

House Bill 4176

Sponsored by COMMITTEE ON RULES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes procedure for Governor to declare county as fiscally distressed if county governing body requests designation. Establishes fiscal assistance board to take action necessary to resolve issues of fiscal distress. Includes members of county governing body on fiscal assistance board and requires both majority vote of county governing body and majority vote of fiscal assistance board to take action.

Establishes Fiscally Distressed Counties Fund. Requires fiscally distressed county to contribute at least half of costs of administering fiscal assistance board.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to counties in fiscal distress; creating new provisions; amending ORS 203.095 and 203.100;
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 203.095 is amended to read:

6 203.095. (1) If the governing body of a county [*or the Governor*] believes that the county is in a
7 state of fiscal distress that compromises the county's ability to provide a minimally adequate level,
8 **currently or within the next fiscal year**, of [*public safety services*] **any service that a county is**
9 **required to provide by state law**, the governing body [*or the Governor*] **of the county** may seek
10 a declaration of a [*public safety services*] **fiscal** emergency by requesting in writing that the [*Oregon*
11 *Criminal Justice Commission*] **Governor** review and analyze [*public safety*] **state-required** services
12 provided by the county.

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

15 (a) Consult with the governing body of the county[, *the sheriff, the district attorney, judges*] and
16 other appropriate county officials, with labor organizations representing county employees and with
17 other [*public safety*] stakeholders to gather information regarding the current level of [*public*
18 *safety*] **state-required** services provided by the county; **and**

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

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

erning 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, 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 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 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) 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. When the fiscal [control] **assistance** board concludes that minimally adequate [public safety] **state-required** services have been restored 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 minimally adequate [public*

1 *safety*] **state-required** services in the county.

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

4 [(9) *The commission shall establish, by rule, public safety services guidelines by which to identify*
 5 *the minimally adequate level at which public safety services must be delivered in a county. In estab-*
 6 *lishing the guidelines, the commission shall seek broad input from the governing body of the county,*
 7 *the sheriff, the district attorney, judges and other appropriate county officials, labor organizations*
 8 *representing county employees, other public safety stakeholders and members of the public, and take*
 9 *into consideration the population density, geographic characteristics, historical crime rates and other*
 10 *relevant factors in Oregon counties. The guidelines must provide a basis for analyzing whether the*
 11 *county provides a minimally adequate level of public safety services in the areas of:]*

12 [(a) *County jail operations;*]

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

14 [(c) *Community corrections;*]

15 [(d) *Juvenile justice;*]

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

17 [(f) *Search and rescue operations;*]

18 [(g) *Criminal prosecution; and*]

19 [(h) *Court facility operations.*]

20 **SECTION 2.** ORS 203.100 is amended to read:

21 203.100. (1)(a) A fiscal [*control*] **assistance** board established pursuant to ORS 203.095 consists
 22 of [*three*] **the five** nonvoting [*ex officio*] members **listed in paragraphs (b) to (d) of this sub-**
 23 **section, [and five appointed] four members appointed by the Governor** who have knowledge of and
 24 experience with [*public safety*] **county** services and fiscal management **and all members of the**
 25 **governing body of the county, who serve as ex officio members.** [*as follows:*]

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

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

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

29 [(d)] (b) The Secretary of State, the State Treasurer and the Director of the Department of Re-
 30 venue shall serve **on the board** as nonvoting ex officio members.

31 (c) **The President of the Senate shall appoint one nonvoting member to the board.**

32 (d) **The Speaker of the House of Representatives shall appoint one nonvoting member to**
 33 **the board.**

34 (e) **Prior to making appointments under this section, the Governor shall consult with the**
 35 **President of the Senate and the Speaker of the House of Representatives for the purpose of**
 36 **receiving their recommendations for appointments.**

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

39 (3) A majority of the **voting** members of the **fiscal assistance** board **and a majority of the**
 40 **members of the county governing body who are members of the board must be present to**
 41 **constitute** [*constitutes*] a quorum for the transaction of business. **A meeting of the board consti-**
 42 **tutes a meeting of both the board and the county governing body and requires appropriate**
 43 **meeting notices and adherence to public meeting laws under ORS 192.610 to 192.690.**

44 (4) Official action by the **fiscal assistance** board requires the approval of a majority of the
 45 members of the board **and a majority of the members of the county governing body who are**

1 **members of the board.**

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

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

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

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

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

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

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

23 **(2) The Fiscally Distressed Counties Fund is established, separate and distinct from the**
24 **General Fund. Interest earned by the Fiscally Distressed Counties Fund shall be credited to**
25 **the fund. The Fiscally Distressed Counties Fund shall consist of moneys appropriated to the**
26 **fund, moneys deposited by counties under subsection (1) of this section and moneys derived**
27 **from any other source, public or private. Moneys in the Fiscally Distressed Counties Fund**
28 **shall be used by the Governor for the purpose of establishing and administering fiscal as-**
29 **sistance boards for fiscally distressed counties under ORS 203.095.**

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

33 **(4) When the Governor declares that the fiscal emergency for a county has ended, all**
34 **moneys remaining in the fund that have been deposited for the purpose of administering the**
35 **fiscal assistance board for that county must be returned, on a pro rata basis, to the county**
36 **and to the General Fund.**

37 **SECTION 4. This 2012 Act being necessary for the immediate preservation of the public**
38 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**
39 **on its passage.**

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