

STORAGE NAME: h0685a.ca
DATE: March 27, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 685
RELATING TO: Local Government Audits
SPONSOR(S): Representative Constantine and others
STATUTE(S) AFFECTED: Section 11.45, F.S.
COMPANION BILL(S): SB 1186 (i), SB 1288 (c)
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) COMMUNITY AFFAIRS YEAS 4 NAYS 0
(2)
(3)
(4)
(5)

I. SUMMARY:

This bill requires auditors to notify members of the governing body of a local government entity of deteriorating financial conditions which, if not addressed, might lead to a financial emergency.

This bill also requires the Auditor General to request clarification from any local governmental entity whose audit contains information indicating a possible financial emergency.

This bill has no fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Financial management, auditing, and reporting are critical local government fiscal activities. The *local government financial reporting system*, recently revised to a significant extent by chapter 96-324, Laws of Florida, encompasses most of the statutory management, auditing, and reporting requirements relating to local governmental entities. As defined, this *system* includes the reporting provisions of subsections 11.45(3) and (4), part VII of chapter 112, section 163.05, subsections 27.3455(4) and (5), subsection 925.037(5), section 166.241, chapter 189, and parts III and V of chapter 218, Florida Statutes.

Section 11.45, Florida Statutes, requires an audit of the local government financial reporting system. The Auditor General must perform the audit every 2 years to determine the accuracy, efficiency, and effectiveness of the reporting system in achieving its goals and objectives. Financial and other information is collected to:

- Compare and contrast revenue sources and expenditures of local governmental entities.
- Assess the fiscal impact of the formation, dissolution, and activity of special districts.
- Evaluate the fiscal impact of state mandates on local governmental entities.
- Assess financial or economic conditions of local governmental entities.
- Improve communication and coordination among state agencies and local governmental entities.

Local Government Audits

Section 11.45, Florida Statutes, also describes duties of the Auditor General with regard to mandatory and discretionary financial and performance audits of governmental entities. Each year by July 1, the Auditor General must notify a local governmental entity if a financial audit will be conducted. Absent notification, each county, each municipality with revenues or expenditures of more than \$100,000, each special district with revenues or expenditures of more than \$50,000, and certain other local governmental entities, must provide the Auditor General, within 12 months after the end of the fiscal year, with an annual financial audit report of accounts and records.

Within 45 days after delivery of the financial audit report, but no later than 12 months after the end of the fiscal year, any written statement of explanation or rebuttal concerning the auditor's comments, including corrective action, must be submitted to the Auditor General. The Auditor General is required to request any significant omitted items and to notify the Joint Legislative Auditing Committee if they are not provided within 45 days after the request.

Local Government Financial Emergencies

Sections 218.50-218.504, Florida Statutes, is known as the "Local Government Financial Emergencies Act." Now considered part of the local government financial reporting system, the purposes of the act are:

- To preserve and protect the fiscal solvency of local governmental entities.
- To assist local governmental entities in providing essential services without interruption and in meeting their financial obligations.
- To assist local governmental entities through the improvement of local financial management procedures.

The act defines when a local governmental entity is deemed to be in a state of emergency. It also describes the various measures that may be taken by the Governor or Governor's designee to alleviate an emergency situation.

The act states that a local government is in a state of financial emergency when any of the following conditions occur:

- (1) Failure within the same fiscal year in which due the payment of short-term loans from banks, or failure to make bond debt service payments when due.
- (2) Failure to transfer at the appropriate time, due to lack of funds:
 - Taxes withheld on the income of employees; or
 - Employer and employee contributions for federal social security, or any pension, retirement, or benefit plan of an employee.
- (3) Failure for one pay period to pay, due to lack of funds:
 - Wages and salaries owed to employees; or
 - Retirement benefits owed to former employees.
- (4) Budget deficits for 2 successive years.
- (5) Noncompliance of the local government retirement system with actuarial conditions provided by law.

Current Local Government Financial Emergencies

In late 1996, widespread attention was drawn to the City of Miami who was declared in a state of financial emergency pursuant to section 218.503, F.S. Soon thereafter, media attention began to focus on other Florida local governments that may be in a state of financial emergency.

The Auditor General, in fulfilling his duties under Florida Statutes, notified the Governor's Office and the Legislative Auditing Committee that 17 audit reports indicated that the local governmental entity was in a state of financial emergency, and 25 audit reports indicated that the local governmental entity may be in a state of financial emergency. After reviewing the list, the Governor's Office indicated that 31 of the governments reported did not meet the criteria for notification.

Complicating this situation was the fact that there is no authorized procedure for requesting clarifying information from the local governments that are on a financial emergency list prepared by the Auditor General prior to the list being furnished to the Governor. Hence, most of the governments found out that they were on the list through the national media. This was upsetting to those governmental officials, especially those that were determined not to be in a financial emergency.

In November of 1996, at the request of the Governor's Office, the Florida Government Finance Officers Association initiated a task force to address the issues involving the determination of financial emergencies for local governments in Florida. Recommendations of the task force, finalized on January 30, 1997, included language to amend current statute to provide a process for the Auditor General to request information from local governments and to communicate with local government officials concerning its possible financial emergency status.

B. EFFECT OF PROPOSED CHANGES:

This bill requires auditors to notify members of the governing body of a local government entity of deteriorating financial conditions which, if not addressed, might lead to a financial emergency.

This bill also requires the Auditor General to request clarification from any local governmental entity whose audit contains information indicating a possible financial emergency. This clarification must be provided within 45 days after the date of the request. If, after obtaining such clarification, the Auditor General determines that the local governmental entity is in a state of financial emergency as provided in section 218.503, Florida Statutes, he or she is required to notify the Governor and the Joint Legislative Auditing Committee.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. A local government auditor must specifically notify each member of a local governing body if financial conditions exist in the local government that may cause a financial emergency. Present law does not explicitly require this notification be made to each member of the local governing body.

In addition, the Auditor General must request clarification from a local government if information in the audit report indicates that the local government may be in a state of financial emergency. This requirement is not in current law.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

Not Applicable (N/A)

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

- (2) what is the cost of such responsibility at the new level/agency?

- (3) how is the new agency accountable to the people governed?

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. Local governing bodies who now will be given direct information on the financial condition of their local governments pay for their audits to be completed.

The taxpayers of the state of Florida who will benefit from the timely intervention of the Governor's Office and the Auditor General into any situation where a local government would be in a state of financial emergency directly pay the salaries and expenses of the personnel in these state agencies that will implement the provisions of this bill.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

N/A

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends paragraph (a) of subsection (3) of section 11.45, F.S., 1996 Supplement, to require auditors to notify members of the governing body of a local government entity of deteriorating financial conditions which if not addressed might lead to a financial emergency.

Also requires the Auditor General to request clarification from any local governmental entity whose audit contains information indicating a possible financial emergency. This clarification must be provided within 45 days after the date of the request. If, after obtaining such clarification, the Auditor General determines that the local governmental entity is in a state of financial emergency as provided in section 218.503, Florida Statutes, he or she is required to notify the Governor and the Joint Legislative Auditing Committee.

Section 2: Provides that the act shall take effect on October 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

This bill will require the Auditor General to request appropriate clarification from a local government entity if an audit report indicates the local government might be in a state of financial emergency. This can be accomplished with existing resources.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Local governments are already required by law to submit financial audits to the Auditor General to be paid for by public funds. This additional requirements for the audit process required by this bill should not change the cost of the preparation of these audits.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require the expenditure of funds by counties or municipalities.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Jenny Underwood Dietzel

Jenny Underwood Dietzel