

LOCAL GOVERNMENTAL ENTITY AND DISTRICT SCHOOL BOARD FINANCIAL EMERGENCIES

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218.50 Short title.--Sections 218.50-218.504 may be cited as the "Local Governmental Entity, Charter School, and District School Board Financial Emergencies Act."

History.--s. 8, ch. 79-183; s. 32, ch. 2004-305; s. 3, ch. 2006-190.

218.501 Purposes.--The purposes of ss. 218.50-218.504 are:

(1) To promote the fiscal responsibility of local governmental entities, charter schools, and district school boards.

(2) To assist local governmental entities, charter schools, and district school boards in providing essential services without interruption and in meeting their financial obligations.

(3) To assist local governmental entities, charter schools, and district school boards through the improvement of local financial management procedures.

History.--s. 8, ch. 79-183; s. 25, ch. 96-324; s. 33, ch. 2004-305; s. 4, ch. 2006-190.

218.502 Definition.--As used in ss. 218.50-218.504, the term "local governmental entity" means a county, municipality, or special district.

History.--s. 8, ch. 79-183; s. 26, ch. 96-324; s. 24, ch. 99-333; s. 34, ch. 2004-305.

218.503 Determination of financial emergency.--

(1) Local governmental entities, charter schools, and district school boards shall be subject to review and oversight by the Governor, charter school sponsor, or the Commissioner of Education, as appropriate, when any one of the following conditions occurs:

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

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

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

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

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

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

(e) An unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, for which sufficient resources of the local governmental entity, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, are not available to cover the deficit. Resources available to cover reported deficits include net assets that are not otherwise restricted by federal, state, or local laws, bond covenants, contractual agreements, or other legal constraints. Fixed or capital assets, the disposal of which would impair the ability of a local governmental entity to carry out its functions, are not considered resources available to cover reported deficits.

(2) A local governmental entity shall notify the Governor and the Legislative Auditing Committee, a charter school shall notify the charter school sponsor and the Legislative Auditing Committee, and a district school board shall notify the Commissioner of Education and the Legislative Auditing Committee, when one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity, charter school, or district school board. In addition, any state agency must, within 30 days after a determination that one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity, charter school, or district school board, notify the Governor, charter school sponsor, or the Commissioner of Education, as appropriate, and the Legislative Auditing Committee.

(3) Upon notification that one or more of the conditions in subsection (1) exist, the Governor or his or her designee shall contact the local governmental entity or the Commissioner of Education or his or her designee shall contact the district school board to determine what actions have been taken by the local governmental entity or the district school board to resolve the condition. The Governor or the Commissioner of Education, as appropriate, shall determine whether the local governmental entity or the district school board needs state assistance to resolve the condition. If state assistance is needed, the local governmental entity or district school board is considered to be in a state of financial emergency. The Governor or the Commissioner of Education, as appropriate, has the authority to implement measures as set forth in ss. 218.50-218.504 to assist the local governmental entity or district school board in resolving the financial emergency. Such measures may include, but are not limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Upon notification that one or more of the conditions in subsection (1) exist, the charter school sponsor or the sponsor's designee shall contact the charter school governing body to determine what actions have been taken by the charter school governing body to resolve the condition. The charter school sponsor has the authority to require and approve a financial recovery plan, to be prepared by the charter school governing body, prescribing actions that will cause the charter school to no longer be subject to this section. The Department of Education shall establish guidelines for developing such plans.

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

(6)(a) The governing authority of any municipality having a resident population of 300,000 or more on or after April 1, 1999, which has been declared in a state of financial emergency pursuant to this section may impose a discretionary per-vehicle surcharge of up to 20 percent on the gross revenues of the sale, lease, or rental of space at parking facilities within the municipality which are open for use to the general public.

(b) A municipal governing authority that imposes the surcharge authorized by this subsection may use the proceeds of such surcharge for the following purposes only:

1. No less than 60 percent and no more than 80 percent of the surcharge proceeds shall be used by the governing authority to reduce its ad valorem tax millage rate or to reduce or eliminate non-ad valorem assessments.
2. A portion of the balance of the surcharge proceeds shall be used by the governing authority to increase its budget reserves; however, the governing authority shall not reduce the amount it allocates for budget reserves from other sources below the amount allocated for reserves in the fiscal year prior to the year in which the surcharge is initially imposed. When a 15-percent budget reserve is achieved, based on the average gross revenue for the most recent 3 prior fiscal years, the remaining proceeds from this subparagraph shall be used for the payment of annual debt service related to outstanding obligations backed or secured by a covenant to budget and appropriate from non-ad valorem revenues.

(c) This subsection expires June 30, 2006.

History.--s. 8, ch. 79-183; s. 54, ch. 89-169; s. 1180, ch. 95-147; s. 27, ch. 96-324; s. 29, ch. 97-96; s. 132, ch. 99-251; s. 1, ch. 2001-354; s. 35, ch. 2004-305; s. 5, ch. 2006-190.

218.5031 Ratification of certain municipal parking surcharges.--Any ordinance of any municipality imposing a surcharge pursuant to s. 132, chapter 99-251, Laws of Florida, is hereby ratified. All acts and proceedings, including enforcement procedures, taken in connection with a parking surcharge imposed by a municipality pursuant to s. 132, chapter 99-251, are ratified, validated, and confirmed, and the surcharge is declared to be legal and valid in all respects from the date of enactment of chapter 99-251.

History.--s. 1, ch. 2001-373.

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

- (1) The local governmental entity, charter school, or district school board:
 - (a) Has established and is operating an effective financial accounting and reporting system.
 - (b) Has resolved the conditions outlined in s. 218.503(1).
- (2) None of the conditions outlined in s. 218.503(1) exists.

History.--s. 8, ch. 79-183; s. 28, ch. 96-324; s. 36, ch. 2004-305; s. 6, ch. 2006-190.