

By Senator King

8-1431-00

See HB 731

1                                   A bill to be entitled  
2           An act relating to local government audits;  
3           amending s. 11.45, F.S.; correcting a  
4           cross-reference; raising the threshold at which  
5           a municipality, other than one in a state of  
6           financial emergency, is required to have a  
7           financial audit of its accounts and records  
8           conducted by an independent certified public  
9           accountant in order to continue to receive  
10          revenue sharing funds; amending ss. 218.32,  
11          218.321, and 311.07, F.S.; correcting  
12          cross-references; providing an effective date.

14 Be It Enacted by the Legislature of the State of Florida:

16           Section 1. Paragraph (a) of subsection (1) and  
17          paragraph (a) of subsection (3) of section 11.45, Florida  
18          Statutes, are amended to read:

19           11.45 Definitions; duties; audits; reports.--

20           (1) As used in this section, the term:

21           (a) "County agency," for the exclusive purposes of  
22          this section, means a board of county commissioners or other  
23          legislative and governing body of a county, however styled,  
24          including that of a consolidated or metropolitan government, a  
25          clerk of the circuit court, a separate or ex officio clerk of  
26          the county court, a sheriff, a property appraiser, a tax  
27          collector, a supervisor of elections, or any other officer in  
28          whom any portion of the fiscal duties of the above are under  
29          law separately placed. Each county agency is a local  
30          governmental entity for purposes of subparagraph (3)(a)5.4.

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1           (3)(a)1. The Auditor General shall annually make  
2 financial audits of the accounts and records of all state  
3 agencies, as defined in this section, of all district school  
4 boards in counties with populations of fewer than 125,000,  
5 according to the most recent federal decennial statewide  
6 census, and of all district boards of trustees of community  
7 colleges. The Auditor General shall, at least every other  
8 year, make operational audits of the accounts and records of  
9 all state agencies, as defined in this section. The Auditor  
10 General shall, at least once every 3 years, make financial  
11 audits of the accounts and records of all district school  
12 boards in counties with populations of 125,000 or more. For  
13 each of the 2 years that the Auditor General does not make the  
14 financial audit, each district school board shall contract for  
15 an independent certified public accountant to perform a  
16 financial audit as defined in paragraph (1)(b). This section  
17 does not limit the Auditor General's discretionary authority  
18 to conduct performance audits of these governmental entities  
19 as authorized in subparagraph 3. A district school board may  
20 select an independent certified public accountant to perform a  
21 financial audit as defined in paragraph (1)(b) notwithstanding  
22 the notification provisions of this section. In addition, a  
23 district school board may employ an internal auditor to  
24 perform ongoing financial verification of the financial  
25 records of a school district, who must report directly to the  
26 district school board or its designee. The Auditor General  
27 shall, at a minimum, provide to the successor independent  
28 certified public accountant of a district school board the  
29 prior year's working papers, including documentation of  
30 planning, internal control, audit results, and other matters  
31 of continuing accounting and auditing significance, such as

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

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

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.

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;

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

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

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,

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

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,  
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1 district school boards, and charter schools performed by the  
2 independent certified public accountants.

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

6 Section 2. Paragraph (d) of subsection (1) of section  
7 218.32, Florida Statutes, is amended to read:

8 218.32 Annual financial reports; local governmental  
9 entities.--

10 (1)

11 (d) Each local governmental entity that is required to  
12 provide for an audit report in accordance with s.

13 11.45(3)(a)5.4 must submit the annual financial report with  
14 the audit report. A copy of the audit report and annual  
15 financial report must be submitted to the department within 45  
16 days after the completion of the audit report but no later  
17 than 12 months after the end of the fiscal year. All other  
18 reporting entities must submit the annual financial report to  
19 the department no later than April 30 of each year.

20 Section 3. Subsection (2) of section 218.321, Florida  
21 Statutes, is amended to read:

22 218.321 Annual financial statements; local  
23 governmental entities.--

24 (2) Each local governmental entity that is not  
25 required to provide for an audit report in accordance with s.

26 11.45(3)(a)5.4 must complete its financial statements no  
27 later than 12 months after the end of the fiscal year.

28 Section 4. Paragraph (a) of subsection (3) of section  
29 311.07, Florida Statutes, is amended to read:

30 311.07 Florida seaport transportation and economic  
31 development funding.--

1           (3)(a) Program funds shall be used to fund approved  
2 projects on a 50-50 matching basis with any of the deepwater  
3 ports, as listed in s. 403.021(9)(b), which is governed by a  
4 public body or any other deepwater port which is governed by a  
5 public body and which complies with the water quality  
6 provisions of s. 403.061, the comprehensive master plan  
7 requirements of s. 163.3178(2)(k), the local financial  
8 management and reporting provisions of part III of chapter  
9 218, and the auditing provisions of s. 11.45(3)(a)5.4-Program  
10 funds also may be used by the Seaport Transportation and  
11 Economic Development Council to develop with the Florida Trade  
12 Data Center such trade data information products which will  
13 assist Florida's seaports and international trade.

14           Section 5. This act shall take effect July 1, 2000.

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LEGISLATIVE SUMMARY

Raises the threshold at which a municipality, other than one in a state of financial emergency, is required to have a financial audit of its accounts and records conducted by an independent certified public accountant in order to continue to receive revenue sharing funds.