

By Senator Gaetz

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1 A bill to be entitled
2 An act relating to local government; amending s.
3 170.01, F.S.; clarifying that certain assessments must
4 be approved by a majority vote of specified voting
5 electors; amending s. 218.503, F.S.; authorizing a
6 financial emergency review board for a local
7 governmental entity or district school board to
8 consult with other governmental entities for the
9 consolidation of all administrative direction and
10 support services; authorizing the Governor or
11 Commissioner of Education to require a local
12 governmental entity or district school board to
13 develop a plan implementing the consolidation,
14 sourcing, or discontinuance of all administrative
15 direction and support services; providing that the
16 members of the governing body of a local governmental
17 entity or the members of a district school board who
18 fail to resolve a state of financial emergency are
19 subject to suspension or removal from office;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (3) of section 170.01, Florida
25 Statutes, is amended to read:

26 170.01 Authority for providing improvements and levying and
27 collecting special assessments against property benefited.—

28 (3) Any municipality, subject to the approval by ~~of~~ a
29 majority vote of the affected property owners voting in an

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30 election, may levy and collect special assessments against
31 property benefited for the purpose of stabilizing and improving:

- 32 (a) Retail business districts,
33 (b) Wholesale business districts, or
34 (c) Nationally recognized historic districts,

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36 or any combination of such districts, through promotion,
37 management, marketing, and other similar services in such
38 districts of the municipality. This subsection does not
39 authorize a municipality to use bond proceeds to fund ongoing
40 operations of these districts.

41 Section 2. Section 218.503, Florida Statutes, is amended to
42 read:

43 218.503 Determination of financial emergency.—

44 (1) Local governmental entities, charter schools, charter
45 technical career centers, and district school boards shall be
46 subject to review and oversight by the Governor, the charter
47 school sponsor, the charter technical career center sponsor, or
48 the Commissioner of Education, as appropriate, when any one of
49 the following conditions occurs:

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

54 (b) Failure to pay uncontested claims from creditors within
55 90 days after the claim is presented, as a result of a lack of
56 funds.

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

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- 59 1. Taxes withheld on the income of employees; or
60 2. Employer and employee contributions for:
61 a. Federal social security; or
62 b. Any pension, retirement, or benefit plan of an employee.
63 (d) Failure for one pay period to pay, due to lack of
64 funds:
65 1. Wages and salaries owed to employees; or
66 2. Retirement benefits owed to former employees.
67 (e) A fund balance deficit in total or for that portion of
68 a fund balance not classified as restricted, committed, or
69 nonspendable, or a total or unrestricted net assets deficit, as
70 reported on the fund financial statements of entities required
71 to report under governmental financial reporting standards or on
72 the basic financial statements of entities required to report
73 under not-for-profit financial reporting standards, for which
74 sufficient resources of the local governmental entity, charter
75 school, charter technical career center, or district school
76 board, as reported on the fund financial statements, are not
77 available to cover the deficit. Resources available to cover
78 reported deficits include fund balance or net assets that are
79 not otherwise restricted by federal, state, or local laws, bond
80 covenants, contractual agreements, or other legal constraints.
81 Property, plant, and equipment, the disposal of which would
82 impair the ability of a local governmental entity, charter
83 school, charter technical career center, or district school
84 board to carry out its functions, are not considered resources
85 available to cover reported deficits.
86 (2) A local governmental entity shall notify the Governor
87 and the Legislative Auditing Committee; a charter school shall

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88 notify the charter school sponsor, the Commissioner of
89 Education, and the Legislative Auditing Committee; a charter
90 technical career center shall notify the charter technical
91 career center sponsor, the Commissioner of Education, and the
92 Legislative Auditing Committee; and a district school board
93 shall notify the Commissioner of Education and the Legislative
94 Auditing Committee, when one or more of the conditions specified
95 in subsection (1) have occurred or will occur if action is not
96 taken to assist the local governmental entity, charter school,
97 charter technical career center, or district school board. In
98 addition, any state agency must, within 30 days after a
99 determination that one or more of the conditions specified in
100 subsection (1) have occurred or will occur if action is not
101 taken to assist the local governmental entity, charter school,
102 charter technical career center, or district school board,
103 notify the Governor, charter school sponsor, charter technical
104 career center sponsor, or the Commissioner of Education, as
105 appropriate, and the Legislative Auditing Committee.

106 (3) Upon notification that one or more of the conditions in
107 subsection (1) have occurred or will occur if action is not
108 taken to assist the local governmental entity or district school
109 board, the Governor or his or her designee shall contact the
110 local governmental entity or the Commissioner of Education or
111 his or her designee shall contact the district school board to
112 determine what actions have been taken by the local governmental
113 entity or the district school board to resolve or prevent the
114 condition. The Governor or the Commissioner of Education, as
115 appropriate, shall determine whether the local governmental
116 entity or the district school board needs state assistance to

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117 resolve or prevent the condition. If state assistance is needed,
118 the local governmental entity or district school board is
119 considered to be in a state of financial emergency. The Governor
120 or the Commissioner of Education, as appropriate, has the
121 authority to implement measures as set forth in ss. 218.50-
122 218.504 to assist the local governmental entity or district
123 school board in resolving the financial emergency. Such measures
124 may include, but are not limited to:

125 (a) Requiring approval of the local governmental entity's
126 budget by the Governor or approval of the district school
127 board's budget by the Commissioner of Education.

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

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

134 (d) Making such inspections and reviews of records,
135 information, reports, and assets of the local governmental
136 entity or district school board. The appropriate local officials
137 shall cooperate in such inspections and reviews.

138 (e) Consulting with officials and auditors of the local
139 governmental entity or the district school board and the
140 appropriate state officials regarding any steps necessary to
141 bring the books of account, accounting systems, financial
142 procedures, and reports into compliance with state requirements.

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

145 (g)1. Establishing a financial emergency board to oversee

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146 the activities of the local governmental entity or the district
147 school board. If a financial emergency board is established for
148 a local governmental entity, the Governor shall appoint board
149 members and select a chair. If a financial emergency board is
150 established for a district school board, the State Board of
151 Education shall appoint board members and select a chair. The
152 financial emergency board shall adopt such rules as are
153 necessary for conducting board business. The board may:

154 a. Make such reviews of records, reports, and assets of the
155 local governmental entity or the district school board as are
156 needed.

157 b. Consult with officials and auditors of the local
158 governmental entity or the district school board and the
159 appropriate state officials regarding any steps necessary to
160 bring the books of account, accounting systems, financial
161 procedures, and reports of the local governmental entity or the
162 district school board into compliance with state requirements.

163 c. Review the operations, management, efficiency,
164 productivity, and financing of functions and operations of the
165 local governmental entity or the district school board.

166 d. Consult with other governmental entities for the
167 consolidation of all administrative direction and support
168 services, including, but not limited to, services for asset
169 sales, economic and community development, building inspections,
170 parks and recreation, facilities management, engineering and
171 construction, insurance coverage, risk management, planning and
172 zoning, information systems, fleet management, and purchasing.

173 2. The recommendations and reports made by the financial
174 emergency board must be submitted to the Governor for local

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175 governmental entities or to the Commissioner of Education and
176 the State Board of Education for district school boards for
177 appropriate action.

178 (h) Requiring and approving a plan, to be prepared by
179 officials of the local governmental entity or the district
180 school board in consultation with the appropriate state
181 officials, prescribing actions that will cause the local
182 governmental entity or district school board to no longer be
183 subject to this section. The plan must include, but need not be
184 limited to:

185 1. Provision for payment in full of obligations outlined in
186 subsection (1), designated as priority items, which ~~that~~ are
187 currently due or will come due.

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

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

192 4. Provisions implementing the consolidation, sourcing, or
193 discontinuance of all administrative direction and support
194 services, including, but not limited to, services for asset
195 sales, economic and community development, building inspections,
196 parks and recreation, facilities management, engineering and
197 construction, insurance coverage, risk management, planning and
198 zoning, information systems, fleet management, and purchasing.

199 (4) (a) Upon notification that one or more of the conditions
200 in subsection (1) have occurred or will occur if action is not
201 taken to assist the charter school, the charter school sponsor
202 or the sponsor's designee and the Commissioner of Education
203 shall contact the charter school governing body to determine

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204 what actions have been taken by the charter school governing
205 body to resolve or prevent the condition. The Commissioner of
206 Education has the authority to require and approve a financial
207 recovery plan, to be prepared by the charter school governing
208 body, prescribing actions that will resolve or prevent the
209 condition.

210 (b) Upon notification that one or more of the conditions in
211 subsection (1) have occurred or will occur if action is not
212 taken to assist the charter technical career center, the charter
213 technical career center sponsor or the sponsor's designee and
214 the Commissioner of Education shall contact the charter
215 technical career center governing body to determine what actions
216 have been taken by the governing body to resolve or prevent the
217 condition. The Commissioner of Education may require and approve
218 a financial recovery plan, to be prepared by the charter
219 technical career center governing body, prescribing actions that
220 will resolve or prevent the condition.

221 (c) The Commissioner of Education shall determine if the
222 charter school or charter technical career center needs a
223 financial recovery plan to resolve the condition. If the
224 Commissioner of Education determines that a financial recovery
225 plan is needed, the charter school or charter technical career
226 center is considered to be in a state of financial emergency.

227
228 The Department of Education, with the involvement of sponsors,
229 charter schools, and charter technical career centers, shall
230 establish guidelines for developing a financial recovery plan.

231 (5) A local governmental entity or district school board
232 may not seek application of laws under the bankruptcy provisions

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233 of the United States Constitution except with the prior approval
234 of the Governor for local governmental entities or the
235 Commissioner of Education for district school boards.

236 (6) The failure of the members of the governing body of a
237 local governmental entity or the failure of the members of a
238 district school board to resolve a state of financial emergency
239 constitutes malfeasance, misfeasance, and neglect of duty for
240 purposes of s. 7, Art. IV of the State Constitution.

241 Section 3. This act shall take effect July 1, 2012.