

Bill No. CS for SB 1536

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator King moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 6, lines 6-31, delete those lines		
15			
16	and insert:		
17	Section 6. Paragraph (a) of subsection (1) and		
18	paragraphs (a) and (b) of subsection (3) of section 11.45,		
19	Florida Statutes, are amended to read:		
20	11.45 Definitions; duties; audits; reports.--		
21	(1) As used in this section, the term:		
22	(a) "County agency," for the exclusive purposes of		
23	this section, means a board of county commissioners or other		
24	legislative and governing body of a county, however styled,		
25	including that of a consolidated or metropolitan government, a		
26	clerk of the circuit court, a separate or ex officio clerk of		
27	the county court, a sheriff, a property appraiser, a tax		
28	collector, a supervisor of elections, or any other officer in		
29	whom any portion of the fiscal duties of the above are under		
30	law separately placed. Each county agency is a local		
31	governmental entity for purposes of subparagraph (3)(a) 5.4 .		

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1 the working paper analysis of balance sheet accounts and those
2 relating to contingencies.

3 2. Each charter school established under s. 228.056
4 shall have an annual financial audit of its accounts and
5 records completed within 12 months after the end of its fiscal
6 year by an independent certified public accountant retained by
7 it and paid from its funds. The independent certified public
8 accountant who is selected to perform an annual financial
9 audit of the charter school shall provide a copy of the audit
10 report to the district school board, the Department of
11 Education, and the Auditor General. A management letter must
12 be prepared and included as a part of each financial audit
13 report. The Auditor General may, pursuant to his or her own
14 authority or at the direction of the Joint Legislative
15 Auditing Committee, conduct an audit of a charter school.

16 3. The Auditor General may at any time make financial
17 audits and performance audits of the accounts and records of
18 all governmental entities created pursuant to law. The audits
19 referred to in this subparagraph must be made whenever
20 determined by the Auditor General, whenever directed by the
21 Legislative Auditing Committee, or whenever otherwise required
22 by law or concurrent resolution. A district school board,
23 expressway authority, or bridge authority may require that the
24 annual financial audit of its accounts and records be
25 completed within 12 months after the end of its fiscal year.
26 If the Auditor General is unable to meet that requirement, the
27 Auditor General shall notify the school board, the expressway
28 authority, or the bridge authority pursuant to subparagraph 5.

29 4. The Office of Program Policy Analysis and
30 Government Accountability within the Office of the Auditor
31 General shall maintain a schedule of performance audits of

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1 state programs. In conducting a performance audit of a state
2 program, the Office of Program Policy Analysis and Government
3 Accountability, when appropriate, shall identify and comment
4 upon alternatives for accomplishing the goals of the program
5 being audited. Such alternatives may include funding
6 techniques and, if appropriate, must describe how other states
7 or governmental units accomplish similar goals.

8 5. If by July 1 in any fiscal year a district school
9 board or local governmental entity has not been notified that
10 a financial audit for that fiscal year will be performed by
11 the Auditor General pursuant to subparagraph 3., each
12 municipality with either revenues or expenditures of more than
13 \$250,000, each municipality that is in a state of financial
14 emergency as a consequence of one or more of the conditions
15 described in s. 218.503(1) with either revenues or
16 expenditures of more than \$100,000, each special district with
17 either revenues or expenditures of more than \$50,000, and each
18 county agency shall, and each district school board may,
19 require that an annual financial audit of its accounts and
20 records be completed, within 12 months after the end of its
21 respective fiscal year, by an independent certified public
22 accountant retained by it and paid from its public funds. An
23 independent certified public accountant who is selected to
24 perform an annual financial audit of a school district must
25 report directly to the district school board or its designee.
26 A management letter must be prepared and included as a part of
27 each financial audit report. Each local government finance
28 commission, board, or council, and each municipal power
29 corporation, created as a separate legal or administrative
30 entity by interlocal agreement under s. 163.01(7), shall
31 provide the Auditor General, within 12 months after the end of

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1 its fiscal year, with an annual financial audit report of its
2 accounts and records and a written statement or explanation or
3 rebuttal concerning the auditor's comments, including
4 corrective action to be taken. The county audit shall be one
5 document that includes a separate audit of each county agency.
6 The county audit must include an audit of the deposits into
7 and expenditures from the Public Records Modernization Trust
8 Fund. The Auditor General shall tabulate the results of the
9 audits of the Public Records Modernization Trust Fund and
10 report a summary of the audits to the Legislature annually.

11 6. The governing body of a municipality, special
12 district, or charter school must establish an auditor
13 selection committee and competitive auditor selection
14 procedures. The governing board may elect to use its own
15 competitive auditor selection procedures or the procedures
16 outlined in subparagraph 7.

17 7. The governing body of a noncharter county or
18 district school board that retains a certified public
19 accountant must establish an auditor selection committee and
20 select an independent certified public accountant according to
21 the following procedure:

22 a. For each noncharter county, the auditor selection
23 committee must consist of the county officers elected pursuant
24 to s. 1(d), Art. VIII of the State Constitution, and one
25 member of the board of county commissioners or its designee.

26 b. The committee shall publicly announce, in a uniform
27 and consistent manner, each occasion when auditing services
28 are required to be purchased. Public notice must include a
29 general description of the audit and must indicate how
30 interested certified public accountants can apply for
31 consideration.

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1 c. The committee shall encourage firms engaged in the
2 lawful practice of public accounting who desire to provide
3 professional services to submit annually a statement of
4 qualifications and performance data.

5 d. Any certified public accountant desiring to provide
6 auditing services must first be qualified pursuant to law. The
7 committee shall make a finding that the firm or individual to
8 be employed is fully qualified to render the required
9 services. Among the factors to be considered in making this
10 finding are the capabilities, adequacy of personnel, past
11 record, and experience of the firm or individual.

12 e. The committee shall adopt procedures for the
13 evaluation of professional services, including, but not
14 limited to, capabilities, adequacy of personnel, past record,
15 experience, results of recent external quality control
16 reviews, and such other factors as may be determined by the
17 committee to be applicable to its particular requirements.

18 f. The public must not be excluded from the
19 proceedings under this subparagraph.

20 g. The committee shall evaluate current statements of
21 qualifications and performance data on file with the
22 committee, together with those that may be submitted by other
23 firms regarding the proposed audit, and shall conduct
24 discussions with, and may require public presentations by, no
25 fewer than three firms regarding their qualifications,
26 approach to the audit, and ability to furnish the required
27 services.

28 h. The committee shall select no fewer than three
29 firms deemed to be the most highly qualified to perform the
30 required services after considering such factors as the
31 ability of professional personnel; past performance;

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1 willingness to meet time requirements; location; recent,
2 current, and projected workloads of the firms; and the volume
3 of work previously awarded to the firm by the agency, with the
4 object of effecting an equitable distribution of contracts
5 among qualified firms, provided such distribution does not
6 violate the principle of selection of the most highly
7 qualified firms. If fewer than three firms desire to perform
8 the services, the committee shall recommend such firms as it
9 determines to be qualified.

10 i. If the governing board receives more than one
11 proposal for the same engagement, the board may rank, in order
12 of preference, the firms to perform the engagement. The firm
13 ranked first may then negotiate a contract with the board
14 giving, among other things, a basis of its fee for that
15 engagement. If the board is unable to negotiate a
16 satisfactory contract with that firm, negotiations with that
17 firm shall be formally terminated, and the board shall then
18 undertake negotiations with the second-ranked firm. Failing
19 accord with the second-ranked firm, negotiations shall then be
20 terminated with that firm and undertaken with the third-ranked
21 firm. Negotiations with the other ranked firms shall be
22 undertaken in the same manner. The board, in negotiating with
23 firms, may reopen formal negotiations with any one of the
24 three top-ranked firms, but it may not negotiate with more
25 than one firm at a time. The board shall also negotiate on the
26 scope and quality of services. In making such determination,
27 the board shall conduct a detailed analysis of the cost of the
28 professional services required in addition to considering
29 their scope and complexity. For contracts over \$50,000, the
30 board shall require the firm receiving the award to execute a
31 truth-in-negotiation certificate stating that the rates of

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1 compensation and other factual unit costs supporting the
2 compensation are accurate, complete, and current at the time
3 of contracting. Such certificate shall also contain a
4 description and disclosure of any understanding that places a
5 limit on current or future years' audit contract fees,
6 including any arrangements under which fixed limits on fees
7 will not be subject to reconsideration if unexpected
8 accounting or auditing issues are encountered. Such
9 certificate shall also contain a description of any services
10 rendered by the certified public accountant or firm of
11 certified public accountants at rates or terms that are not
12 customary. Any auditing service contract under which such a
13 certificate is required must contain a provision that the
14 original contract price and any additions thereto shall be
15 adjusted to exclude any significant sums by which the board
16 determines the contract price was increased due to inaccurate
17 or incomplete factual unit costs. All such contract
18 adjustments shall be made within 1 year following the end of
19 the contract.

20 j. If the board is unable to negotiate a satisfactory
21 contract with any of the selected firms, the committee shall
22 select additional firms, and the board shall continue
23 negotiations in accordance with this subsection until an
24 agreement is reached.

25 8. At the conclusion of the audit field work, the
26 independent certified public accountant shall discuss with the
27 head of each local governmental entity or the chair's designee
28 or with the chair of the district school board or the chair's
29 designee, or with the chair of the board of the charter school
30 or the chair's designee, as appropriate, all of the auditor's
31 comments that will be included in the audit report. If the

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1 officer is not available to discuss the auditor's comments,
2 their discussion is presumed when the comments are delivered
3 in writing to his or her office. The auditor shall notify each
4 member of the governing body of a local governmental entity
5 for which deteriorating financial conditions exist which may
6 cause a condition described in s. 218.503(1) to occur if
7 actions are not taken to address such conditions.

8 9. The officer's written statement of explanation or
9 rebuttal concerning the auditor's comments, including
10 corrective action to be taken, must be filed with the
11 governing body of the local governmental entity, district
12 school board, or charter school within 30 days after the
13 delivery of the financial audit report.

14 10. The Auditor General, in consultation with the
15 Board of Accountancy, shall adopt rules for the form and
16 conduct of all financial audits subject to this section and
17 conducted by independent certified public accountants. The
18 Auditor General, in consultation with the Department of
19 Education, shall develop a compliance supplement for the
20 financial audit of a district school board conducted by an
21 independent certified public accountant. The rules for audits
22 of local governmental entities and district school boards must
23 include, but are not limited to, requirements for the
24 reporting of information necessary to carry out the purposes
25 of the Local Government Financial Emergencies Act as stated in
26 s. 218.501.

27 11. Any local governmental entity or district school
28 board financial audit report required under subparagraph 5. or
29 charter school financial audit report required under
30 subparagraph 2. and the officer's written statement of
31 explanation or rebuttal concerning the auditor's comments,

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

18 a. In the case of a local governmental entity,
19 district school board, or charter school, request the
20 Department of Revenue and the Department of Banking and
21 Finance to withhold any funds payable to such governmental
22 entity or charter school until the required financial audit is
23 received by the Auditor General.

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

29 12.a. The Auditor General, in consultation with the
30 Board of Accountancy, shall review all audit reports submitted
31 pursuant to subparagraph 11. The Auditor General shall request

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1 any significant items that were omitted in violation of a rule
2 adopted by the Auditor General. The items must be provided
3 within 45 days after the date of the request. If the Auditor
4 General does not receive the requested items, he or she shall
5 notify the Joint Legislative Auditing Committee.

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

26 c. The Auditor General shall annually compile and
27 transmit to the President of the Senate, the Speaker of the
28 House of Representatives, and the Joint Legislative Auditing
29 Committee a summary of significant findings and financial
30 trends identified in audits of local governmental entities,
31 district school boards, and charter schools performed by the

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1 independent certified public accountants.

2 13. In conducting a performance audit of any agency,
3 the Auditor General shall use the Agency Strategic Plan of the
4 agency in evaluating the performance of the agency.

5 (b) The Legislative Auditing Committee shall direct
6 the Auditor General to make a financial audit of any
7 municipality whenever petitioned to do so by at least 20
8 percent of the electors of that municipality. The supervisor
9 of elections of the county in which the municipality is
10 located shall certify whether or not the petition contains the
11 signatures of at least 20 percent of the electors of the
12 municipality. After the completion of the audit, the Auditor
13 General shall determine whether the municipality has the
14 fiscal resources necessary to pay the cost of the audit. The
15 municipality shall pay the cost of the audit within 90 days
16 after the Auditor General's determination that the
17 municipality has the available resources. If the municipality
18 fails to pay the cost of the audit, the Department of Revenue
19 shall, upon certification of the Auditor General, withhold
20 from that portion of the distribution pursuant to s.
21 212.20(6)(f)5.municipal financial assistance trust fund for
22 municipalities which is derived from the cigarette tax imposed
23 under chapter 210, and which is distributable to such
24 municipality,a sum sufficient to pay the cost of the audit
25 and shall deposit that sum into the General Revenue Fund of
26 the state.

27 Section 7. Paragraph (d) of subsection (1) of section
28 218.32, Florida Statutes, is amended to read:

29 218.32 Annual financial reports; local governmental
30 entities.--

31 (1)

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1 (d) Each local governmental entity that is required to
2 provide for an audit report in accordance with s.
3 11.45(3)(a)~~5.4~~ must submit the annual financial report with
4 the audit report. A copy of the audit report and annual
5 financial report must be submitted to the department within 45
6 days after the completion of the audit report but no later
7 than 12 months after the end of the fiscal year. All other
8 reporting entities must submit the annual financial report to
9 the department no later than April 30 of each year.

10 Section 8. Subsection (2) of section 218.321, Florida
11 Statutes, is amended to read:

12 218.321 Annual financial statements; local
13 governmental entities.--

14 (2) Each local governmental entity that is not
15 required to provide for an audit report in accordance with s.
16 11.45(3)(a)~~5.4~~ must complete its financial statements no
17 later than 12 months after the end of the fiscal year.

18 Section 9. Paragraph (a) of subsection (3) of section
19 311.07, Florida Statutes, is amended to read:

20 311.07 Florida seaport transportation and economic
21 development funding.--

22 (3)(a) Program funds shall be used to fund approved
23 projects on a 50-50 matching basis with any of the deepwater
24 ports, as listed in s. 403.021(9)(b), which is governed by a
25 public body or any other deepwater port which is governed by a
26 public body and which complies with the water quality
27 provisions of s. 403.061, the comprehensive master plan
28 requirements of s. 163.3178(2)(k), the local financial
29 management and reporting provisions of part III of chapter
30 218, and the auditing provisions of s. 11.45(3)(a)~~5.4~~. Program
31 funds also may be used by the Seaport Transportation and

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1 Economic Development Council to develop with the Florida Trade
2 Data Center such trade data information products which will
3 assist Florida's seaports and international trade.

4
5 (Redesignate subsequent sections.)

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7
8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On page 1, line 16, delete that line

11
12 and insert:

13 11.45, F.S.; correcting a cross-reference;
14 raising the threshold at which a municipality,
15 other than one in a state of financial
16 emergency, is required to have a financial
17 audit of its accounts and records conducted by
18 an independent certified public accountant in
19 order to continue to receive revenue sharing
20 funds;

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