

By the Committee on Education Pre-K - 12; and Senator Gaetz

581-01994-11

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1                   A bill to be entitled  
2           An act relating to financial emergencies; amending s.  
3           163.07, F.S.; requiring a plan of a county or  
4           municipality to improve the efficiency,  
5           accountability, and coordination of the delivery of  
6           local government services to include a plan for the  
7           consolidation of all administrative direction and  
8           support services if the county or municipality is  
9           subject to review and oversight by the Governor;  
10          amending s. 218.503, F.S.; authorizing a financial  
11          emergency review board for a local governmental entity  
12          or district school board to consult with other  
13          governmental entities for the consolidation of all  
14          administrative direction and support services;  
15          authorizing the Governor or Commissioner of Education  
16          to require a local governmental entity or district  
17          school board to develop a plan implementing the  
18          consolidation, sourcing, or discontinuance of all  
19          administrative direction and support services;  
20          providing that the members of the governing body of a  
21          local governmental entity or the members of a district  
22          school board who fail to resolve a state of financial  
23          emergency are subject to suspension or removal from  
24          office; providing an effective date.

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

27  
28           Section 1. Section 163.07, Florida Statutes, is amended to  
29           read:

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30 163.07 Efficiency and accountability in local government  
31 services.—

32 (1) The intent of this section is to provide and encourage  
33 a process that will:

34 (a) Allow municipalities and counties to resolve conflicts  
35 among local jurisdictions regarding the delivery and financing  
36 of local services.

37 (b) Increase local government efficiency and  
38 accountability.

39 (c) Provide greater flexibility in the use of local revenue  
40 sources for local governments involved in the process.

41 (2) Any county or combination of counties, and the  
42 municipalities therein, may use the procedures provided by this  
43 section to develop and adopt a plan to improve the efficiency,  
44 accountability, and coordination of the delivery of local  
45 government services. The development of such a plan may be  
46 initiated by a resolution adopted by a majority vote of the  
47 governing body of each of the counties involved, by resolutions  
48 adopted by a majority vote of the governing bodies of a majority  
49 of the municipalities within each county, or by resolutions  
50 adopted by a majority vote of the governing bodies of the  
51 municipality or combination of municipalities representing a  
52 majority of the municipal population of each county. The  
53 resolution shall create a commission which will be responsible  
54 for developing the plan. The resolution shall specify the  
55 composition of the commission, which shall include  
56 representatives of county and municipal governments, of any  
57 affected special districts, and of any other relevant local  
58 government entities or agencies. The resolution must include a

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59 proposed timetable for development of the plan and must specify  
60 the local government support and personnel services that will be  
61 made available to the representatives developing the plan.

62 (3) Upon adoption of a resolution or resolutions as  
63 provided in subsection (2), the designated representatives shall  
64 develop a plan for delivery of local government services. The  
65 plan must:

66 (a) Designate the areawide and local government services  
67 that are the subject of the plan.

68 (b) Describe the existing organization of such services and  
69 the means of financing the services, and create a reorganization  
70 of such services and the financing thereof that will meet the  
71 goals of this section.

72 (c) Designate the local agency that should be responsible  
73 for the delivery of each service.

74 (d) Designate those services that should be delivered  
75 regionally or countywide. No provision of the plan shall operate  
76 to restrict the power of a municipality to finance and deliver  
77 services in addition to, or at a higher level than, the services  
78 designated for regional or countywide delivery under this  
79 paragraph.

80 (e) Provide means to reduce the cost of providing local  
81 services and enhance the accountability of service providers.

82 (f) Include a multiyear capital outlay plan for  
83 infrastructure.

84 (g) Specifically describe any expansion of municipal  
85 boundaries that would further the goals of this section. Any  
86 area proposed to be annexed must meet the standards for  
87 annexation provided in chapter 171. The plan shall not contain

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88 any provision for contraction of municipal boundaries or  
89 elimination of any municipality.

90 (h) Provide specific procedures for modification or  
91 termination of the plan.

92 (i) Specify any special act modifications which must be  
93 made to effectuate the plan.

94 (j) Specify the effective date of the plan.

95 (4) (a) A plan developed pursuant to this section must  
96 conform to all comprehensive plans that have been found to be in  
97 compliance under part II of this chapter, for the local  
98 governments participating in the plan.

99 (b) No provision of a plan developed pursuant to this  
100 section shall restrict the authority of any state or regional  
101 governmental agency to perform any duty required to be performed  
102 by that agency by law.

103 (5) (a) A plan developed pursuant to this section must be  
104 approved by a majority vote of the governing body of each county  
105 involved in the plan, and by a majority vote of the governing  
106 bodies of a majority of municipalities in each county, and by a  
107 majority vote of the governing bodies of the municipality or  
108 municipalities that represent a majority of the municipal  
109 population of each county.

110 (b) After approval by the county and municipal governing  
111 bodies as required by paragraph (a), the plan shall be submitted  
112 for referendum approval in a countywide election in each county  
113 involved. The plan shall not take effect unless approved by a  
114 majority of the electors of each county who vote in the  
115 referendum, and also by a majority of the electors of the  
116 municipalities that represent a majority of the municipal

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117 population of each county who vote in the referendum. If  
118 approved by the electors as required by this paragraph, the plan  
119 shall take effect on the date specified in the plan.

120 (6) A plan developed pursuant to this section by a county  
121 or municipality that is subject to review and oversight by the  
122 Governor pursuant to s. 218.503 must include a plan for the  
123 consolidation of all administrative direction and support  
124 services, including, but not limited to, services for asset  
125 sales, economic and community development, building inspections,  
126 parks and recreation, facilities management, engineering and  
127 construction, insurance coverage, risk management, planning and  
128 zoning, information systems, fleet management, and purchasing.

129 (7)~~(6)~~ If the plan calls for merger or dissolution of  
130 special districts, such merger or dissolution shall comply with  
131 the provisions of chapter 189.

132 (8)~~(7)~~ If a plan developed pursuant to this section  
133 includes areas proposed for municipal annexation which meet the  
134 standards for annexation provided in chapter 171, such  
135 annexation shall take effect upon approval of the plan as  
136 provided in this section, notwithstanding the procedures for  
137 approval of municipal annexation specified in chapter 171.

138 Section 2. Section 218.503, Florida Statutes, is amended to  
139 read:

140 218.503 Determination of financial emergency.—

141 (1) Local governmental entities, charter schools, charter  
142 technical career centers, and district school boards shall be  
143 subject to review and oversight by the Governor, the charter  
144 school sponsor, the charter technical career center sponsor, or  
145 the Commissioner of Education, as appropriate, when any one of

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146 the following conditions occurs:

147 (a) Failure within the same fiscal year in which due to pay  
148 short-term loans or failure to make bond debt service or other  
149 long-term debt payments when due, as a result of a lack of  
150 funds.

151 (b) Failure to pay uncontested claims from creditors within  
152 90 days after the claim is presented, as a result of a lack of  
153 funds.

154 (c) Failure to transfer at the appropriate time, due to  
155 lack of funds:

- 156 1. Taxes withheld on the income of employees; or
- 157 2. Employer and employee contributions for:
  - 158 a. Federal social security; or
  - 159 b. Any pension, retirement, or benefit plan of an employee.

160 (d) Failure for one pay period to pay, due to lack of  
161 funds:

- 162 1. Wages and salaries owed to employees; or
- 163 2. Retirement benefits owed to former employees.

164 (e) An unreserved or total fund balance or retained  
165 earnings deficit, or unrestricted or total net assets deficit,  
166 as reported on the balance sheet or statement of net assets on  
167 the general purpose or fund financial statements, for which  
168 sufficient resources of the local governmental entity, charter  
169 school, charter technical career center, or district school  
170 board, as reported on the balance sheet or statement of net  
171 assets on the general purpose or fund financial statements, are  
172 not available to cover the deficit. Resources available to cover  
173 reported deficits include net assets that are not otherwise  
174 restricted by federal, state, or local laws, bond covenants,

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175 contractual agreements, or other legal constraints. Fixed or  
176 capital assets, the disposal of which would impair the ability  
177 of a local governmental entity, charter school, charter  
178 technical career center, or district school board to carry out  
179 its functions, are not considered resources available to cover  
180 reported deficits.

181 (2) A local governmental entity shall notify the Governor  
182 and the Legislative Auditing Committee; a charter school shall  
183 notify the charter school sponsor, the Commissioner of  
184 Education, and the Legislative Auditing Committee; a charter  
185 technical career center shall notify the charter technical  
186 career center sponsor, the Commissioner of Education, and the  
187 Legislative Auditing Committee; and a district school board  
188 shall notify the Commissioner of Education and the Legislative  
189 Auditing Committee, when one or more of the conditions specified  
190 in subsection (1) have occurred or will occur if action is not  
191 taken to assist the local governmental entity, charter school,  
192 charter technical career center, or district school board. In  
193 addition, any state agency must, within 30 days after a  
194 determination that one or more of the conditions specified in  
195 subsection (1) have occurred or will occur if action is not  
196 taken to assist the local governmental entity, charter school,  
197 charter technical career center, or district school board,  
198 notify the Governor, charter school sponsor, charter technical  
199 career center sponsor, or the Commissioner of Education, as  
200 appropriate, and the Legislative Auditing Committee.

201 (3) Upon notification that one or more of the conditions in  
202 subsection (1) have occurred or will occur if action is not  
203 taken to assist the local governmental entity or district school

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204 board, the Governor or his or her designee shall contact the  
205 local governmental entity or the Commissioner of Education or  
206 his or her designee shall contact the district school board to  
207 determine what actions have been taken by the local governmental  
208 entity or the district school board to resolve or prevent the  
209 condition. The Governor or the Commissioner of Education, as  
210 appropriate, shall determine whether the local governmental  
211 entity or the district school board needs state assistance to  
212 resolve or prevent the condition. If state assistance is needed,  
213 the local governmental entity or district school board is  
214 considered to be in a state of financial emergency. The Governor  
215 or the Commissioner of Education, as appropriate, has the  
216 authority to implement measures as set forth in ss. 218.50-  
217 218.504 to assist the local governmental entity or district  
218 school board in resolving the financial emergency. Such measures  
219 may include, but are not limited to:

220 (a) Requiring approval of the local governmental entity's  
221 budget by the Governor or approval of the district school  
222 board's budget by the Commissioner of Education.

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

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

229 (d) Making such inspections and reviews of records,  
230 information, reports, and assets of the local governmental  
231 entity or district school board. The appropriate local officials  
232 shall cooperate in such inspections and reviews.

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233 (e) Consulting with officials and auditors of the local  
234 governmental entity or the district school board and the  
235 appropriate state officials regarding any steps necessary to  
236 bring the books of account, accounting systems, financial  
237 procedures, and reports into compliance with state requirements.

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

240 (g)1. Establishing a financial emergency board to oversee  
241 the activities of the local governmental entity or the district  
242 school board. If a financial emergency board is established for  
243 a local governmental entity, the Governor shall appoint board  
244 members and select a chair. If a financial emergency board is  
245 established for a district school board, the State Board of  
246 Education shall appoint board members and select a chair. The  
247 financial emergency board shall adopt such rules as are  
248 necessary for conducting board business. The board may:

249 a. Make such reviews of records, reports, and assets of the  
250 local governmental entity or the district school board as are  
251 needed.

252 b. 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 c. 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 d. Consult with other governmental entities for the

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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 2. The recommendations and reports made by the financial  
269 emergency board must be submitted to the Governor for local  
270 governmental entities or to the Commissioner of Education and  
271 the State Board of Education for district school boards for  
272 appropriate action.

273 (h) Requiring and approving a plan, to be prepared by  
274 officials of the local governmental entity or the district  
275 school board in consultation with the appropriate state  
276 officials, prescribing actions that will cause the local  
277 governmental entity or district school board to no longer be  
278 subject to this section. The plan must include, but need not be  
279 limited to:

280 1. Provision for payment in full of obligations outlined in  
281 subsection (1), designated as priority items, that are currently  
282 due or will come due.

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

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

287 4. Provisions implementing the consolidation, sourcing, or  
288 discontinuance of all administrative direction and support  
289 services, including, but not limited to, services for asset  
290 sales, economic and community development, building inspections,

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291 parks and recreation, facilities management, engineering and  
292 construction, insurance coverage, risk management, planning and  
293 zoning, information systems, fleet management, and purchasing.

294 (4) (a) Upon notification that one or more of the conditions  
295 in subsection (1) have occurred or will occur if action is not  
296 taken to assist the charter school, the charter school sponsor  
297 or the sponsor's designee and the Commissioner of Education  
298 shall contact the charter school governing body to determine  
299 what actions have been taken by the charter school governing  
300 body to resolve or prevent the condition. The Commissioner of  
301 Education has the authority to require and approve a financial  
302 recovery plan, to be prepared by the charter school governing  
303 body, prescribing actions that will resolve or prevent the  
304 condition.

305 (b) Upon notification that one or more of the conditions in  
306 subsection (1) have occurred or will occur if action is not  
307 taken to assist the charter technical career center, the charter  
308 technical career center sponsor or the sponsor's designee and  
309 the Commissioner of Education shall contact the charter  
310 technical career center governing body to determine what actions  
311 have been taken by the governing body to resolve or prevent the  
312 condition. The Commissioner of Education may require and approve  
313 a financial recovery plan, to be prepared by the charter  
314 technical career center governing body, prescribing actions that  
315 will resolve or prevent the condition.

316 (c) The Commissioner of Education shall determine if the  
317 charter school or charter technical career center needs a  
318 financial recovery plan to resolve the condition. If the  
319 Commissioner of Education determines that a financial recovery

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320 plan is needed, the charter school or charter technical career  
321 center is considered to be in a state of financial emergency.

322

323 The Department of Education, with the involvement of sponsors,  
324 charter schools, and charter technical career centers, shall  
325 establish guidelines for developing a financial recovery plan.

326 (5) A local governmental entity or district school board  
327 may not seek application of laws under the bankruptcy provisions  
328 of the United States Constitution except with the prior approval  
329 of the Governor for local governmental entities or the  
330 Commissioner of Education for district school boards.

331 (6) The failure of the members of the governing body of a  
332 local governmental entity or the failure of the members of a  
333 district school board to resolve a state of financial emergency  
334 constitutes malfeasance, misfeasance, and neglect of duty for  
335 purposes of s. 7, Art. IV of the State Constitution.

336 Section 3. This act shall take effect July 1, 2011.