

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SPB 7014

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Government Accountability

DATE: February 5, 2019

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Ponder</u>	<u>McVaney</u>	_____	<b>GO Submitted as Comm. Bill/Fav</b>

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**I. Summary:**

SPB 7014 amends various statutes to enhance government accountability and auditing processes based on recommendations noted in recent reports by the Auditor General. The bill:

- Authorizes the Governor or Commissioner of Education, or designee, to notify the Joint Legislative Auditing Committee if an entity fails to comply with certain auditing and financial reporting requirements;
- Provides definitions for the terms “abuse,” “fraud,” and “waste;”
- Adds tourist development council and county tourism promotion agency to the definition of “local government entity” to clarify that the Auditor General has authority to audit the entities;
- Removes water management districts from the definition of local government entities for the purposes audit cycles and follow-up reviews;
- Requires the Florida Clerks of Court Operations Corporation to notify the Legislature quarterly if a clerk is not meeting workload performance standards;
- Requires each agency, the judicial branch, the Justice Administrative Commission, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Guardian Ad Litem program, local governmental entities, charter schools, school districts, Florida College System institutions, and state universities to establish and maintain internal controls designed to prevent and detect fraud, waste, and abuse;
- Requires counties, municipalities, special districts, and water management districts to maintain certain budget documents on their websites for specified timeframes;
- Revises the monthly financial statement requirements for water management districts;
- Provides that the Department of Financial Services may request additional information from local government entities when preparing its annual verified report;
- Revises the membership, and restrictions thereof, for an audit committee of a county, municipality, special district, district school board, charter school, or charter technical career center;

- Specifies that the definition of fraud, waste and abuse set forth in s. 2 of the bill apply to s. 1001.42, F.S.
- Requires completion of an annual financial audit of the Florida Virtual School; and
- Requires the Florida College System and Florida State University System to comply with s. 110.1127, F.S., for employee background screenings.

## II. Present Situation:

Various statutes ensure government accountability of state and local governments. For example, the Auditor General conducts audits of accounts and records of state agencies, state universities, state colleges, district school boards, and others as directed by the Joint Legislative Auditing Committee. The Auditor General conducts operational and performance audits on public records and information technology systems. The Auditor General also reviews all audit reports of local governmental entities, charter schools, and charter technical career centers. Other statutes require publishing of government budgets and other information online and require government entities to follow certain practices to promote efficiency and compliance within the entity.

Due to the disparate issues in the bill, the “Present Situation” for each bill section is discussed below in conjunction with the “Effect of Proposed Changes.”

## III. Effect of Proposed Changes:

### Legislative Oversight (Sections 1, 2, and 3)

#### *Present Situation*

The position of Auditor General is established by Art. III, s. 2 of the State Constitution. The Auditor General is appointed to office to serve at the pleasure of the legislature, by a majority vote of the members of the Joint Legislative Auditing Committee, subject to confirmation by both houses of the legislature.<sup>1</sup> The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the legislature.<sup>2</sup> At the time of appointment, the Auditor General must have been certified under the Public Accountancy Law in Florida for a period of at least 10 years and may not have less than 10 years’ experience in an accounting- or auditing-related field.<sup>3</sup>

The Auditor General must conduct audits, examinations, or reviews of government programs<sup>4</sup> as well as audit the accounts and records of state agencies, state universities, state colleges, district school boards, and others as directed by the Joint Legislative Auditing Committee.<sup>5</sup> The Auditor General conducts operational and performance audits on public records and information technology systems and reviews all audit reports of local governmental entities, charter schools, and charter technical career centers.<sup>6</sup>

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<sup>1</sup> Section 11.42(2), F.S.

<sup>2</sup> Section 11.42(5), F.S.

<sup>3</sup> Section 11.42(2), F.S.

<sup>4</sup> Section 11.45(7), F.S.

<sup>5</sup> Section 11.45(2)(d)-(f), F.S.

<sup>6</sup> Section 11.45(7)(b), F.S.

Various statutory provisions require the Auditor General to compile and submit reports. For example, the Auditor General must annually compile and transmit to the President of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Auditing Committee a summary of significant findings and financial trends identified in audit reports.<sup>7</sup> The Auditor General also must compile and transmit to the President of the Senate, Speaker of the House of Representatives, and Joint Legislative Auditing Committee an annual report by December 1. The report must include a two-year work plan identifying the audit and other accountability activities to be undertaken and a list of statutory and fiscal changes recommended by the Auditor General.<sup>8</sup> In addition, the Auditor General must transmit recommendations at other times during the year when the information would be timely and useful to the Legislature.<sup>9</sup>

The annual report for the Auditor General for November 1, 2017, through October 31, 2018, contained the following recommendation:<sup>10</sup>

The Legislature should consider amending applicable Florida Statutes to establish in law the responsibility of each state and local government for the establishment and maintenance of management systems and internal controls designed to prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets.

Section 11.45, F.S., defines the types of audits the Auditor General may conduct, requires certain state and local governmental audits to be conducted, and specifies the frequency with which the audits must occur. The Auditor General also may conduct other audits he or she determines to be appropriate.

Following notification by the Auditor General, the Department of Financial Services (DFS), or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with applicable auditing, financial reporting, bond issuance notification, or bond verification provisions or the failure to disclose a financial emergency or provide information required during a financial emergency,<sup>11</sup> the Joint Legislative Auditing Committee may schedule a hearing to determine whether the entity should be subject to further state action. For purposes of s. 11.45, F.S., the term “local governmental entity” means a county agency, municipality, or

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<sup>7</sup> Section 11.45(7)(f), F.S.

<sup>8</sup> Section 11.45(7)(h), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Annual Report, Florida Auditor General, at page 9. A copy of the report can be found online at: [https://flauditor.gov/pages/pdf\\_files/annual%20report%202018.pdf](https://flauditor.gov/pages/pdf_files/annual%20report%202018.pdf) (last visited January 18, 2019).

<sup>11</sup> Section 11.45, F.S., governs certain audits to be conducted by the Auditor General. Section 218.32(1), F.S., requires annual financial reports from local governmental entities. Section 218.38, F.S., requires notice of bond issuance and contains verification requirements. Section 218.503(3), F.S., requires certain entities to disclose a financial emergency and provide certain information concerning a financial emergency.

special district as defined in s. 189.012, F.S.,<sup>12</sup> but does not include any housing authority established under ch. 421, F.S.

The Auditor General is also required to annually transmit, by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the DFS a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and water management districts that have failed to comply with certain transparency requirements.

### ***Effect of the Bill***

**Section 1** amends s. 11.40, F.S., to authorize the Governor or his or her designee, and the Commissioner of Education or his or her designee, to notify the Joint Legislative Auditing Committee that a local governmental entity, district school board, charter school, or charter technical career center has failed to comply with applicable auditing, financial reporting, bond issuance notification, or bond verification provisions or failed to disclose a financial emergency or provide information required during a financial emergency. Upon such notification the Joint Legislative Auditing Committee may consider whether the entity should be subject to further state action.

**Section 2** amends s. 11.45, F.S., to define the terms abuse, fraud, and waste. These terms are related to the internal controls various government entities must establish and maintain to prevent and detect fraud, waste, and abuse.

This section specifically includes tourist development council and county tourism promotion agency within the definition of “local governmental entity.” With this definition, the Auditor General clearly has the authority to conduct audits or other engagements of tourist development councils and county tourism promotion agencies.

This section exempts water management districts from being subject to audits as a local government entities conducted pursuant to s. 11.45(2)(j), F.S. With this change, the districts will continue to be subject to periodic audits authorized by s. 11.45(2)(f), F.S.,<sup>13</sup> and the Auditor General will follow up on prior audit findings at the next schedule audit rather than 18 months after the completion of the latest audit.

This section expands the list of entities that must be included in the Auditor General report concerning entities that fail to comply with transparency requirements in s. 11.45, F.S., to include all local governmental entities rather than just the water management districts.

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<sup>12</sup> Section 189.012(6), F.S., defines a “special district” to mean a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

<sup>13</sup> Section 11.45(2)(f), F.S., states in part that at least every three years, the Auditor General shall conduct operational audits of the accounts and records of water management districts.

**Section 3** amends s. 11.47, F.S., to expand the activities that are punishable as a crime to include willful failure or refusal to provide the Auditor General access to an employee, officer, or agent of an entity as a first-degree misdemeanor punishable as provided in s. 775.082 or s. 775.083, F.S.

#### **Florida Clerks of Court Operations Corporation (Section 4)**

##### *Present Situation*

Currently, s. 28.35, F.S., requires the Florida Clerks of Court Operations Corporation (corporation) to develop and certify a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the workload performance standards. These workload measures and workload performance standards must be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation must develop the workload measures and workload performance standards in consultation with the legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation must identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. The corporation must notify the legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans.

##### *Effect of the Bill*

**Section 4** amends s. 28.35, F.S., to require the corporation to provide a copy of any corrective action plans for any clerk not meeting the workload performance standards within 45 days after the end of each quarter. The section is also amended to clarify that the applicable quarters end on the last day of March, June, September, and December of each year.

#### **Internal Controls to Prevent and Detect Fraud, Waste, and Abuse (Sections 5, 9, 13, 16, 17, and 19)**

##### *Present Situation*

###### State Agencies and the Judicial Branch

Section 215.86, F.S., requires each state agency and the judicial branch as defined in s. 216.011, F.S., to establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; reliability of records and reports; and safeguarding of assets. It requires accounting systems and procedures to be designed to fulfill the requirements of generally accepted accounting principles.

###### Local Governmental Entities

Section 218.33, F.S., requires each local governmental entity to begin its fiscal year on October 1 and end it on September 30. Section 218.33(2), F.S., requires each local governmental entity to follow uniform accounting practices and procedures as provided by rule of DFS to assure the use of proper accounting and fiscal management by such units. Such rules must include a uniform classification of accounts.

### Charter Schools

Section 1002.33, F.S., authorizes charter schools as part of Florida's state program of education. In addition to creating charter schools, that section also imposes certain requirements on charter schools. In pertinent part, the law provides that the governing body of a charter school is responsible for:

- Ensuring that the charter school has retained a certified public accountant or auditor to perform its annual audit;
- Reviewing and approving the audit report;
- Establishing a corrective plan, if necessary;
- Monitoring a financial recovery plan to ensure compliance; and
- Participating in governance training approved by the Department of Education, which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.<sup>14</sup>

### School Districts, Florida College System Institutions, and State Universities

Current law requires the financial records and accounts of each school district, Florida College System institution, and other institution or agency under the supervision of the State Board of Education (SBE) to be prepared and maintained as prescribed by law and rules of the SBE. The financial records and accounts of each state university under the supervision of the Board of Governors (BOG) must be prepared and maintained as prescribed by law and rules of the BOG. Rules of the SBE and rules of the BOG must incorporate the requirements of law and accounting principles generally accepted in the United States and must include a uniform classification of accounts. Each state university must annually file with the BOG financial statements prepared in conformity with these requirements. The BOG's rules must prescribe the filing deadline for the financial statements. The required financial accounts and reports must include provisions that are unique to K-12 school districts, Florida College System institutions, and state universities.<sup>15</sup>

### Justice Administrative Commission

The Justice Administrative Commission (Commission) is created in s. 43.16, F.S. As one of its duties, the Commission is charged with maintaining a central state office for administrative services and assistance on behalf of state attorneys and public defenders, the capital collateral regional counsel, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program.<sup>16</sup> Additionally, the Commission records and submits certain documents prepared by a state attorney, public defender, or criminal conflict and civil regional counsel or the Guardian Ad Litem Program, including necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans.<sup>17</sup>

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<sup>14</sup> Section 1002.33(9)(j), F.S.

<sup>15</sup> Section 1010.01, F.S.

<sup>16</sup> Section 43.16(5)(a), F.S.

<sup>17</sup> Section 43.16(5)(b), F.S.

### *Effect of the Bill*

**Sections 5, 9, 13, 17, and 19** amend ss. 43.16, 215.86, 218.33, 1002.33, and 1010.01, F.S., respectively, to require state agencies, the judicial branch, local governmental entities, charter schools, school districts, Florida College System institutions, state universities, the Commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program to establish and maintain internal controls designed to:

- Prevent and detect fraud, waste, and abuse, as defined in s. 11.45(1), F.S.;
- Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices;
- Support economical and efficient operations;
- Ensure reliability of financial records and reports; and
- Safeguard assets.

**Section 16** amends s. 1001.42, F.S., to specify that internal controls designed to prevent and detect fraud, waste, and abuse meet the definition provided in s. 11.45(1), F.S.

### **Online Posting of Governmental Budgets (Sections 6, 7, 8, and 15)**

#### *Present Situation*

##### Counties and Municipalities

Counties<sup>18</sup> and municipalities<sup>19</sup> are required to post their tentative budgets on their websites two days prior to consideration of the budget at a public hearing. The final budget of a county or municipality must be posted on its website within 30 days after adoption. An amendment to a budget must be posted to the website within five days of adoption.<sup>20</sup> Current law does not specify how long these documents must remain available on the website.

##### Water Management Districts

Chapter 373, F.S., governs Florida's water resource management and authorizes the creation of water management districts, which are given taxing authority. A water management district is defined as "any flood control, resource management, or water management district" operating under the authority of ch. 373, F.S.<sup>21</sup> There are five water management districts in Florida: Northwest Florida, Suwanee River, St. Johns River, Southwest Florida, and South Florida.<sup>22</sup> Section 373.536, F.S., governs the budget process for water management districts and requires a water management district's tentative budget to be posted on the water management district's website at least two days before budget hearings are conducted. The law requires a water management district's final adopted budget to be posted on the water management district's official website within 30 days after adoption.

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<sup>18</sup> Section 129.03, F.S.

<sup>19</sup> Section 166.241, F.S.

<sup>20</sup> Sections 129.06(2)(f)2., 166.241(5), and 189.016(7), F.S.

<sup>21</sup> Section 373.019(23), F.S.

<sup>22</sup> Section 373.069(1), F.S.

*Effect of the Bill*

**Sections 6, 7, 8, and 15** amend ss. 129.03, 129.06, 166.241, and 373.536, F.S., respectively, to require the various budgets remain accessible on a county, municipality or water management district's website for certain time periods. Specifically, a tentative budget must remain on an entity's website for at least 45 days and final budget or an adopted amendment to a budget must remain on the website for at least two years.

**Florida Single Audit Act (Section 10)***Present Situation*

The Florida Single Audit Act, codified in s. 215.97, F.S., is designed to:

- Establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects;
- Promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities;
- Promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities;
- Provide for identification of state financial assistance transactions in the state accounting records and recipient organization records;
- Promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance; and
- Ensure, to the maximum extent possible, that state agencies monitor, use, and follow-up on audits of state financial assistance provided to nonstate entities.

Pursuant to the Florida Single Audit Act, certain entities that meet the "audit threshold" requirements are subject to a state single audit or a project-specific audit. Currently, the "audit threshold" requires each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such nonstate entity to have a state single audit, or a project-specific audit, for such fiscal year. Every two years, the Auditor General, after consulting with the Executive Office of the Governor, the DFS, and all state awarding agencies, is required to review the threshold amount for requiring audits and may adjust the threshold amount.<sup>23</sup>

*Effect of the Bill*

**Section 10** amends s. 215.97, F.S., to allow the Auditor General to review the threshold amount for requiring audits periodically rather than every two years; however, the term "periodically" is not defined. This section also authorizes the Auditor General to recommend in its annual report to the legislature a statutory change to revise the threshold amount.

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<sup>23</sup> Section 215.97(2)(a), F.S.



## **Transparency in Government Spending (Section 11)**

### ***Present Situation***

The Transparency Florida Act (Act), codified in s. 215.985, F.S., requires the Governor, in consultation with the appropriations committees of the House and Senate, to maintain a central website providing access to all other websites required to be linked under the Act. It also requires certain budget information, certain contract information, and minimum functionality standards to be readily available online. In pertinent part, s. 215.985(11), F.S., requires each water management district to provide a monthly financial statement to its governing board and make the statement available for public access on its website.

### ***Effect of the Bill***

**Section 11** amends s. 215.985, F.S., to require a water management district's monthly financial statement to be in the form and manner prescribed by the DFS and requires each water management district to make the monthly financial statement available to the public on its website.

## **Local Governmental Entity Annual Financial Reports (Section 12)**

### ***Present Situation***

Section 218.32, F.S., requires local governmental entities that are required to provide for an audit under s. 218.39, F.S., to submit an audit report and annual financial report to the DFS within 45 days after completion of the audit report, but no later than nine months after the end of the fiscal year. The annual financial report must be signed by the chair of the governing body and the chief financial officer of the local governmental entity. The law also specifies the information that must be included in the report.

In addition, the DFS is required to file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report.<sup>24</sup>

The Florida Open Financial Statement System has been authorized. The system will be an interactive repository for governmental financial statements. The Chief Financial Officer (CFO) may consult with stakeholders, including the department, the Auditor General, a representative of a municipality or county, a representative of a special district, a municipal bond investor, and an information technology professional employed in the private sector for input on the design and implementation of the system.

Local government entities required to submit an audit report and annual financial report to the DFS must do so no later than six months after the end of the fiscal year. An extension of the

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<sup>24</sup> Section 218.32(2), F.S.

deadline is allowed for up to 90 days if the Governor declares a state of emergency within 30 days of the submission deadline.

Each local government entity must submit an electronic copy of the annual financial report and a statement certifying the document was timely filed with the DFS to the clerk of the court. However, these requirements do not apply to a charter county in which the clerk of the court is not the county auditor. Starting in Fiscal Year 2018-2019, the bill provides that if a local government entity fails to submit information to the clerk of the court, the clerk must notify the appropriate fiscal officer of the local government to suspend salary payments to the head of the local government entity until such time as the information is provided to the clerk. The clerk must notify the appropriate local fiscal officer to resume payments when the clerk receives the information.

### *Effect of the Bill*

**Section 12** amends s. 218.32, F.S., to authorize the DFS, in preparing the verified report, to request additional information from a local governmental entity. Any additional information requested must be provided to the DFS within 45 days after the request. If the local governmental entity does not comply with the request, the DFS must notify the Joint Legislative Auditing Committee, which may take action pursuant to s. 11.40(2), F.S.

## **Local Government Auditor Selection Procedures (Section 14)**

### *Present Situation*

Section 218.391, F.S., outlines the process that each local governmental entity, district school board, charter school, or charter technical career center must follow in selecting an auditor to conduct the annual financial audit of the entity required by s. 218.39, F.S. Each entity is required to establish an audit committee to assist the governing body in selecting the auditor. The audit committee of a noncharter county must consist of each of its constitutional officers and one member of the board of county commissioners or its designee. The audit committees must publicly announce requests for proposals for the audit services. The law specifies the factors that must be considered in selecting the auditor and the procedures for negotiating for compensation.

### *Effect of the Bill*

**Section 14** amends s. 218.391, F.S., to require each county's audit committee to consist of each county officer elected pursuant to the State Constitution or the county charter, or their respective designees, and one member of the board of county commissioners or its designee. The section requires the audit committee for a municipality, special district, district school board, charter school, or charter technical career center to consist of at least three members, one of whom must be a member of the governing body of the entity. That member must serve as the audit committee's chair. An employee, chief executive officer, or chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not serve as a member of an audit committee.

If an entity fails to select an auditor in compliance with the new process, the Joint Legislative Auditing Committee must determine whether the entity should be subject to state action pursuant to s. 11.40(2), F.S.

## **The Florida Virtual School (Section 18)**

### ***Present Situation***

The Florida Virtual School was created to develop and deliver online and distance learning education.<sup>25</sup> The Commissioner of Education is charged with monitoring the Florida Virtual School. In pertinent part, the law requires the board of trustees to submit an annual report to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education (SBE) that must address:

- The operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global;
- The marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology;
- The assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year;
- A copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General;
- Recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global; and
- Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.<sup>26</sup>

### ***Effect of the Bill***

**Section 18** amends s. 1002.37, F.S., to require the Florida Virtual School to have an annual financial audit of its accounts and records conducted by an independent auditor who is a licensed certified public accountant. The independent auditor must conduct the audit in accordance with rules adopted by the Auditor General and must prepare an audit report in accordance with such rules. The audit report must include a written statement by the board of trustees describing corrective action to be taken in response to each of the independent auditor's recommendations. The independent auditor must submit the audit report to the board of trustees and the Auditor General no later than nine months after the end of the preceding fiscal year.

## **Employee Background Screening (Sections 20 and 21)**

### ***Present Situation***

Currently, s. 110.1127, F.S., requires that each agency designate the positions that require background screening using level one standards and those positions that, because of the special trust or responsibility or sensitive location, require security background investigations using level two screening standards. Level one screening standards include employment history checks, statewide criminal correspondence checks and a check of the Dru Sjodin National Sex Offender

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<sup>25</sup> Section 1002.37(1)(a), F.S.

<sup>26</sup> Section 1002.37(6), F.S.

Public Website by the Department of Law Enforcement.<sup>27</sup> For a level two screening, the Department of Law Enforcement performs a criminal history record check of its records and request the Federal Bureau of Investigations (FBI) to perform a national criminal history record check of its records.<sup>28</sup> According to the Department of Law Enforcement, the FBI does not allow its criminal justice information to be reviewed for a level two background investigation unless the screening is required by law.

Section 1001.60, F.S., established a system of governance for the Florida College System for the institutions identified in s. 1000.21, F.S. Likewise, state universities are governed by the Board of Governors, as provided in s. 1001.70, F.S. Current law does not specify that the Florida College System and State University System are state agencies for the purpose of s. 110.1127.

### *Effect of the Bill*

**Sections 20 and 21** create ss. 1012.8551 and 1012.915, F.S., respectively, to apply s. 110.1127, F.S., relating to background screening requirements to the personnel of the Florida College System and the State University System. With this change, state universities and colleges are required to designate personnel for level one and level two background screenings. This statutory requirement is intended to allow background screenings requested by the State College System and the State University System to include federal information.

### **Other Provisions (Sections 22, 23, and 24)**

**Section 22** conforms provisions and cross-references to changes made by the bill.

**Section 23** specifies that a proper and legitimate state purpose is served when internal controls are established to prevent and detect fraud, waste, and abuse and to safeguard and account for government funds and property. In addition, a proper and legitimate state purpose is served when the travel records of state and local employees are transparent to members of the public. The Legislature further finds that a proper and legitimate state purpose is served when local governments ensure the budgets, annual financial report, and associated data for various governmental entities are available to, and usable by, the public.

**Section 24** provides an effective date of July 1, 2019.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the Florida Constitution provides, in pertinent part, that no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and:

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or

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<sup>27</sup> Section 435.03(1), F.S.

<sup>28</sup> Section 435.04(1), F.S.

- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.

Article VII, s. 18(d) of the Florida Constitution provides, in pertinent part, that laws having insignificant fiscal impact are exempt from the mandates requirements.

This bill requires county and municipal governments to establish and maintain specified internal controls and to maintain its budgets online for a specified period. Section 23 of the bill specifies that the bill serves an important state interest. An exception may apply because the bill applies to similarly situated persons (municipalities, counties, water management districts, school districts, state agencies and other governmental entities).

In addition, the bill may be exempt from the mandates requirements if the costs incurred by the municipalities and counties to comply are \$2.1 million or less (the threshold for “insignificant”<sup>29</sup> fiscal impact for Fiscal Year 2018-2019).<sup>30</sup>

**B. Public Records/Open Meetings Issues:**

None.

**C. Tax/Fee Issues: Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The bill does not appear to impact state or local revenues.

**B. Private Sector Impact:**

None.

<sup>29</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited January 29, 2019).

<sup>30</sup> Based on the Demographic Estimating Conference’s population adopted on November 5, 2018. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited January 29, 2019).

**C. Government Sector Impact:**

State agencies, the court system, court-related entities, local governments, district school boards, charter schools, and state colleges and universities may incur minimal costs associated with establishing and maintaining the specified internal controls.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 11.40, 11.45, 28.35, 43.16, 112.061, 129.03, 129.06, 215.86, 215.97, 215.985, 218.32, 218.33, 218.39, 218.391, 218.503, 373.536, 1001.42, 1002.33, 1002.37, 1010.01, and 1012.8551.

This bill also creates sections 1012.8551, 1012.915, and one undesignated sections of Florida law.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.