

By Senator Gaetz

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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 structural and  
7           services consolidation plan if the county or  
8           municipality is subject to review and oversight by the  
9           Governor; amending s. 218.503, F.S.; authorizing a  
10          financial emergency review board for a local  
11          governmental entity or district school board to  
12          consult with other governmental entities for the  
13          consolidation of all administrative direction and  
14          support services; authorizing the Governor or  
15          Commissioner of Education to require a local  
16          governmental entity or district school board to  
17          develop a plan for the consolidation, sourcing, or  
18          discontinuance of all administrative direction and  
19          support services; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Section 163.07, Florida Statutes, is amended to  
24           read:

25           163.07 Efficiency and accountability in local government  
26           services.—

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

29           (a) Allow municipalities and counties to resolve conflicts

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30 among local jurisdictions regarding the delivery and financing  
31 of local services.

32 (b) Increase local government efficiency and  
33 accountability.

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

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

57 (3) Upon adoption of a resolution or resolutions as  
58 provided in subsection (2), the designated representatives shall

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59 develop a plan for delivery of local government services. The  
60 plan must:

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

63 (b) Describe the existing organization of such services and  
64 the means of financing the services, and create a reorganization  
65 of such services and the financing thereof that will meet the  
66 goals of this section.

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

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

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

77 (f) Include a multiyear capital outlay plan for  
78 infrastructure.

79 (g) Specifically describe any expansion of municipal  
80 boundaries that would further the goals of this section. Any  
81 area proposed to be annexed must meet the standards for  
82 annexation provided in chapter 171. The plan shall not contain  
83 any provision for contraction of municipal boundaries or  
84 elimination of any municipality.

85 (h) Provide specific procedures for modification or  
86 termination of the plan.

87 (i) Specify any special act modifications which must be

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88 made to effectuate the plan.

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

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

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

98 (5) (a) A plan developed pursuant to this section must be  
99 approved by a majority vote of the governing body of each county  
100 involved in the plan, and by a majority vote of the governing  
101 bodies of a majority of municipalities in each county, and by a  
102 majority vote of the governing bodies of the municipality or  
103 municipalities that represent a majority of the municipal  
104 population of each county.

105 (b) After approval by the county and municipal governing  
106 bodies as required by paragraph (a), the plan shall be submitted  
107 for referendum approval in a countywide election in each county  
108 involved. The plan shall not take effect unless approved by a  
109 majority of the electors of each county who vote in the  
110 referendum, and also by a majority of the electors of the  
111 municipalities that represent a majority of the municipal  
112 population of each county who vote in the referendum. If  
113 approved by the electors as required by this paragraph, the plan  
114 shall take effect on the date specified in the plan.

115 (6) A plan developed pursuant to this section by a county  
116 or municipality that is subject to review and oversight by the

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117 Governor pursuant to s. 218.503 must include a structural and  
118 services consolidation plan.

119 (7)~~(6)~~ If the plan calls for merger or dissolution of  
120 special districts, such merger or dissolution shall comply with  
121 the provisions of chapter 189.

122 (8)~~(7)~~ If a plan developed pursuant to this section  
123 includes areas proposed for municipal annexation which meet the  
124 standards for annexation provided in chapter 171, such  
125 annexation shall take effect upon approval of the plan as  
126 provided in this section, notwithstanding the procedures for  
127 approval of municipal annexation specified in chapter 171.

128 Section 2. Section 218.503, Florida Statutes, is amended to  
129 read:

130 218.503 Determination of financial emergency.—

131 (1) Local governmental entities, charter schools, charter  
132 technical career centers, and district school boards shall be  
133 subject to review and oversight by the Governor, the charter  
134 school sponsor, the charter technical career center sponsor, or  
135 the Commissioner of Education, as appropriate, when any one of  
136 the following conditions occurs:

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

141 (b) Failure to pay uncontested claims from creditors within  
142 90 days after the claim is presented, as a result of a lack of  
143 funds.

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

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146 1. Taxes withheld on the income of employees; or  
 147 2. Employer and employee contributions for:  
 148 a. Federal social security; or  
 149 b. Any pension, retirement, or benefit plan of an employee.  
 150 (d) Failure for one pay period to pay, due to lack of  
 151 funds:

152 1. Wages and salaries owed to employees; or  
 153 2. Retirement benefits owed to former employees.  
 154 (e) An unreserved or total fund balance or retained  
 155 earnings deficit, or unrestricted or total net assets deficit,  
 156 as reported on the balance sheet or statement of net assets on  
 157 the general purpose or fund financial statements, for which  
 158 sufficient resources of the local governmental entity, charter  
 159 school, charter technical career center, or district school  
 160 board, as reported on the balance sheet or statement of net  
 161 assets on the general purpose or fund financial statements, are  
 162 not available to cover the deficit. Resources available to cover  
 163 reported deficits include net assets that are not otherwise  
 164 restricted by federal, state, or local laws, bond covenants,  
 165 contractual agreements, or other legal constraints. Fixed or  
 166 capital assets, the disposal of which would impair the ability  
 167 of a local governmental entity, charter school, charter  
 168 technical career center, or district school board to carry out  
 169 its functions, are not considered resources available to cover  
 170 reported deficits.

171 (2) A local governmental entity shall notify the Governor  
 172 and the Legislative Auditing Committee; a charter school shall  
 173 notify the charter school sponsor, the Commissioner of  
 174 Education, and the Legislative Auditing Committee; a charter

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

191 (3) Upon notification that one or more of the conditions in  
192 subsection (1) have occurred or will occur if action is not  
193 taken to assist the local governmental entity or district school  
194 board, the Governor or his or her designee shall contact the  
195 local governmental entity or the Commissioner of Education or  
196 his or her designee shall contact the district school board to  
197 determine what actions have been taken by the local governmental  
198 entity or the district school board to resolve or prevent the  
199 condition. The Governor or the Commissioner of Education, as  
200 appropriate, shall determine whether the local governmental  
201 entity or the district school board needs state assistance to  
202 resolve or prevent the condition. If state assistance is needed,  
203 the local governmental entity or district school board is

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204 considered to be in a state of financial emergency. The Governor  
205 or the Commissioner of Education, as appropriate, has the  
206 authority to implement measures as set forth in ss. 218.50-  
207 218.504 to assist the local governmental entity or district  
208 school board in resolving the financial emergency. Such measures  
209 may include, but are not limited to:

210 (a) Requiring approval of the local governmental entity's  
211 budget by the Governor or approval of the district school  
212 board's budget by the Commissioner of Education.

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

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

219 (d) Making such inspections and reviews of records,  
220 information, reports, and assets of the local governmental  
221 entity or district school board. The appropriate local officials  
222 shall cooperate in such inspections and reviews.

223 (e) Consulting with officials and auditors of the local  
224 governmental entity or the district school board and the  
225 appropriate state officials regarding any steps necessary to  
226 bring the books of account, accounting systems, financial  
227 procedures, and reports into compliance with state requirements.

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

230 (g) 1. Establishing a financial emergency board to oversee  
231 the activities of the local governmental entity or the district  
232 school board. If a financial emergency board is established for



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233 a local governmental entity, the Governor shall appoint board  
234 members and select a chair. If a financial emergency board is  
235 established for a district school board, the State Board of  
236 Education shall appoint board members and select a chair. The  
237 financial emergency board shall adopt such rules as are  
238 necessary for conducting board business. The board may:

239 a. Make such reviews of records, reports, and assets of the  
240 local governmental entity or the district school board as are  
241 needed.

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

248 c. Review the operations, management, efficiency,  
249 productivity, and financing of functions and operations of the  
250 local governmental entity or the district school board.

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

258 2. The recommendations and reports made by the financial  
259 emergency board must be submitted to the Governor for local  
260 governmental entities or to the Commissioner of Education and  
261 the State Board of Education for district school boards for

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262 appropriate action.

263 (h) Requiring and approving a plan, to be prepared by  
264 officials of the local governmental entity or the district  
265 school board in consultation with the appropriate state  
266 officials, prescribing actions that will cause the local  
267 governmental entity or district school board to no longer be  
268 subject to this section. The plan must include, but need not be  
269 limited to:

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

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

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

277 4. The consolidation, sourcing, or discontinuance of all  
278 administrative direction and support services, including, but  
279 not limited to, services for asset sales, economic and community  
280 development, building inspections, parks and recreation,  
281 facilities management, engineering and construction, insurance  
282 coverage, risk management, planning and zoning, information  
283 systems, fleet management, and purchasing.

284 (4) (a) Upon notification that one or more of the conditions  
285 in subsection (1) have occurred or will occur if action is not  
286 taken to assist the charter school, the charter school sponsor  
287 or the sponsor's designee and the Commissioner of Education  
288 shall contact the charter school governing body to determine  
289 what actions have been taken by the charter school governing  
290 body to resolve or prevent the condition. The Commissioner of

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291 Education has the authority to require and approve a financial  
292 recovery plan, to be prepared by the charter school governing  
293 body, prescribing actions that will resolve or prevent the  
294 condition.

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

306 (c) The Commissioner of Education shall determine if the  
307 charter school or charter technical career center needs a  
308 financial recovery plan to resolve the condition. If the  
309 Commissioner of Education determines that a financial recovery  
310 plan is needed, the charter school or charter technical career  
311 center is considered to be in a state of financial emergency.

312  
313 The Department of Education, with the involvement of sponsors,  
314 charter schools, and charter technical career centers, shall  
315 establish guidelines for developing a financial recovery plan.

316 (5) A local governmental entity or district school board  
317 may not seek application of laws under the bankruptcy provisions  
318 of the United States Constitution except with the prior approval  
319 of the Governor for local governmental entities or the

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320 Commissioner of Education for district school boards.

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