

By Senator Latvala

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

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

24  
25           Section 1. Subsections (1), (2), and (3) of section  
26           218.503, Florida Statutes, are amended, subsections (4), (5),  
27           and (6) are renumbered as subsections (5), (6), and (7),  
28           respectively, and a new subsection (4) is added to that section,  
29           to read:

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30 218.503 Determination of financial emergency.—

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

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

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

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

47 1. Taxes withheld on the income of employees; or

48 2. Employer and employee contributions for:

49 a. Federal social security; or

50 b. Any pension, retirement, or benefit plan of an 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

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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 in  
79 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 appropriate committees and subcommittees of the House of  
83 Representatives and of the Senate, including the Legislative  
84 Auditing Committee, shall contact the local governmental entity  
85 or the Commissioner of Education or his or her designee ~~shall~~  
86 ~~contact the district school board~~ to determine what actions have  
87 been taken by the local governmental entity or the district

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88 school board to resolve or prevent the condition. The  
89 information requested must be provided within 45 days after the  
90 date of the request. If the local governmental entity or the  
91 district school board does not comply with the request, the  
92 Governor or his or her designee or the Commissioner of Education  
93 or his or her designee shall notify the members of the  
94 Legislative Auditing Committee who may take action pursuant to  
95 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 entity  
110 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

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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 the~~  
137 ~~local governmental entity or the district school board as are~~  
138 ~~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 ~~e. Review the operations, management, efficiency,~~

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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 in  
168 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

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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 emergency board established must  
182 consist of at least 7 members but not more than 13 members.

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

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

195 (b) Appointees to a financial emergency board should  
196 collectively possess the knowledge, skills, and competencies  
197 needed to perform their individual responsibilities and  
198 accomplish the mission of the financial emergency board,  
199 including, but not limited to, internal quality control,  
200 finance, business administration, and public works. The chair of  
201 the financial emergency board must have experience in at least  
202 one of the following positions or areas:

203 1. Inspector general.

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

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

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

209       5. Senior-level auditor or comptroller.

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

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

215       8. Certified fraud examiner.

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

223       1. Hire or retain legal counsel.

224       2. Obtain external advice and assistance if the internal  
225 audit staff lacks the knowledge, skills, or other competencies  
226 needed to perform all or part of the duties necessary to resolve  
227 the financial emergency conditions.

228       3. Request and obtain assistance from any federal agency,  
229 state agency, or local entity.

230       4. Issue and serve subpoenas or subpoenas duces tecum to  
231 compel the attendance of witnesses and the production of  
232 documents, reports, answers, records, accounts, and data in any



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233 format. In the event of noncompliance with a subpoena issued  
234 pursuant to this subparagraph, the chair of the financial  
235 emergency board may petition the circuit court of the county for  
236 an order requiring the subpoenaed person to appear and testify  
237 and to produce documents.

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

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

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

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

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

260 (d)1. Each recommendation and report made by the financial  
261 emergency board addressing a local entity must be submitted to

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262 the Governor, the President of the Senate, the Speaker of the  
263 House of Representatives, the Legislative Auditing Committee,  
264 and the local governmental entity under review.

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

271 (e) If a local governmental entity or the district school  
272 board, as appropriate, fails to remedy or take action on  
273 recommendations made in any report submitted under paragraph (d)  
274 within 60 days after receiving the recommendations, the  
275 financial emergency board may assume operation and institutional  
276 control of the local governmental entity's or district school  
277 board's functions.

278 Section 2. Paragraph (b) of subsection (1) and subsection  
279 (2) of section 218.504, Florida Statutes, are amended to read:

280 218.504 Cessation of state action.—The Governor or the  
281 Commissioner of Education, as appropriate, has the authority to  
282 terminate all state actions pursuant to ss. 218.50-218.504.  
283 Cessation of state action must not occur until the Governor or  
284 the Commissioner of Education, as appropriate, has determined  
285 that:

286 (1) The local governmental entity, charter school, charter  
287 technical career center, or district school board:

288 (b) Has resolved the conditions outlined in s. 218.503(1)  
289 or (4) ~~s. 218.503(1)~~.

290 (2) None of the conditions outlined in s. 218.503(1) or (4)

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291 ~~s. 218.503(1)~~ exists.

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