

By Representative Constantine

1 A bill to be entitled
2 An act relating to local government audits;
3 amending s. 11.45, F.S.; requiring auditors to
4 notify members of the governing body of a local
5 governmental entity under certain
6 circumstances; providing additional duties of
7 the Auditor General under circumstances of
8 potential financial emergency for a local
9 governmental entity; providing an effective
10 date.
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12 Be It Enacted by the Legislature of the State of Florida:
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14 Section 1. Paragraph (a) of subsection (3) of section
15 11.45, Florida Statutes, 1996 Supplement, is amended to read:
16 11.45 Definitions; duties; audits; reports.--
17 (3)(a)1. The Auditor General shall annually make
18 financial audits of the accounts and records of all state
19 agencies, as defined in this section, of all district school
20 boards, and of all district boards of trustees of community
21 colleges. This section does not limit the Auditor General's
22 discretionary authority to conduct performance audits of these
23 governmental entities as authorized in subparagraph 2. A
24 district school board may select an independent auditor to
25 perform a financial audit as defined in paragraph (1)(b)
26 notwithstanding the notification provisions of this section.
27 In addition, a district school board may employ an internal
28 auditor to perform ongoing financial verification of the
29 financial records of a school district who must report
30 directly to the district school board or its designee.
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1 2. The Auditor General may at any time make financial
2 audits and performance audits of the accounts and records of
3 all governmental entities created pursuant to law. The audits
4 referred to in this subparagraph must be made whenever
5 determined by the Auditor General, whenever directed by the
6 Legislative Auditing Committee, or whenever otherwise required
7 by law or concurrent resolution. A district school board,
8 expressway authority, or bridge authority may require that the
9 annual financial audit of its accounts and records be
10 completed within 12 months after the end of its fiscal year.
11 If the Auditor General is unable to meet that requirement, the
12 Auditor General shall notify the school board, the expressway
13 authority, or the bridge authority pursuant to subparagraph 4.

14 3. The Office of Program Policy Analysis and
15 Government Accountability within the Office of the Auditor
16 General shall maintain a schedule of performance audits of
17 state programs. In conducting a performance audit of a state
18 program, the Office of Program Policy Analysis and Government
19 Accountability, when appropriate, shall identify and comment
20 upon alternatives for accomplishing the goals of the program
21 being audited. Such alternatives may include funding
22 techniques and, if appropriate, must describe how other states
23 or governmental units accomplish similar goals.

24 4. If by July 1 in any fiscal year a district school
25 board or local governmental entity has not been notified that
26 a financial audit for that fiscal year will be performed by
27 the Auditor General pursuant to subparagraph 2., each
28 municipality with either revenues or expenditures of more than
29 \$100,000, each special district with either revenues or
30 expenditures of more than \$50,000, and each county agency
31 shall, and each district school board may, require that an

1 annual financial audit of its accounts and records be
2 completed, within 12 months after the end of its respective
3 fiscal year, by an independent certified public accountant
4 retained by it and paid from its public funds. An independent
5 certified public accountant who is selected to perform an
6 annual financial audit of a school district must report
7 directly to the district school board or its designee. A
8 management letter must be prepared and included as a part of
9 each financial audit report. Each local government finance
10 commission, board, or council, and each municipal power
11 corporation, created as a separate legal or administrative
12 entity by interlocal agreement under s. 163.01(7), shall
13 provide the Auditor General, within 12 months after the end of
14 its fiscal year, with an annual financial audit report of its
15 accounts and records and a written statement or explanation or
16 rebuttal concerning the auditor's comments, including
17 corrective action to be taken. The county audit shall be one
18 document that includes a separate audit of each county agency.
19 The county audit must include an audit of the deposits into
20 and expenditures from the Public Records Modernization Trust
21 Fund. The Auditor General shall tabulate the results of the
22 audits of the Public Records Modernization Trust Fund and
23 report a summary of the audits to the Legislature annually.

24 5. The governing body of a municipality or a special
25 district must establish an auditor selection committee and
26 competitive auditor selection procedures. The governing board
27 may elect to use its own competitive auditor selection
28 procedures or the procedures outlined in subparagraph 6.

29 6. The governing body of a noncharter county or
30 district school board that elects to use a certified public
31 accountant other than the Auditor General is responsible for

1 selecting an independent certified public accountant to audit
2 the county agencies of the county or district school board
3 according to the following procedure:

4 a. For each noncharter county, an auditor selection
5 committee must be established, consisting of the county
6 officers elected pursuant to s. 1(d), Art. VIII of the State
7 Constitution, and one member of the board of county
8 commissioners or its designee.

9 b. The committee shall publicly announce, in a uniform
10 and consistent manner, each occasion when auditing services
11 are required to be purchased. Public notice must include a
12 general description of the audit and must indicate how
13 interested certified public accountants can apply for
14 consideration.

15 c. The committee shall encourage firms engaged in the
16 lawful practice of public accounting who desire to provide
17 professional services to submit annually a statement of
18 qualifications and performance data.

19 d. Any certified public accountant desiring to provide
20 auditing services must first be qualified pursuant to law. The
21 committee shall make a finding that the firm or individual to
22 be employed is fully qualified to render the required
23 services. Among the factors to be considered in making this
24 finding are the capabilities, adequacy of personnel, past
25 record, and experience of the firm or individual.

26 e. The committee shall adopt procedures for the
27 evaluation of professional services, including, but not
28 limited to, capabilities, adequacy of personnel, past record,
29 experience, results of recent external quality control
30 reviews, and such other factors as may be determined by the
31 committee to be applicable to its particular requirements.

1 f. The public must not be excluded from the
2 proceedings under this subparagraph.

3 g. The committee shall evaluate current statements of
4 qualifications and performance data on file with the
5 committee, together with those that may be submitted by other
6 firms regarding the proposed audit, and shall conduct
7 discussions with, and may require public presentations by, no
8 fewer than three firms regarding their qualifications,
9 approach to the audit, and ability to furnish the required
10 services.

11 h. The committee shall select no fewer than three
12 firms deemed to be the most highly qualified to perform the
13 required services after considering such factors as the
14 ability of professional personnel; past performance;
15 willingness to meet time requirements; location; recent,
16 current, and projected workloads of the firms; and the volume
17 of work previously awarded to the firm by the agency, with the
18 object of effecting an equitable distribution of contracts
19 among qualified firms, provided such distribution does not
20 violate the principle of selection of the most highly
21 qualified firms. If fewer than three firms desire to perform
22 the services, the committee shall recommend such firms as it
23 determines to be qualified.

24 i. If the governing board receives more than one
25 proposal for the same engagement, the board may rank, in order
26 of preference, the firms to perform the engagement. The firm
27 ranked first may then negotiate a contract with the board
28 giving, among other things, a basis of its fee for that
29 engagement. If the board is unable to negotiate a
30 satisfactory contract with that firm, negotiations with that
31 firm shall be formally terminated, and the board shall then

1 undertake negotiations with the second-ranked firm. Failing
2 accord with the second-ranked firm, negotiations shall then be
3 terminated with that firm and undertaken with the third-ranked
4 firm. Negotiations with the other ranked firms shall be
5 undertaken in the same manner. The board, in negotiating with
6 firms, may reopen formal negotiations with any one of the
7 three top-ranked firms, but it may not negotiate with more
8 than one firm at a time. The board shall also negotiate on the
9 scope and quality of services. In making such determination,
10 the board shall conduct a detailed analysis of the cost of the
11 professional services required in addition to considering
12 their scope and complexity. For contracts over \$50,000, the
13 board shall require the firm receiving the award to execute a
14 truth-in-negotiation certificate stating that the rates of
15 compensation and other factual unit costs supporting the
16 compensation are accurate, complete, and current at the time
17 of contracting. Such certificate shall also contain a
18 description and disclosure of any understanding that places a
19 limit on current or future years' audit contract fees,
20 including any arrangements under which fixed limits on fees
21 will not be subject to reconsideration if unexpected
22 accounting or auditing issues are encountered. Such
23 certificate shall also contain a description of any services
24 rendered by the certified public accountant or firm of
25 certified public accountants at rates or terms that are not
26 customary. Any auditing service contract under which such a
27 certificate is required must contain a provision that the
28 original contract price and any additions thereto shall be
29 adjusted to exclude any significant sums by which the board
30 determines the contract price was increased due to inaccurate
31 or incomplete factual unit costs. All such contract

1 adjustments shall be made within 1 year following the end of
2 the contract.

3 j. If the board is unable to negotiate a satisfactory
4 contract with any of the selected firms, the committee shall
5 select additional firms, and the board shall continue
6 negotiations in accordance with this subsection until an
7 agreement is reached.

8 7. At the conclusion of the audit field work, the
9 independent certified public accountant shall discuss with the
10 head of each local governmental entity or the chair's designee
11 or with the chair of the district school board or the chair's
12 designee, as appropriate, all of the auditor's comments that
13 will be included in the audit report. The auditor shall
14 notify each member of the governing body of a local
15 governmental entity for which deteriorating financial
16 conditions exist which may cause a condition described in s.
17 218.503(1) to occur if actions are not taken to address such
18 conditions. If the officer is not available to discuss the
19 auditor's comments, their discussion is presumed when the
20 comments are delivered in writing to his or her office.

21 8. The officer's written statement of explanation or
22 rebuttal concerning the auditor's comments, including
23 corrective action to be taken, must be filed with the
24 governing body of the local governmental entity or district
25 school board within 30 days after the delivery of the
26 financial audit report.

27 9. The Auditor General, in consultation with the Board
28 of Accountancy, shall adopt rules for the form and conduct of
29 all local governmental entity audits. The rules must include,
30 but are not limited to, requirements for the reporting of
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1 information necessary to carry out the purposes of the Local
2 Government Financial Emergencies Act as stated in s. 218.501.

3 10. Any local governmental entity or district school
4 board financial audit report required under subparagraph 4.
5 and the officer's written statement of explanation or rebuttal
6 concerning the auditor's comments, including corrective action
7 to be taken, must be submitted to the Auditor General within
8 45 days after delivery of the audit report to the local
9 governmental entity or district school board but no later than
10 12 months after the end of the fiscal year. If the Auditor
11 General does not receive the financial audit report within the
12 prescribed period, he or she must notify the Legislative
13 Auditing Committee that the governmental entity has not
14 complied with this subparagraph. Following notification of
15 failure to submit the required audit report or items required
16 by rule adopted by the Auditor General, a hearing must be
17 scheduled by rule of the committee. After the hearing, the
18 committee shall determine which local governmental entities
19 will be subjected to further state action. If it finds that
20 one or more local governmental entities should be subjected to
21 further state action, the committee shall:

22 a. In the case of a local governmental entity, request
23 the Department of Revenue and the Department of Banking and
24 Finance to withhold any funds payable to such governmental
25 entity until the required financial audit is received by the
26 Auditor General.

27 b. In the case of a special district, notify the
28 Department of Community Affairs that the special district has
29 failed to provide the required audits. Upon receipt of
30 notification, the Department of Community Affairs shall
31 proceed pursuant to ss. 189.421 and 189.422.

1 11.a. The Auditor General, in consultation with the
2 Board of Accountancy, shall review all audit reports submitted
3 by local governmental entities pursuant to subparagraph 9. The
4 Auditor General shall request any significant items that were
5 omitted in violation of a rule adopted by the Auditor General.
6 The items must be provided within 45 days after the date of
7 the request. If the Auditor General does not receive the
8 requested items, he shall notify the Joint Legislative
9 Auditing Committee.

10 b. The Auditor General shall notify the Governor and
11 the Joint Legislative Auditing Committee of any audit report
12 reviewed by the Auditor General which contains a statement
13 that the local governmental entity is in a state of financial
14 emergency as provided in s. 218.503. If the Auditor General,
15 in reviewing any audit report, identifies additional
16 information which indicates the local governmental entity may
17 be in a state of financial emergency as provided in s.
18 218.503, the Auditor General shall request appropriate
19 clarification from the local governmental entity. Such
20 clarification must be provided within 45 days after the date
21 of the request. If the Auditor General does not receive such
22 clarification, he or she shall notify the Joint Legislative
23 Auditing Committee. If, after obtaining such clarification,
24 the Auditor General determines that the local governmental
25 entity is in a state of financial emergency as provided in s.
26 218.503, he or she shall notify the Governor and the Joint
27 Legislative Auditing Committee.

28 12. In conducting a performance audit of any agency,
29 the Auditor General shall use the Agency Strategic Plan of the
30 agency in evaluating the performance of the agency.

31 Section 2. This act shall take effect October 1, 1997.

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HOUSE SUMMARY

Requires auditors to notify members of the governing body of a local governmental entity of deteriorating financial conditions which if not addressed might lead to a financial emergency. Provides additional duties of the Auditor General relating to potential financial emergencies. Requires the Auditor General to notify the Joint Legislative Auditing Committee and the Governor if a financial emergency is determined to exist. See bill for details.