

1                   A bill to be entitled  
2           An act relating to local financial emergencies;  
3           amending s. 218.503, F.S.; expanding the entities that  
4           have oversight over local governmental entities,  
5           charter schools, charter technical career centers, and  
6           district school boards under certain circumstances;  
7           specifying the number of members to be on a financial  
8           emergency board; specifying the entities who shall  
9           appoint members to the board; providing qualifications  
10          of members and chair of the board; revising the  
11          information to which the board has access; authorizing  
12          the board to hire or retain legal counsel; requiring  
13          the adoption of rules to conduct board business;  
14          requiring recommendations and reports to be submitted  
15          to specified entities; authorizing the board to assume  
16          operational and institutional control of a local  
17          governmental entity's or district school board's  
18          functions under certain circumstances; amending s.  
19          218.504, F.S.; conforming provisions to changes made  
20          in the act; providing an effective date.

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

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24           Section 1. Subsections (1), (2), and (3) of section  
25          218.503, Florida Statutes, are amended, subsections (4), (5),

26 | and (6) are renumbered as subsections (5), (6), and (7),  
27 | respectively, and a new subsection (4) is added to that section,  
28 | to read:

29 |       218.503 Determination of financial emergency.—

30 |       (1) Local governmental entities, charter schools, charter  
31 | technical career centers, and district school boards shall be  
32 | subject to review and oversight by the Governor, the Senate, the  
33 | House of Representatives, the Legislative Auditing Committee,  
34 | the charter school sponsor, the charter technical career center  
35 | sponsor, or the Commissioner of Education, as appropriate, when  
36 | any one of the following conditions occurs:

37 |       (a) Failure within the same fiscal year in which due to  
38 | pay short-term loans or failure to make bond debt service or  
39 | other long-term debt payments when due, as a result of a lack of  
40 | funds.

41 |       (b) Failure to pay uncontested claims from creditors  
42 | within 90 days after the claim is presented, as a result of a  
43 | lack of funds.

44 |       (c) Failure to transfer at the appropriate time, due to  
45 | lack of funds:

- 46 |       1. Taxes withheld on the income of employees; or  
47 |       2. Employer and employee contributions for:  
48 |       a. Federal social security; or  
49 |       b. Any pension, retirement, or benefit plan of an  
50 | employee.

51 (d) Failure for one pay period to pay, due to lack of  
52 funds:

- 53 1. Wages and salaries owed to employees; or
- 54 2. Retirement benefits owed to former employees.

55 (2) A local governmental entity shall notify the Governor,  
56 the President of the Senate, the Speaker of the House of  
57 Representatives, and the Legislative Auditing Committee; a  
58 charter school shall notify the charter school sponsor, the  
59 Commissioner of Education, and the Legislative Auditing  
60 Committee; a charter technical career center shall notify the  
61 charter technical career center sponsor, the Commissioner of  
62 Education, and the Legislative Auditing Committee; and a  
63 district school board shall notify the Commissioner of Education  
64 and the Legislative Auditing Committee, when one or more of the  
65 conditions specified in subsection (1) have occurred or will  
66 occur if action is not taken to assist the local governmental  
67 entity, charter school, charter technical career center, or  
68 district school board. In addition, any state agency must,  
69 within 30 days after a determination that one or more of the  
70 conditions specified in subsection (1) have occurred or will  
71 occur if action is not taken to assist the local governmental  
72 entity, charter school, charter technical career center, or  
73 district school board, notify the Governor, charter school  
74 sponsor, charter technical career center sponsor, or the  
75 Commissioner of Education, as appropriate, and the President of

76 | the Senate, the Speaker of the House of Representatives, and the  
77 | Legislative Auditing Committee.

78 | (3) Upon notification that one or more of the conditions  
79 | in subsection (1) have occurred or will occur if action is not  
80 | taken to assist the local governmental entity or district school  
81 | board, the Governor or his or her designee, in cooperation with  
82 | the President of the Senate or his or her designee, the Speaker  
83 | of the House of Representatives or his or her designee, and the  
84 | Legislative Auditing Committee, shall contact the local  
85 | governmental entity or the Commissioner of Education or his or  
86 | her designee ~~shall contact the district school board~~ to  
87 | determine what actions have been taken by the local governmental  
88 | entity or the district school board to resolve or prevent the  
89 | condition. The information requested must be provided within 45  
90 | days after the date of the request. If the local governmental  
91 | entity or the district school board does not comply with the  
92 | request, the Governor or his or her designee or the Commissioner  
93 | of Education or his or her designee shall notify the members of  
94 | the Legislative Auditing Committee who may take action pursuant  
95 | to s. 11.40. The Governor or the Commissioner of Education, as  
96 | appropriate, shall determine whether the local governmental  
97 | entity or the district school board needs state assistance to  
98 | resolve or prevent the condition into the future. If state  
99 | assistance is needed, the local governmental entity or district  
100 | school board is considered to be in a state of financial

101 emergency. The Governor or the Commissioner of Education, as  
102 appropriate, may ~~has the authority to~~ implement measures as set  
103 forth in ss. 218.50-218.504 to assist the local governmental  
104 entity or district school board in resolving the financial  
105 emergency. Such measures may include, but are not limited to:

106 (a) Requiring approval of the local governmental entity's  
107 budget by the Governor or approval of the district school  
108 board's budget by the Commissioner of Education.

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

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

115 (d) Making such inspections and reviews of records,  
116 information, reports, and assets of the local governmental  
117 entity or district school board as are needed. The appropriate  
118 local officials shall cooperate in such inspections and reviews.

119 (e) Consulting with officials and auditors of the local  
120 governmental entity or the district school board and the  
121 appropriate state officials regarding any steps necessary to  
122 bring the books of account, accounting systems, financial  
123 procedures, and reports into compliance with state requirements.

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

126           (g)~~1~~. Establishing and empowering a financial emergency  
127 board to oversee the activities of the local governmental entity  
128 or the district school board as set forth in subsection (4). ~~If~~  
129 ~~a financial emergency board is established for a local~~  
130 ~~governmental entity, the Governor shall appoint board members~~  
131 ~~and select a chair. If a financial emergency board is~~  
132 ~~established for a district school board, the State Board of~~  
133 ~~Education shall appoint board members and select a chair. The~~  
134 ~~financial emergency board shall adopt such rules as are~~  
135 ~~necessary for conducting board business. The board may:~~  
136           a. ~~Make such reviews of records, reports, and assets of~~  
137 ~~the local governmental entity or the district school board as~~  
138 ~~are needed.~~  
139           b. ~~Consult with officials and auditors of the local~~  
140 ~~governmental entity or the district school board and the~~  
141 ~~appropriate state officials regarding any steps necessary to~~  
142 ~~bring the books of account, accounting systems, financial~~  
143 ~~procedures, and reports of the local governmental entity or the~~  
144 ~~district school board into compliance with state requirements.~~  
145           c. ~~Review the operations, management, efficiency,~~  
146 ~~productivity, and financing of functions and operations of the~~  
147 ~~local governmental entity or the district school board.~~  
148           d. ~~Consult with other governmental entities for the~~  
149 ~~consolidation of all administrative direction and support~~  
150 ~~services, including, but not limited to, services for asset~~

151 ~~sales, economic and community development, building inspections,~~  
152 ~~parks and recreation, facilities management, engineering and~~  
153 ~~construction, insurance coverage, risk management, planning and~~  
154 ~~zoning, information systems, fleet management, and purchasing.~~

155 ~~2. The recommendations and reports made by the financial~~  
156 ~~emergency board must be submitted to the Governor for local~~  
157 ~~governmental entities or to the Commissioner of Education and~~  
158 ~~the State Board of Education for district school boards for~~  
159 ~~appropriate action.~~

160 (h) Requiring and approving a plan, to be prepared by  
161 officials of the local governmental entity or the district  
162 school board in consultation with the appropriate state  
163 officials, prescribing actions that will cause the local  
164 governmental entity or district school board to no longer be  
165 subject to this section. The plan must include, but need not be  
166 limited to:

167 1. Provision for payment in full of obligations outlined  
168 in subsection (1), designated as priority items, which are  
169 currently due or will come due.

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

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

174 4. Provisions implementing the consolidation, sourcing, or  
175 discontinuance of all administrative direction and support

176 services, including, but not limited to, services for asset  
177 sales, economic and community development, building inspections,  
178 parks and recreation, facilities management, engineering and  
179 construction, insurance coverage, risk management, planning and  
180 zoning, information systems, fleet management, and purchasing.

181 (4) (a) Any financial board established must consist of an  
182 odd number of members comprised of at least 7 but not more than  
183 13 members.

184 1. If a financial emergency board is established for a  
185 local governmental entity, the President of the Senate and the  
186 Speaker of the House of Representatives shall each appoint two  
187 of the members to the board. The Governor shall appoint the  
188 remainder of the board members and shall designate the chair of  
189 the board.

190 2. If a financial emergency board is established for a  
191 district school board, the President of the Senate and the  
192 Speaker of the House of Representatives shall each appoint two  
193 of the members to the board. The State Board of Education shall  
194 appoint the remainder of the board members and shall designate  
195 the chair of the board.

196 (b) Appointees to a financial emergency board should  
197 collectively possess the knowledge, skills, and competencies  
198 needed to perform their individual responsibilities and  
199 accomplish the mission of the financial emergency board,  
200 including, but not limited to, internal quality control,



201 finance, business administration, and public works. The chair of  
202 the financial emergency board must have experience in at least  
203 one of the following positions or areas:

204 1. Inspector general.

205 2. Supervisory experience in an office of inspector  
206 general or an investigative public agency similar to an office  
207 of inspector general.

208 3. Local, state, or federal law enforcement officer.

209 4. Local, state, or federal court judge.

210 5. Senior-level auditor or comptroller.

211 6. The administration and management of complex audits and  
212 investigations.

213 7. Managing programs for prevention, examination,  
214 detection, elimination of fraud, waste, abuse, mismanagement,  
215 malfeasance, or misconduct in government or other organizations.

216 8. Certified fraud examiner.

217 (c) The financial emergency board shall have access to  
218 records, data, and other information of the local governmental  
219 entity or the district school board that the board deems  
220 necessary to carry out its duties and shall be given the  
221 technical and financial resources necessary to complete those  
222 duties. The financial emergency board shall adopt such rules as  
223 are necessary for conducting board business. The board may:

224 1. Hire or retain legal counsel.

225 2. Obtain external advice and assistance if the financial

226 emergency board or the staff of the entity under review lacks  
227 the knowledge, skills, or other competencies needed to perform  
228 all or part of the duties necessary to resolve the financial  
229 emergency conditions.

230 3. Request and obtain assistance from any federal agency,  
231 state agency, or local entity.

232 4. Issue and serve subpoenas or subpoenas duces tecum to  
233 compel the attendance of witnesses and the production of  
234 documents, reports, answers, records, accounts, and data in any  
235 format. In the event of noncompliance with a subpoena issued  
236 pursuant to this subparagraph, the chair of the financial  
237 emergency board may petition the circuit court of the county for  
238 an order requiring the subpoenaed person to appear and testify  
239 and to produce documents.

240 5. Require a person to file a statement in writing, under  
241 oath, as to all the facts and circumstances concerning the  
242 matter to be audited, examined, or investigated.

243 6. Make such reviews of records, reports, and assets of  
244 the local governmental entity or the district school board as  
245 are needed.

246 7. Consult with officials and auditors of the local  
247 governmental entity or the district school board and the  
248 appropriate state officials regarding any steps necessary to  
249 bring the books of account, accounting systems, financial  
250 procedures, and reports of the local governmental entity or the

251 district school board into compliance with state requirements.

252 8. Review the operations, management, efficiency,  
253 productivity, and financing of functions and operations of the  
254 local governmental entity or the district school board.

255 9. Consult with other governmental entities for the  
256 consolidation of all administrative direction and support  
257 services, including, but not limited to, services for asset  
258 sales, economic and community development, building inspections,  
259 parks and recreation, facilities management, engineering and  
260 construction, insurance coverage, risk management, planning and  
261 zoning, information systems, fleet management, and purchasing.

262 (d)1. Each recommendation and report made by the financial  
263 emergency board addressing a local entity must be submitted to  
264 the Governor, the President of the Senate, the Speaker of the  
265 House of Representatives, the Legislative Auditing Committee,  
266 and the local governmental entity under review.

267 2. Each recommendation and report made by the financial  
268 emergency board addressing a district school board must be  
269 submitted to the Governor, the President of the Senate, the  
270 Speaker of the House of Representatives, the Legislative  
271 Auditing Committee, the district school board under review, the  
272 Commissioner of Education, and the State Board of Education for  
273 appropriate action.

274 (e) If a local governmental entity or the district school  
275 board, as appropriate, fails to remedy or take action on

276 | recommendations made in any report submitted under paragraph (d)  
 277 | within 60 days after receiving the recommendations, the  
 278 | financial emergency board may assume operational and  
 279 | institutional control of the local governmental entity's or  
 280 | district school board's functions.

281 | Section 2. Paragraph (b) of subsection (1) and subsection  
 282 | (2) of section 218.504, Florida Statutes, is amended to read:

283 | 218.504 Cessation of state action.—The Governor or the  
 284 | Commissioner of Education, as appropriate, has the authority to  
 285 | terminate all state actions pursuant to ss. 218.50–218.504.  
 286 | Cessation of state action must not occur until the Governor or  
 287 | the Commissioner of Education, as appropriate, has determined  
 288 | that:

289 | (1) The local governmental entity, charter school, charter  
 290 | technical career center, or district school board:

291 | (b) Has resolved the conditions outlined in s. 218.503(1)  
 292 | or (4) s. 218.503(1).

293 | (2) None of the conditions outlined in ss. 218.503(1) or  
 294 | (4) s. 218.503(1) exists.

295 | Section 3. This act shall take effect upon becoming a law.