

CHAPTER 76

AN ACT

HB 4176

Relating to counties in fiscal distress; creating new provisions; amending ORS 203.095 and 203.100; repealing ORS 203.095 and 203.100; appropriating money; limiting expenditures; and declaring an emergency.

Whereas counties that received federal payments pursuant to the Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393) are experiencing significant budget shortfalls that compromise public health and safety, undermine funding for county roads and exacerbate job losses; and

Whereas it is in the best interest of the state to provide counties with a tool that would facilitate a collaborative process to identify solutions and mitigate the impact of the loss of Secure Rural Schools and Community Self-Determination Act of 2000 funds; now, therefore,

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 203.095 is amended to read:

203.095. *[(1) If the governing body of a county or the Governor believes that the county is in a state of fiscal distress that compromises the county's ability to provide a minimally adequate level of public safety services, the governing body or the Governor may seek a declaration of a public safety services emergency by requesting in writing that the Oregon Criminal Justice Commission review and analyze public safety services provided by the county.]*

(1)(a) The governing body of a county may seek a declaration of a fiscal emergency by requesting in writing that the Governor review and analyze state-required services provided by the county if:

(A) The governing body of the county believes that the county is in a state of fiscal distress that compromises the county's ability to provide a minimally adequate level, currently or within the next fiscal year, of any service that a county is required to provide by state law; and

(B) For the fiscal year beginning July 1, 2007, the county received federal payments pursuant to the Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393) in an amount equal to at least 10 percent of the county's property tax revenues, excluding bonds.

(b) A county making a request under this subsection shall include with the request an estimated amount needed to fund the fiscal assistance board that would be established under subsection (4) of this section and the proposed sources of those funds.

(2) When a request for review of [public safety] state-required services is made under subsection (1) of this section, the [commission] Governor shall:

(a) Consult with the governing body of the county[, the sheriff, the district attorney, judges] and

other appropriate county officials, with labor organizations representing county employees and with other [public safety] stakeholders to gather information regarding the current level of [public safety] state-required services provided by the county; and

(b) Review and analyze [public safety] state-required services provided in the county to determine[, based on the guidelines established pursuant to subsection (9) of this section,] whether the county is providing a minimally adequate level of [public safety] state-required services.[: and]

[(c) Report its findings and recommendation to the Governor within 14 days after the request for a review is made.]

(3) If the [commission] Governor finds that the county is providing, or within the next fiscal year will be providing, a less than minimally adequate level of [public safety] state-required services, [the commission shall recommend to the Governor that] the Governor shall declare a [public safety services] fiscal emergency for the county. The [commission] Governor shall [copy its findings and recommendation] provide notice of the declaration to the Legislative Assembly and the governing body of the fiscally distressed county.

(4) [Upon receipt of the findings and recommendation from the commission's review and analysis the Governor shall:]

[(a) Review the findings and recommendation;]

[(b) Within 14 days of receipt of the commission's findings and recommendation, either issue the declaration of a public safety services emergency, if the Governor determines that the county's fiscal distress prevents the county from providing a minimally adequate level of public safety services, or issue a determination that the county's fiscal distress does not cause the county to provide a less than minimally adequate level of public safety services; and]

[(c) If the Governor issues the declaration of a [public safety services] fiscal emergency under [paragraph (b) of this subsection,] subsection (3) of this section, the Governor shall establish a fiscal [control] assistance board, as described in ORS 203.100, for the distressed county.

(5) The fiscal [control] assistance board shall meet with [the governing body of the county, the sheriff, the district attorney, judges and other] appropriate county officials, including but not limited to members of the county governing body, the county assessor, clerk, tax collector, court administrator, district attorney and judges, with labor organizations representing county employees, with other [public safety] stakeholders and with members of the public to gain a fuller understanding of the county's fiscal alternatives, service delivery alternatives and [public safety] service needs and shortcomings. The board shall [propose to the governing body of the county] consider and adopt a recovery plan designed to restore or sustain minimally adequate [public safety] state-required services. As part of the [proposed] recovery plan, the board may [recommend that the governing body of the county]:

- (a) Reallocate **county** funds;
- (b) Cut **county** services, lay off **county** employees or otherwise reduce **county** expenditures;
- (c) Sell or lease real or personal property of the county;
- (d) Issue bonds **for the county**;
- (e) Renegotiate payment terms of the county's legal and moral indebtedness;
- (f) Refer measures to the voters **of the county**;
- (g) Request an emergency election under ORS 203.085; [or]

(h) Enter into intergovernmental agreements or other service delivery structures involving other public entities; or

[(h)] **(i)** Authorize the state to take over services as authorized by law [other than this section].

[(6) *The governing body of the county shall approve or reject the recovery plan proposed by the fiscal control board. If the governing body:*

[(a) *Approves the recovery plan, the board shall provide technical assistance in support of the governing body's implementation of the plan.*

[(b) *Rejects the recovery plan, the board shall monitor the governing body's efforts to restore minimally adequate public safety services and, at the request of the governing body, shall provide technical assistance in support of the governing body's efforts to restore minimally adequate public safety services in the county.*

[(7)] **(6)** The fiscal [control] **assistance** board shall periodically update the Governor and the Legislative Assembly from the time the board [proposes] **begins its consideration of** a recovery plan [to] **for** the fiscally distressed county until the Governor declares the [public safety services] **fiscal** emergency terminated pursuant to subsection [(8)] **(7)** of this section. **The update shall include a report on the costs of the fiscal assistance board, the revenues used by the board to pay those costs and the sources of the revenues so used.** When the fiscal [control] **assistance** board concludes that minimally adequate [public safety] **state-required** services have been restored **or sustained** in the fiscally distressed county, the board shall recommend that Governor terminate the [public safety services] **fiscal** emergency.

[(8)] **(7)** The Governor shall declare the [public safety services] **fiscal** emergency terminated when the Governor concludes that the fiscally distressed county has restored **or sustained** minimally adequate [public safety] **state-required** services in the county.

(8) Any actions of the fiscal assistance board must comply with a home rule charter adopted by the county under ORS 203.710 to 203.770.

[(9) *The commission shall establish, by rule, public safety services guidelines by which to identify the minimally adequate level at which public safety services must be delivered in a county. In establishing the guidelines, the commission shall seek broad input from the governing body of the county, the sheriff, the district attorney, judges and other appropriate county*

officials, labor organizations representing county employees, other public safety stakeholders and members of the public, and take into consideration the population density, geographic characteristics, historical crime rates and other relevant factors in Oregon counties. The guidelines must provide a basis for analyzing whether the county provides a minimally adequate level of public safety services in the areas of:]

[(a) *County jail operations;*

[(b) *Law enforcement, investigation and patrol;*

[(c) *Community corrections;*

[(d) *Juvenile justice;*

[(e) *Emergency operations and emergency response;*

[(f) *Search and rescue operations;*

[(g) *Criminal prosecution; and*

[(h) *Court facility operations.*]

SECTION 2. ORS 203.100 is amended to read:

203.100. [(1) *A fiscal control board established pursuant to ORS 203.095 consists of three nonvoting ex officio members and five appointed members who have knowledge of and experience with public safety services and fiscal management as follows:*

[(a) *The Governor shall appoint three members.*

[(b) *The President of the Senate shall appoint one member.*

[(c) *The Speaker of the House shall appoint one member.*

[(d) *The Secretary of State, the State Treasurer and the Director of the Department of Revenue shall serve as nonvoting ex officio members.*

[(2) *A fiscal control board shall perform the functions described in this section and ORS 203.095.*

[(3) *A majority of the members of the board constitutes a quorum for the transaction of business.*

[(4) *Official action by the board requires the approval of a majority of the members of the board.*]

(1)(a) A fiscal assistance board established pursuant to ORS 203.095 consists of:

(A) Five members appointed by the Governor who have knowledge of and experience with county services and fiscal management;

(B) All members of the governing body of the county, who serve as ex officio members;

(C) The sheriff for the county, who serves as an ex officio member, and who:

(i) Is a voting member for matters concerning public safety services; and

(ii) Is a nonvoting member for all other matters;

(D) The Secretary of State, the State Treasurer and the Director of the Department of Revenue, who serve as nonvoting ex officio members;

(E) One nonvoting member appointed by the President of the Senate; and

(F) One nonvoting member appointed by the Speaker of the House of Representatives.

(b) Prior to making appointments under this section, the Governor shall consult with the President of the Senate and the Speaker of the House of Representatives for the purpose of re-

ceiving their recommendations for appointments.

(2) A fiscal assistance board shall perform the functions described in this section and ORS 203.095.

(3) A majority of the members of the fiscal assistance board who are appointed by the Governor and a majority of the county officials listed in subsection (1)(a)(B) and (C) of this section must be present to constitute a quorum for the transaction of business. A meeting of the board constitutes a meeting of both the board and the county governing body and requires appropriate meeting notices and adherence to public meeting laws under ORS 192.610 to 192.690.

(4) Official action by the fiscal assistance board requires the approval of:

(a) A majority of the members of the board who are appointed by the Governor; and

(b) A majority of the county officials listed in subsection (1)(a)(B) and (C) of this section.

(5) The fiscal assistance board shall elect one of its members to serve as chairperson.

(6) Appointed members of the fiscal assistance board serve at the pleasure of the appointing authority for a term of four years, subject to subsection (10) of this section.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The fiscal assistance board shall use the services of permanent staff of the offices of the Governor, the Secretary of State and the State Treasurer, and the Department of Revenue to the greatest extent practicable. However, the Governor, the Secretary of State and the State Treasurer may agree to employ individuals to support the performance of the functions of the board, if necessary, and the employing state official shall fix the duties and amounts of compensation of these employees.

(9) All agencies of state government, as defined in ORS 174.111, are directed to assist the fiscal assistance board in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice as the members of the board consider necessary to perform their duties.

(10) A fiscal [control] assistance board terminates when the Governor declares that the [public safety services] fiscal emergency declared under ORS 203.095 [(4)] has ended.

SECTION 3. (1) At least one-half of the costs of administering a fiscal assistance board established under ORS 203.095 must be paid by the county that has been declared to be in fiscal distress. The county shall deposit the moneys necessary to pay the county's share in the fund established under subsection (2) of this section. The remainder of the costs of administering a

fiscal assistance board established under ORS 203.095 shall be paid from moneys appropriated from the General Fund or allocated by the Emergency Board to the Oregon Department of Administrative Services.

(2) The Fiscally Distressed Counties Fund is established, separate and distinct from the General Fund. Interest earned by the Fiscally Distressed Counties Fund shall be credited to the fund. The Fiscally Distressed Counties Fund shall consist of moneys deposited by counties under subsection (1) of this section and moneys contributed to the fund from any other source, public or private. Moneys in the Fiscally Distressed Counties Fund are continuously appropriated to the Oregon Department of Administrative Services for the purpose of establishing and administering fiscal assistance boards for fiscally distressed counties under ORS 203.095.

(3) If more than one county has been declared by the Governor as being in fiscal distress, the Fiscally Distressed Counties Fund shall be divided into separate accounts holding moneys dedicated to the administration of the fiscal assistance board for each county.

(4) When the Governor declares that the fiscal emergency for a county has ended, all moneys remaining in the Fiscally Distressed Counties Fund that have been deposited for the purpose of administering the fiscal assistance board for that county must be returned, on a pro rata basis, to the county.

SECTION 4. Notwithstanding any other law limiting expenditures, the amount of \$1 is established for the biennium beginning July 1, 2011, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Department of Administrative Services from the Fiscally Distressed Counties Fund.

SECTION 5. ORS 203.095 and 203.100 are repealed on January 2, 2014.

SECTION 6. If ORS 203.095 and 203.100 are repealed, any moneys remaining in the Fiscal Distressed Counties Fund on January 2, 2014, shall be returned as prescribed in section 3 (4) of this 2012 Act.

SECTION 7. This 2012 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect on its passage.

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