

By Senator Gaetz

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See HB

1 A bill to be entitled
2 An act relating to hurricane-relief funding;
3 amending s. 252.37, F.S.; providing an
4 exception to the time limit for application by
5 a local government for a waiver of all or a
6 portion of the required match for financial
7 assistance from the Federal Government under
8 the federal Public Assistance Program;
9 providing for expiration of the exception;
10 providing an effective date.

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12 WHEREAS, the 2004 hurricane season was one of the
13 deadliest in history for the State of Florida, with the state
14 enduring Tropical Storm Bonnie and Hurricanes Charley,
15 Frances, Ivan, and Jeanne all within a very compressed period
16 of time and incurring tremendous devastation as a consequence
17 of those storms, and

18 WHEREAS, immediately following the occurrence of
19 Hurricane Ivan, the Governor's Office issued Executive Order
20 04-229 on October 8, 2004, and

21 WHEREAS, Executive Order 04-229 states in part that, on
22 October 7, 2004, the President of the United States authorized
23 federal funds for public assistance under the Robert T.
24 Stafford Disaster Relief and Emergency Assistance Act, 42
25 U.S.C. s. 5121 (the Stafford Act), and

26 WHEREAS, section 252.37, Florida Statutes, 2003,
27 authorized the Governor to expend any grants, gifts, or
28 payments in aid of emergency prevention, mitigation,
29 preparedness, response, or recovery, and

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1 WHEREAS, the funds authorized by the President on
2 October 7, 2004, under the Stafford Act constituted such a
3 grant, gift, or payment, and

4 WHEREAS, former Governor of Florida, Jeb Bush, in
5 issuing Executive Order 04-229, directed that the nonfederal
6 share of the total eligible costs for public assistance under
7 the Stafford Act be divided equally between the state and the
8 affected local governments eligible for such public
9 assistance, and

10 WHEREAS, Executive Order 04-229 also provides that "the
11 Executive Office of the Governor may approve a waiver of all
12 or a portion of the local match, subject to legislative notice
13 and review under section 216.177, Florida Statutes, if it is
14 determined that such a match cannot be provided or that doing
15 so would effect a documented hardship on the local entity,
16 provided that the local government applies for the waiver by
17 no later than September 24, 2006," and

18 WHEREAS, Executive Order 04-229 went into effect on
19 October 8, 2004, and was scheduled to expire on October 8,
20 2006, unless extended, and

21 WHEREAS, in response to the devastation of the 2004
22 hurricane season, the Florida Legislature held the 2004
23 Special Session A of the Legislature from December 13, 2004,
24 through December 16, 2004, and

25 WHEREAS, on December 16, 2004, the Florida Legislature
26 passed House Bill 19-A, relating to hurricane-relief funding,
27 which was approved by the Governor on December 21, 2004, and

28 WHEREAS, House Bill 19-A created section 252.37(5)(b),
29 Florida Statutes, which provided that "the Executive Office of
30 the Governor may approve a waiver, subject to the requirement
31 for legislative notice and review under s. 216.177, of all or

1 | a portion of the required match for public assistance projects
2 | for local governments if the Executive Office of the Governor
3 | determines that such a match requirement cannot be provided,
4 | or that doing so would impose a documented hardship on the
5 | local government, and if the local government applies for the
6 | waiver within the first 18 months after the disaster is
7 | declared," and

8 | WHEREAS, section 252.37(5)(b), Florida Statutes, as
9 | created by House Bill 19-A, 2004 Special Session A of the
10 | Florida Legislature, clearly establishes the filing deadline
11 | for local match waivers as being 18 months after the
12 | declaration of a disaster, and

13 | WHEREAS, this deadline was enacted into law in conflict
14 | with the deadline of September 24, 2006, established under
15 | Executive Order 04-229, and

16 | WHEREAS, because the state of emergency resulting from
17 | Hurricane Ivan was declared on September 10, 2004, the
18 | deadline for a local government to apply for the waiver of all
19 | or a portion of the required match for public assistance
20 | projects under section 252.37(5)(b), Florida Statutes, was
21 | March 10, 2006, a full 6 months earlier than the deadline of
22 | September 24, 2006, set forth in Executive Order 04-229, and

23 | WHEREAS, though the passage of House Bill 19-A moved
24 | the deadline for local governments to apply for the waiver of
25 | the required match for public assistance projects ahead by a
26 | full 6 months, no direct notice of this change in the deadline
27 | was ever provided to such applicants, and substantially
28 | identical local match waiver application forms were issued,
29 | and

30 | WHEREAS, to this date, no press releases notifying the
31 | public of this change have been discovered, nor have any

1 | postings of the change been found on any relevant Internet
2 | websites, and

3 | WHEREAS, the City of Gulf Breeze in Santa Rosa County
4 | filed its local match waiver application form for damages
5 | resulting from Hurricane Ivan on September 1, 2006, relying on
6 | information from the original form made available to them
7 | which specifically sets forth September 24, 2006, as the
8 | deadline for the application, and

9 | WHEREAS, though the application was clearly timely
10 | filed in accordance with the application deadline established
11 | in Executive Order 04-229, the waiver application for the City
12 | of Gulf Breeze was summarily rejected without evaluation as
13 | failing to be in conformance with the deadline of March 10,
14 | 2006, established in section 252.37(5)(b), Florida Statutes,
15 | and

16 | WHEREAS, subsequent correspondence between the City of
17 | Gulf Breeze and the Governor's Office under then Governor Jeb
18 | Bush indicated "that the Governor would not object to a narrow
19 | extension of the statutory 18-month timeframe as it applies to
20 | the 2004 hurricanes - Charley, Frances, Ivan, and Jeanne,"
21 | NOW, THEREFORE,

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

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25 | Section 1. Subsection (5) of section 252.37, Florida
26 | Statutes, is amended to read:

27 | 252.37 Financing.--

28 | (5) Unless otherwise specified in the General
29 | Appropriations Act:

30 | (a) Whenever the state accepts financial assistance
31 | from the Federal Government or its agencies under the federal

1 Public Assistance Program and such financial assistance is
2 conditioned upon a requirement for matching funds, the state
3 shall provide the entire match requirement for state agencies
4 and one-half of the required match for grants to local
5 governments. The affected local government shall be required
6 to provide one-half of the required match prior to receipt of
7 such financial assistance.

8 (b) The Executive Office of the Governor may approve a
9 waiver, subject to the requirement for legislative notice and
10 review under s. 216.177, of all or a portion of the required
11 match for public assistance projects for local governments if
12 the Executive Office of the Governor determines that such a
13 match requirement cannot be provided, or that doing so would
14 impose a documented hardship on the local government, and,
15 except as provided in paragraph (c), if the local government
16 applies for the waiver within the first 18 months after the
17 disaster is declared.

18 (c) A local government that applied for a waiver of
19 all or a portion of the required match for public assistance
20 projects in compliance with the deadline for such application
21 established by Executive Order 04-229, issued on October 8,
22 2004, and whose application was rejected for failure to meet
23 the deadline established pursuant to paragraph (b) is eligible
24 to make application for such waiver until midnight on January
25 1, 2008. The provisions of this paragraph shall expire and be
26 void on July 1, 2008.

27 Section 2. This act shall take effect upon becoming a
28 law.
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