

Testimony and Materials Re: House Bill 3518

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House Bill 3518: Overview

Purpose

To provide municipalities in Oregon with:

LEVERAGE (to negotiate with creditors, residents, taxpayers and the state outside of court and without litigation)

FLEXIBILITY (to adjust the liability side of its balance sheet upon a fiscal emergency)

HR 3518 creates a **PROCESS** by which local government leaders, citizens, the state, and elected officials can contribute to resolve fiscal distress among our municipalities.

House Bill 3518: Insolvency Defined

- An event of insolvency includes:
 - Failure to make payments to financial creditors, vendors, employees, and other creditors when due or upon presentment;
 - [Service level insolvency, or going concern insolvency]
 - Failure to make employer/employee contributions to pension, retirement or benefit plan
 - A determination by the local government that the fiscal condition of the municipality compromises its ability to provide services

House Bill 3518: Process Triggers

Local government notifies the Governor of the insolvency event;

OR

Petition signed by 5% of voters notifying local government and Governor of insolvency event;

OR

Municipal default to PERS;

OR

Governor, in consult with the Secretary of State and Treasurer, determines that an insolvency event has occurred in a municipality;

OR

Senate or House passes a resolution declaring a fiscal emergency.

House Bill 3518: Process for Determining Whether Fiscal Emergency Exists

(A)

- Upon notification of fiscal distress, the Governor must request information from the local government on its action plan for resolving the insolvency event.
- Local government must respond in writing within 45 days of the request for information/plan of action.
- Governor, in consult with Secretary of State and Treasurer, shall determine whether the local government needs state assistance to resolve fiscal distress/insolvency event.
 - If the determination is assistance is needed, Governor shall declare a fiscal emergency for the municipality.

(B)

- An independent procedure for declaring a fiscal emergency is the passage of a resolution by the House or Senate that assistance is needed.

House Bill 3518: Fiscal Emergency Oversight Boards (“FEOB”)

- Governor may establish a FEOB for any municipality in which a fiscal emergency has been declared.
- The FEOB shall be comprised of members with expertise in the areas relevant to the fiscal emergency.
- The FEOB shall have the authority to run the affairs of the local government, subject to constitutional limitations.
- The FEOB shall prepare a plan of resolution and is authorized to implement the plan.
- A plan of resolution may recommend to the Governor that the municipality file a bankruptcy petition under Chapter 9 of Title 11 of the United States Code.

House Bill 3518: Key Points

- Costs of administering this process, including the FEOB, shall be incurred by the state.
 - [Sovereignty has its costs, and this is one of them.]
- This is not a bankruptcy bill. HB 3518 does not authorize municipalities to file for federal bankruptcy protection.
- This bill creates a process to empower local governments and the state to work together to resolve fiscal emergencies in a consensual manner through the political process.
- Only upon the declaration of a fiscal emergency, and further, only upon the failure of this process to resolve the fiscal emergency shall a municipality have access to federal bankruptcy court. And there is no access without the written authorization of the Governor.