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Bill No. CS for CS for CS for SB 414

Amendment No. (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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3		.	
4		.	

ORIGINAL STAMP BELOW

Representative(s) Sorensen offered the following:

Amendment to Amendment (435613) (with title amendment)

Between page 2, line 31 and page 3, line 1,

insert:

Section 2. Paragraph (a) of subsection (1) and paragraph (a) of subsection (3) of section 11.45, Florida Statutes, are amended to read:

11.45 Definitions; duties; audits; reports.--

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

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

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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. Each of the following governmental entities shall
9 be required to have an annual financial audit of its accounts
10 and records completed within 12 months after the end of its
11 fiscal year by an independent certified public accountant
12 retained by it and paid from its public funds:

13 a. Each municipality with either revenues or
14 expenditures of more than \$250,000.

15 b. Each special district with either revenues or
16 expenditures of more than \$50,000.

17 c. Each county.

18 d. Each district school board.

19 e. Each municipality with revenues or expenditures
20 between \$100,000 and \$250,000 that has not been subject to a
21 financial audit pursuant to this subparagraph within the last
22 three years.

23
24 Each local governmental entity that is not required to provide
25 for an audit in accordance with this subparagraph must submit
26 a copy of its financial statements prepared in accordance s.
27 218.321 to the Auditor General within 12 months after the end
28 of its fiscal year. Any local governmental entity that fails
29 to submit its financial statements in accordance with this
30 subparagraph is subject to the penalty provisions prescribed
31 in subparagraph 11. If by July 1 in any fiscal year a district

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1 ~~school board or local governmental entity has not been~~
2 ~~notified that a financial audit for that fiscal year will be~~
3 ~~performed by the Auditor General pursuant to subparagraph 3.,~~
4 ~~each municipality with either revenues or expenditures of more~~
5 ~~than \$100,000, each special district with either revenues or~~
6 ~~expenditures of more than \$50,000, and each county agency~~
7 ~~shall, and each district school board may, require that an~~
8 ~~annual financial audit of its accounts and records be~~
9 ~~completed, within 12 months after the end of its respective~~
10 ~~fiscal year, by an independent certified public accountant~~
11 ~~retained by it and paid from its public funds. An independent~~
12 certified public accountant who is selected to perform an
13 annual financial audit of a school district must report
14 directly to the district school board or its designee. A
15 management letter must be prepared and included as a part of
16 each financial audit report. Each local government finance
17 commission, board, or council, and each municipal power
18 corporation, created as a separate legal or administrative
19 entity by interlocal agreement under s. 163.01(7), shall
20 provide the Auditor General, within 12 months after the end of
21 its fiscal year, with an annual financial audit report of its
22 accounts and records and a written statement or explanation or
23 rebuttal concerning the auditor's comments, including
24 corrective action to be taken. The county audit shall be one
25 document that includes a separate audit of each county agency.
26 The county audit must include an audit of the deposits into
27 and expenditures from the Public Records Modernization Trust
28 Fund. The Auditor General shall tabulate the results of the
29 audits of the Public Records Modernization Trust Fund and
30 report a summary of the audits to the Legislature annually.

31 6. The governing body of a municipality, special

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1 district, or charter school must establish an auditor
2 selection committee and competitive auditor selection
3 procedures. The governing board may elect to use its own
4 competitive auditor selection procedures or the procedures
5 outlined in subparagraph 7.

6 7. The governing body of a noncharter county or
7 district school board that retains a certified public
8 accountant must establish an auditor selection committee and
9 select an independent certified public accountant according to
10 the following procedure:

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

15 b. The committee shall publicly announce, in a uniform
16 and consistent manner, each occasion when auditing services
17 are required to be purchased. Public notice must include a
18 general description of the audit and must indicate how
19 interested certified public accountants can apply for
20 consideration.

21 c. The committee shall encourage firms engaged in the
22 lawful practice of public accounting who desire to provide
23 professional services to submit annually a statement of
24 qualifications and performance data.

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

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1 e. The committee shall adopt procedures for the
2 evaluation of professional services, including, but not
3 limited to, capabilities, adequacy of personnel, past record,
4 experience, results of recent external quality control
5 reviews, and such other factors as may be determined by the
6 committee to be applicable to its particular requirements.

7 f. The public must not be excluded from the
8 proceedings under this subparagraph.

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

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

30 i. If the governing board receives more than one
31 proposal for the same engagement, the board may rank, in order

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

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1 customary. Any auditing service contract under which such a
2 certificate is required must contain a provision that the
3 original contract price and any additions thereto shall be
4 adjusted to exclude any significant sums by which the board
5 determines the contract price was increased due to inaccurate
6 or incomplete factual unit costs. All such contract
7 adjustments shall be made within 1 year following the end of
8 the contract.

9 j. If the board is unable to negotiate a satisfactory
10 contract with any of the selected firms, the committee shall
11 select additional firms, and the board shall continue
12 negotiations in accordance with this subsection until an
13 agreement is reached.

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

28 9. The officer's written statement of explanation or
29 rebuttal concerning the auditor's comments, including
30 corrective action to be taken, must be filed with the
31 governing body of the local governmental entity, district

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1 school board, or charter school within 30 days after the
2 delivery of the financial audit report.

3 10. The Auditor General, in consultation with the
4 Board of Accountancy, shall adopt rules for the form and
5 conduct of all financial audits subject to this section and
6 conducted by independent certified public accountants. The
7 Auditor General, in consultation with the Department of
8 Education, shall develop a compliance supplement for the
9 financial audit of a district school board conducted by an
10 independent certified public accountant. The rules for audits
11 of local governmental entities and district school boards must
12 include, but are not limited to, requirements for the
13 reporting of information necessary to carry out the purposes
14 of the Local Government Financial Emergencies Act as stated in
15 s. 218.501.

16 11. Any local governmental entity or district school
17 board financial audit report required under subparagraph 5. or
18 charter school financial audit report required under
19 subparagraph 2. and the officer's written statement of
20 explanation or rebuttal concerning the auditor's comments,
21 including corrective action to be taken, must be submitted to
22 the Auditor General within 45 days after delivery of the audit
23 report to the local governmental entity, district school
24 board, or charter school, but no later than 12 months after
25 the end of the fiscal year. If the Auditor General does not
26 receive the financial audit report within the prescribed
27 period, he or she must notify the Legislative Auditing
28 Committee that the governmental entity or charter school has
29 not complied with this subparagraph. Following notification of
30 failure to submit the required audit report or items required
31 by rule adopted by the Auditor General, a hearing must be

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1 scheduled by rule of the committee. After the hearing, the
2 committee shall determine which governmental entities or
3 charter schools will be subjected to further state action. If
4 it finds that one or more governmental entities or charter
5 schools should be subjected to further state action, the
6 committee shall:

7 a. In the case of a local governmental entity,
8 district school board, or charter school, request the
9 Department of Revenue and the Department of Banking and
10 Finance to withhold any funds payable to such governmental
11 entity or charter school until the required financial audit is
12 received by the Auditor General.

13 b. In the case of a special district, notify the
14 Department of Community Affairs that the special district has
15 failed to provide the required audits. Upon receipt of
16 notification, the Department of Community Affairs shall
17 proceed pursuant to ss. 189.421 and 189.422.

18 12.a. The Auditor General, in consultation with the
19 Board of Accountancy, shall review all audit reports submitted
20 pursuant to subparagraph 11. The Auditor General shall request
21 any significant items that were omitted in violation of a rule
22 adopted by the Auditor General. The items must be provided
23 within 45 days after the date of the request. If the Auditor
24 General does not receive the requested items, he or she shall
25 notify the Joint Legislative Auditing Committee.

26 b. The Auditor General shall notify the Governor and
27 the Joint Legislative Auditing Committee of any audit report
28 reviewed by the Auditor General which contains a statement
29 that the local governmental entity or district school board is
30 in a state of financial emergency as provided in s. 218.503.
31 If the Auditor General, in reviewing any audit report,

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1 identifies additional information which indicates that the
2 local governmental entity or district school board may be in a
3 state of financial emergency as provided in s. 218.503, the
4 Auditor General shall request appropriate clarification from
5 the local governmental entity or district school board. The
6 requested clarification must be provided within 45 days after
7 the date of the request. If the Auditor General does not
8 receive the requested clarification, he or she shall notify
9 the Joint Legislative Auditing Committee. If, after obtaining
10 the requested clarification, the Auditor General determines
11 that the local governmental entity or district school board is
12 in a state of financial emergency as provided in s. 218.503,
13 he or she shall notify the Governor and the Joint Legislative
14 Auditing Committee.

15 c. The Auditor General shall annually compile and
16 transmit to the President of the Senate, the Speaker of the
17 House of Representatives, and the Joint Legislative Auditing
18 Committee a summary of significant findings and financial
19 trends identified in audit reports or financial statements
20 submitted by ~~audits of~~ local governmental entities, district
21 school boards, and charter schools ~~performed by the~~
22 ~~independent certified public accountants~~.

23 d. The Auditor General, for local governmental
24 entities not required to provide for an audit, shall review
25 financial statements prepared in accordance with s. 218.321
26 and submitted pursuant to subparagraph 5. If the Auditor
27 General's review discloses any indication that such financial
28 statements have not been prepared in accordance with generally
29 accepted accounting principles, the Auditor General shall
30 request that the local governmental entity provide revised
31 financial statements that are in accordance with generally

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1 accepted accounting principles. If the Auditor General does
2 not receive the requested revised financial statements, he or
3 she will notify the Department of Banking and Finance and the
4 Legislative Auditing Committee. Any local governmental entity
5 that fails to provide the requested financial statements in
6 accordance with this subparagraph is subject to the penalty
7 provisions prescribed in subparagraph 11. If the Auditor
8 General, in reviewing these financial statements, identifies
9 information which indicates that the local governmental entity
10 may be in a state of financial emergency as provided in s.
11 218.503, the Auditor General shall request appropriate
12 clarification from the local governmental entity. The
13 requested clarification must be provided within 45 days after
14 the date of the request. If the Auditor General does not
15 receive the requested clarification, he or she shall notify
16 the Legislative Auditing Committee. Any local governmental
17 entity that fails to provide the requested clarification in
18 accordance with this subparagraph is subject to the penalty
19 provisions prescribed in subparagraph 11. If, after obtaining
20 the requested clarification, the Auditor General determines
21 that the local governmental entity is in a state of financial
22 emergency as provided in s. 218.503, he or she shall notify
23 the Governor and the Legislative Auditing Committee.

24 13. In conducting a performance audit of any agency,
25 the Auditor General shall use the Agency Strategic Plan of the
26 agency in evaluating the performance of the agency.

27 Section 3. 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 4. 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. The
 18 financial statements must be submitted to the Auditor General
 19 within 12 months after the end of the fiscal year.

20 Section 5. Paragraph (a) of subsection (3) of section
 21 311.07, Florida Statutes, is amended to read:

22 311.07 Florida seaport transportation and economic
 23 development funding.--

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

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1 218, and the auditing provisions of s. 11.45(3)(a)~~5.4~~. Program
 2 funds also may be used by the Seaport Transportation and
 3 Economic Development Council to develop with the Florida Trade
 4 Data Center such trade data information products which will
 5 assist Florida's seaports and international trade.

6
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 3, line 19, of the amendment

11

12 after the second semicolon, insert:

13 amending s. 11.45, F.S.; correcting a
 14 cross-reference; providing for certain
 15 governmental entities to have annual financial
 16 audits under certain circumstances; providing
 17 requirements; requiring certain governmental
 18 entities to submit copies of financial audits
 19 to the Auditor General under certain
 20 circumstances; providing a penalty for failure
 21 to comply; requiring the Auditor General to
 22 review certain financial statements of certain
 23 local governmental entities; providing duties
 24 of the Auditor General; providing procedures;
 25 providing penalties for certain failures of
 26 local governmental entities to comply with
 27 requests for information by the Auditor
 28 General; amending s. 218.32, F.S.; correcting
 29 cross references; amending s. 218.321, F.S.;
 30 correcting cross references; requiring
 31 submission of certain financial statements to

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the Auditor General by a time certain each
year; amending s. 311.07, F.S.; correcting
cross references;