make technical cross referencing changes.

Section 21 is a substantial rewording of s. 189.421, F.S., to specify the duties of DCA in contacting and assisting special districts when notified pursuant to s. 189.419, F.S. or s. 11.40(5)(b), F.S., that required financial reports have not been filed. Failure of special districts to comply with financial reporting requirements after such actions by DCA shall be remedied by writ of certiorari with the Circuit Court of Leon County, Florida.

Section 22 amends s. 189.428(5), F.S., relating to the oversight review process of special districts, to conform with revisions to ch. 218, part V, F.S.

Section 23 amends s. 189.439(1), F.S., to authorize special districts to sell bonds in the manner provided in s. 218.385, F.S.

Section 24 amends s. 191.005, F.S., to permit a candidate of a district board of trustees of a fire control board to not appoint a campaign treasurer or designate a primary campaign depository if they don't collect any contributions and whose only expense is the filing fee, and provides that any board member who ceases to be a qualified elector is automatically removed from the board.

Section 25 amends s. 218.075(3), F.S., relating to the reduction or waiver of permit fees, to conform with revisions to other sections of ch. 218, part V, F.S.

Section 26 creates a new subsection (3) to s. 218.32, F.S., to require the Department of Financial Services to notify the President of the Senate and the Speaker of the House of Representatives of any municipality that has not had financial activity for the last four fiscal years. Such notice is sufficient to initiate dissolution procedures described within s. 165.051(1)(a), F.S. Any special law authorizing the incorporation or creation of said municipality must be included within the notification. (Section 39 of the bill repeals special dissolution procedures for municipalities.)

Section 27 repeals s. 218.321, F.S., to eliminate obsolete language concerning local governments' financial statements. Subsection (3) is transferred to s. 218.39(3), F.S., in section 29 of this bill.

Section 28 amends s. 218.36(3), F.S., to authorize, rather than require, boards of county commissioners to notify the Governor when a board of county commissioners is unable to obtain county officer fee reports in a timely manner.<sup>4</sup>

Section 29 amends s. 218.39, F.S., to include subsection (3) of s. 218.321, F.S., which was repealed by section 27 of this bill. This provision requires dependent special districts to provide to local government entities that govern the special district financial information necessary to complete annual audits.

Section 30 clarifies s. 218.369, F.S., to include "district school board" in the term "unit of local government" as it relates to refunding bonds in ss. 218.37-218.386, F.S.

Section 31 renames Part V of ch. 218, F.S., the "Local Financial Emergencies Act," as the "Local Governmental Entity and District School Board Financial Emergencies Act" to reflect the inclusion of district school boards.

Section 32 amends s. 218.50, F.S., to rename the "Local Financial Emergencies Act" as the "Local Governmental Entity and District School Board Financial Emergencies Act."

Section 33 amends s. 218.501, F.S., to include district school boards in part V of ch. 218, F.S., and to more accurately reflect the purposes of the "Local Government Financial Emergencies Act" to promote fiscal responsibility.

Section 34 amends s. 218.502, F.S., to delete district school board from the definition of "local governmental entity." This change helps clarify that district school boards are subject to the oversight of the Commissioner of Education rather than the Governor.

Section 35 amends s. 218.503, F.S., to provide that local government entities and district school boards will be subject to review and oversight by the Governor or the Commissioner of Education, respectively, in determination of financial emergencies. The section is further amended to revise conditions triggering such oversight (to conform with changes to new accounting standards in the General Accounting Standards Board Pronouncement 34), to revise oversight activities, and to provide conditions under which a local government or district school board may resolve the state of financial emergency.

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<sup>4</sup> According to AG report number 01-075, although notification requirements provided for in s. 18.36(3), F.S., have existed since 1973, Executive Office of the Governor (EOG) records did not disclose evidence of, and EOG staff were not aware of, any instances where a board of county commissioners had notified the Governor of a county officer's noncompliance with s. 218.36(1), F.S. In addition, their survey of 66 counties, to which 40 responded to the survey, disclosed 14 instances (in eight counties) in which county officers did not comply with the filing deadline imposed by s. 218.36(1), F.S., for the 1998-99 fiscal year. There is no apparent benefit to be derived by requiring a board of county commissioners to notify the Governor of a county officer's noncompliance with the reporting requirement imposed by s. 218.36(1), F.S., particularly when such notification is required to occur only one day after the report deadline.

Section 36 amends s. 218.504, F.S., to authorize the Commissioner of Education, as appropriate, to terminate state actions resulting from a declaration of financial emergency.

Section 37 repeals ch. 131, F.S. With respect to bond refunding issues, this chapter includes provisions that differ from the provisions of s. 218.385, F.S., or other laws granting local governments the authority to issue bonds, and could inhibit a local government's ability to issue refunding bonds, or to issue such bonds by negotiated sale.

Section 38 repeals s. 132.10, F.S., relating to minimum sales price of refunding bonds, to delete obsolete or conflicting language.

Section 39 repeals s. 165.052, F.S., relating to special dissolution procedures for municipalities.<sup>5</sup>

Section 40 repeals s. 189.409, F.S., relating to determination of financial emergency (special districts), to conform with revisions to ch. 218, part V, F.S.

Section 41 repeals s. 189.422, F.S., relating to actions of DCA with respect to inactive special districts, to reflect revisions to s 189.421, F.S., that allows the Secretary of State to declare municipalities that do not hold elections inactive.

Section 42 repeals s. 200.0684, F.S., relating to annual compliance reports by DCA, to delete obsolete language.

Section 43 repeals paragraph (h) of subsection (1) s. 218.37, F.S., to remove the obsolete requirement that the Division of Bond Finance use the copy of the complaint for bond validation to verify compliance of independent special districts with other debt issuance reporting requirements. Reporting of debt issuance by local governments, including independent special districts, is verified through examination of bond industry publications by the Division of Bond Finance.

Section 44 amends s. 215.195, F.S., to provide the Chief Financial Officer with the responsibility of preparation of the Statewide Cost Allocation Plan (SWCAP), and to provide responsibilities to the Department of Financial Services associated with the SWCAP.

Section 45 amends s. 215.97, F.S., to clarify provisions and responsibilities associated with the Florida Single Audit Act. This section revises and provides the definitions of terms used in the Act, revises the Governor's responsibilities associated with the Act from a primary role to a supporting role, transfers the responsibilities to the Department of Financial Services, and provides responsibilities for state agencies that award grants.

Section 46 amends s. 288.9610(1), F.S. relating to annual reports of the Florida Development Finance Corporation, thus conforming this section with proposed revisions to s. 11.45., F.S.

Section 47 repeals s. 373.556, F.S., relating to investment of funds by a governing board of a water management district. This section became obsolete due to changes made during the 2000 Regular Legislative Session which centralized all local government investment laws into s. 218.415, F.S.

Section 48 amends s. 1010.47, F.S., to require that school districts must sell bonds in accordance with s. 218.385, F.S., thus conforming this section to proposed changes made in this bill.

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<sup>5</sup> According to Auditor General audit report No. 13083, paragraph 169, 19 municipalities created by special act of the Legislature appear to be no longer active but have not been officially dissolved. DCA staff indicated that inactive municipalities were not a programmatic responsibility of the DCA, and that the DCA does not have the staff capacity to research this issue nor is it required by the statutes to notify the Florida Secretary of State. According to DCA staff, it would cost nearly \$225,000 to have these municipalities declared inactive under the provisions of s. 165.052(1), F.S.

Section 49 transfers a position from the Executive Office of the Governor to the Department of Financial Services.

Section 50 provides that this act will take effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: amends subsection (5) of s. 11.40, F.S., to the Legislative Auditing Committee.

Section 2: Amends s. 11.45, F.S., relating to the duties of the Auditor General.

Section 3: Amends s. 11.51, F.S., relating to the Office of Program Policy Analysis and Government Accountability.

Section 4: Amends s. 61.181(10), F.S., relating to county audit requirements.

Section 5: Amends s. 75.05(3), F.S., relating to bond validation complaints.

Section 6: Amends s. 112.08(2), F.S., relating to group insurance.

Section 7: Amends s. 112.625(5), F.S., relating to the definition of "governmental entity."

Section 8: Amends s. 112.63, F.S., relating to actuarial reports.

Section 9: Amends s. 130.04, F.S., relating to county bonds.

Section 10: Amends s. 132.02(1), F.S., relating to taxing districts.

Section 11: Amends s. 132.09, F.S., relating to the sale of county refunding bonds.

Section 12: Amends s. 163.05(2), F.S., relating to the Small County Technical Assistance Program.

Section 13: Amends s. 166.121(2), F.S., relating to the issuance of bonds by municipalities.

Section 14: Amends s. 166.241, F.S., relating to procedures for amending budgets of municipalities.

Section 15: Amends s. 175.261(1), F.S., relating to annual reports to the Division of Retirement.

Section 16: Amends s. 185.221(1), F.S., relating to annual reports to the Division of Retirement.

Section 17: Amends s. 189.4044, F.S., relating to procedures for declaring a special district inactive.

Section 18: Amends s. 189.412(1), F.S., relating to the Special District Information Program of the Department of Community Affairs.

Section 19: Amends s. 189.418, F.S., relating to special districts.

Section 20: Amends s. 189.419, F.S., relating to the effect of failure by special districts to file certain reports.

Section 21: Amends s. 189.421, F.S., relating to the duties of DCA in contacting and assisting special districts.

Section 22: Amends s. 189.428(5), F.S., relating to the oversight review process of special districts.

Section 23: Amends s. 189.439(1), F.S., relating to the authority of special districts to sell bonds. F.S.

Section 24: Amends s. 191.005, F.S., relating to the district board of trustees of a fire control board.

Section 25: Amends s. 218.075(3), F.S., relating to the reduction or waiver of permit fees.

Section 26: Creates a new subsection (3) to s. 218.32, F.S., relating to municipal annual financial reports.

Section 27: Repeals s. 218.321, F.S., relating to local governments' financial statements.

Section 28: Amends s. 218.36(3), F.S., relating to boards of county commissioners.

Section 29: Amends s. 218.39, F.S., relating to dependent special districts.

Section 30: Amends s. 218.369, F.S., relating to the definition of the term "unit of local government."

Section 31: Renames Part V of ch. 218, F.S., as "Local Governmental Entity and District School Board Financial Emergencies."

Section 32: Amends s. 218.50, F.S., to rename the "Local Financial Emergencies Act" as the "Local Governmental Entity and District School Board Financial Emergencies Act."

Section 33: Amends s. 218.501, F.S., relating to district school boards.

Section 34: Amends s. 218.502, F.S., relating to the definition of "local governmental entity."

Section 35: Amends s. 218.503, F.S., relating to determination of financial emergencies.

Section 36: Amends s. 218.504, F.S., relating to termination of state actions resulting from a declaration of financial emergency.

Section 37: Repeals ch. 131, F.S., relating to bond refunding issues.

Section 38: Repeals s. 132.10, F.S., relating to minimum sales price of refunding bonds.

Section 39: Repeals s. 165.052, F.S., relating to special dissolution procedures for municipalities.

Section 40: Repeals s. 189.409, F.S., relating to determination of financial emergency (special districts).

Section 41: Repeals s. 189.422, F.S., relating to actions of DCA with respect to inactive special districts.

Section 42: Repeals s. 200.0684, F.S., relating to annual compliance reports by DCA.

Section 43: Repeals paragraph (h) of subsection (1) s. 218.37, F.S., relating to powers and duties of the Division of Bond Finance.

Section 44: Amends s. 215.195, F.S., relating to the Statewide Cost Allocation Plan.

Section 45: Amends s. 215.97, F.S., relating to the Florida Single Audit Act.

Section 46: Amends s. 288.9610(1), F.S., relating to the Florida Development Finance Corporation.

Section 47: repeals s. 373.556, F.S., relating to investment of funds by a governing board of a water management district.

Section 48: Amends s. 1010.47, F.S., relating to district school boards.

Section 49: Transfers a position from the Executive Office of the Governor to the Department of Financial Services.

Section 50: provides that this act will take effect upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

Revisions to statutory provisions governing the dissolution of municipalities and special districts should reduce state agency costs associated with these activities.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

Section 48 provides for the transfer of one full-time equivalent from the Executive Office of the Governor to the Department of Financial Services. This is to accommodate the transfer of responsibilities associated with amendments to the Florida Single Audit Act. No detail of the position affected or the funding amounts has been provided.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Drafting Issues**

Section 17 uses the term "local general-purpose government." While this term is used in numerous provisions in the statutes, and defined for chs. 218, 165, 186 and 190, F.S., consideration should be given for providing a definition for purposes of ch. 189, F.S.

**Other Comments**

The League of Cities has indicated that it supports this bill. The Association of Counties does not oppose the bill.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The Committee on Local Government & Veterans' Affairs adopted one amendment on March 3, 2004. The amendment raises the threshold for Division of Retirement to initiate action against a municipality that fails to comply with a request; deletes a newly defined term from the bill that was not used elsewhere in the law; and repeals s. 373.556, F.S., an obsolete provision concerning investment of funds by water management districts.