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HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS

BILL #: HB 1979 (PCB LGVA 02-02)

RELATING TO: Local Government Accountability

SPONSOR(S): Committee on Local Government & Veterans Affairs and Representative Sorensen

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) LOCAL GOVERNMENT & VETERANS AFFAIRS YEAS 9 NAYS 0
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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This proposed committee bill addresses issues of local government financial accountability based on the Auditor General's performance audit of the Local Government Financial Reporting System (AG Report 01-075) and recommendations from other state agencies and local governments. The bill revises the Local Government Financial Emergencies Act to reflect new accounting standards, to provide for an improved process for designating local governments as being in a financial emergency, and to clarify the applicability of the financial emergency law to district school boards. The bill simplifies statutory provisions relating to the filing of complaints for bond validation and bond refunding issues. Notification requirements for counties to report missing county officer fee reports are amended to match current practice. The bill requires information to clarify classification of special districts upon creation, and clarifies procedures for dissolving municipalities and special districts. Additional authority is provided to the Department of Management Services, Division of Retirement, to compel local governments to respond timely to requests for actuarial information for local pension plans. Procedures are provided for amending budgets of municipalities and special districts. The bill also revises the requirements for annual audits of direct support organizations and citizen support organizations.

This bill should result in modest cost savings for state agencies. The bill has no direct fiscal impact on local governments. Reinstating the threshold for an annual independent financial audit for Citizen Support Organizations (CSOs) and Direct Support Organizations (DSOs) with more than at $100,000 in expenses will save exempted organizations the cost of such audits. These organizations support state agencies, district school boards, the state university system, and the community college system.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes [X]	No []	N/A []
2.	Lower Taxes	Yes []	No []	N/A [X]
3.	Individual Freedom	Yes []	No []	N/A [X]
4.	Personal Responsibility	Yes []	No []	N/A [X]
5.	Family Empowerment	Yes []	No []	N/A [X]

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

The Local Government Financial Emergencies Act

Chapter 218, part V, F.S., known as the Local Government Financial Emergencies Act, was enacted to preserve and protect the fiscal solvency of local government entities, to assist local governmental entities in providing essential services without interruption and in meeting their financial obligations, and to assist local governmental entities through the improvement of local financial management procedures. Section 218.503(1), F.S., provides that a local governmental entity is in a state of financial emergency if one or more specified conditions occur.

One of the financial emergency conditions, as prescribed by Section 218.503(1)(d), F.S., is the occurrence of a total or unreserved fund balance or retained earnings deficit for two consecutive years for which there are not sufficient resources available to cover the deficits. This language has resulted in much confusion to local governments and auditors as to what constitutes a financial emergency. This has resulted in a significant amount of effort being expended by the local governments, auditors, Auditor General’s staff, and Governor’s office.

Because of the above-noted condition, a local government may be determined to be in a statutory state of financial emergency as a result of the application of certain accounting practices, yet not actually experiencing a financial crisis. This could result in unwarranted adverse publicity for a local government. Currently, failure to make short-term loan or bond payments constitutes a financial emergency, yet failure to make other long-term debt payments, or payments to creditors for uncontested claims, does not. The condition prescribed by current s. 218.503(1)(e), F.S., appears to be too broad as it could result in a financial emergency due to technical noncompliance with an actuarial condition.

Under current law, the Auditor General (AG) has responsibilities related to notifying the Governor and Joint Legislative Auditing Committee (JLAC) of reported and unreported financial emergencies. Such responsibilities require AG staff to contact many local government officials or auditors. Also, AG staff is often consulted by JLAC and Governor’s Office staff regarding potential financial condition/financial emergency situations.

Filing Complaints for Bond Validation

Section 75.05(3), F.S., requires independent special districts to submit to the State Board of Administration, Division of Bond Finance (Division), copies of complaints for bond validation filed pursuant to s. 75.02, F.S. Section 218.37(1)(h), F.S., requires the Division to use the complaints to verify compliance with the provisions of s. 218.38, F.S., which requires that local governments provide information concerning debt-financing activities. The Division has established other effective means for ensuring that local governments file the required bond information. For example, the Division reviews a weekday periodical, the Bond Buyer, to verify that the required information has been submitted by local governments that have issued bonds.

Refunding Issues

Pursuant to Article VII, Section 12 of the State Constitution, counties, municipalities, and special districts with taxing powers may issue bonds, certificates of indebtedness, or any other form of tax anticipation certificates, payable from ad valorem taxation and maturing more than 12 months after issuance only: (1) to finance or refinance capital projects authorized by law and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation or (2) to refund outstanding bonds and interest and redemption premium thereon at a lower net average interest cost rate. Certain Florida Statutes (e.g., ch.s 130, 131, 132, and 166, part II, F.S.) and special acts of the Legislature grant local governments the authority to issue bonds.

In 1980 the Legislature enacted s. 218.385, F.S., which requires that local government general obligation and revenue bonds be sold at public sale by competitive bids unless the governing body determines by resolution that a negotiated sale of such bonds is in the best interest of the issuer. The Legislature has recognized that there may be legitimate circumstances under which a negotiated sale is preferable over a competitive bid sale. However, ch. 131 and ch. 132, F.S., with respect to refunding issues, include provisions that differ from the provisions of s. 218.385, F.S., and/or other laws granting local governments the authority to issue bonds, and could inhibit a local government's ability to issue refunding bonds, or to issue such bonds by negotiated sale. These differing provisions are as follows:

- Chapter 131, F.S., provides that refunding bonds may be issued within three months prior to the date of maturity of the obligations proposed to be refunded or within three months prior to the callable date. However, other laws authorizing local government bond issues such as ch. 130 and ch.166, part II, F.S., do not include language that restricts when refunding bonds may be issued. Therefore, local governments that issue refunding bonds pursuant to ch.131, F.S., may be subjected to more restrictions than those local governments that issue refunding bonds under other laws that authorize local government bond issues.

- Section 132.09, F.S., provides that local governments may issue refunding bonds through negotiated sale only after attempting to issue bonds by competitive bid at a public sale using detailed procedures as described therein. If all bids are rejected, the local government may sell bonds by negotiated sale provided that the terms are more favorable than each of the bids rejected at the public sale. Therefore, for those local governments that issue refunding bonds pursuant to ch. 132, F.S., an apparent conflict exists with s. 218.385, F.S., which requires only that a resolution be adopted by the governing body authorizing a negotiated sale.

The differences that currently exist among ch. 130, 131, 132, and 166, F.S., s. 218.385, F.S., and other laws authorizing local government bond issues could result in unnecessary restrictions being placed on local governments regarding bond issues.

County Officer Fee Reports

Section 218.36(1), F.S., requires each county officer who receives any expenses or compensation in fees, commissions, or other remuneration to keep a complete record of all such amounts received and make an annual report to the board of county commissioners within 31 days of the close of the fiscal year. Pursuant to s. 218.36(3), F.S., the board of county commissioners is required to notify the Governor of the failure of any county officer to comply with the provisions of s. 218.36(1), F.S., even if such failure is a one-day delay in the filing of the report. Such notification shall subject said officer to suspension from the office at the Governor's discretion.

According to AG report number 01-075, although notification requirements provided for in s. 18.36(3), F.S., have existed since 1973, Executive Office of the Governor (EOG) records did not disclose evidence of, and EOG staff were not aware of, any instances where a board of county commissioners had notified the Governor of a county officer's noncompliance with s. 218.36(1), F.S. In addition, their survey of 66 counties, to which 40 responded to the survey, disclosed 14 instances (in 8 counties) in which county officers did not comply with the filing deadline imposed by s. 218.36(1), F.S., for the 1998-99 fiscal year.

There is no apparent benefit to be derived by requiring a board of county commissioners to notify the Governor of a county officer's noncompliance with the reporting requirement imposed by s. 218.36(1), F.S., particularly when such notification is required to occur only one day after the report deadline.

Classification of Special Districts

Florida law provides for the establishment of special districts to perform specific governmental functions such as water management, community development, fire control, mosquito control, and health care. Recognizing the importance of special districts to the delivery of government services to the citizens of the State of Florida, the Legislature has enacted laws intended to establish accountability on the part of special districts. Chapter 189, F.S., contains general provisions for the definition, creation, and operation of special districts and creates the Special District Information Program (SDIP) within the Florida Department of Community Affairs (DCA).

Section 189.412, F.S., sets forth the SDIP's responsibilities regarding special districts. The SDIP serves a vital role in administering the Local Government Financial Reporting System (System). For example, the SDIP is responsible for maintaining an Official List of Special Districts, which is used by many State and local officials (including the Auditor General in making a determination as to which special districts are required to provide for an annual audit). In addition, the SDIP has established procedures for following up on special districts reported as not being in compliance with the various reporting requirements established in ch. 218, part III, F.S.

According to the SDIP, there were 518 dependent and 562 independent special districts in the State of Florida as of February 1, 2002. The proper classification of special districts as either dependent or independent is important because legal and accountability requirements differ depending on a special district's classification. For example, dependent special districts may be audited as part of another local governmental entity (i.e., county or municipality) whereas independent special districts meeting the audit threshold established by s. 11.45(3)(a), F.S., must provide for a separate audit.

Section 189.403, F.S., distinguishes special districts as either dependent or independent. A dependent special district is defined as a special district that meets at least one of several criteria, including a criterion that specifies that all members of its governing body are appointed by the governing body of a single county or a single municipality. An independent special district is defined as a special district that is not a dependent special district as defined in law. In addition, a special district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

The SDIP is responsible for classifying special districts in a manner consistent with s. 189.403, F.S. Section 189.418(1), F.S., could be enhanced, however, to clarify the need for special districts to provide the SDIP with a statement as to the status of the special district as dependent or independent, and the basis for such classification.

Dissolution of Municipalities/Financial Reporting

Section 165.052(1), F.S., requires that the Florida Secretary of State, by proclamation, declare inactive any municipality in the State upon a report being filed by DCA showing that such municipality is no longer active based on certain criteria specified therein. According to Auditor General audit report No. 13083, paragraph 169, 19 municipalities created by special act of the Legislature appear to be no longer active but have not been officially dissolved.

DCA staff indicated that inactive municipalities were not a programmatic responsibility of the DCA, and that the DCA does not have the staff capacity to research this issue nor is it required by the statutes to notify the Florida Secretary of State. According to DCA staff, it would cost nearly $225,000 to have these municipalities declared inactive under the provisions of s. 165.052(1), F.S.

Dissolution of Special Districts

Section 189.4044, F.S., requires DCA to declare inactive any special district in this state by filing a report with the Speaker of the House of Representatives and President of the Senate, based on two years of inactivity, and that notice of the proposed declaration had been published in a newspaper of general circulation once a week for two weeks within the county or municipality wherein the territory of the special district is located. Sixty days after the last publication of the proposed declaration is allowed for any claims against assets of the special district to be filed with DCA. After the district is declared inactive, and all payments of debts of the special district are resolved, the remainder of its property or assets escheat to the county or municipality wherein located. DCA must notify the Speaker of the House of Representatives and President of the Senate of each special act creating or amending the charter of any special district declared to be inactive. A special district declared inactive must be dissolved by repeal of its enabling laws.

DCA staff indicated that costs of publication of two notices of inactivity is burdensome and the time allowed for claims against assets of the special district to be filed with DCA after publication of notice is excessive.

Section 189.421, F.S., requires DCA to investigate non compliance of special districts to report financial information filed when notified by entities that are required to receive such information pursuant to s. 189.419, F.S. If DCA determines that the special district has made a good faith effort to comply with the reporting requirement, it must grant a reasonable time for filing the required reports and notify the special district of the granting of the extension. If DCA determines that the special district has not made a good faith effort to comply with the reporting requirement or the special district has not responded to its notice to the district of non compliance, DCA may request an administrative hearing, pursuant to ss. 120.569 and 120.57, F.S., on the question of the inactivity of the district. Notice of the hearing must be served on the district's registered agent and published at least once a week for 2 successive weeks prior to the hearing in a newspaper of general circulation in the area affected. The notice must state the time, place, and nature of the hearing and that all interested parties may appear and be heard. Within 30 days of the hearing, the administrative law judge must file a report with the department in the manner provided in ch. 120, F.S.

Department of Management Services, Division of Retirement, Oversight of Local Governments Pension Plans

Chapter 112, part VII, F.S., the Florida Protection of Public Employee Retirement Benefits Act, is designated by s. 11.45(3)(c), F.S., as a component of the Local Government Financial Reporting System (System). Chapter 112, part VII, F.S., includes general provisions regarding the management, administration, operation, and funding of governmental retirement systems. Responsibility for administration of the Florida Protection of Public Employee Retirement Benefits Act has been assigned primarily to the Florida Department of Management Services, Division of Retirement (Division). The Division's Bureau of Local Retirement Systems is responsible for reviewing actuarial reports and impact statements for general employee, police, and fire retirement plans. The Bureau currently has a staff of 11 employees, including one full-time actuary, to carry out its responsibilities.

For local governments that have established retirement systems for their employees, proper management and adequate funding of those systems is vital. To help ensure that local governments maintain funding of retirement systems at an appropriate level, local governments are required to submit regularly scheduled actuarial reports to the Division for its review and approval.

As provided by s. 112.61, F.S., the intent of the Legislature is to prohibit the use of any procedure, methodology, or assumptions, the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers and to establish minimum standards for the operation and funding of public employee retirement systems and plans.

In those instances in which a local government does not submit complete and adequate data necessary for the Division of Retirement to perform its statutorily required functions, the Division requests additional information needed to determine and ensure the actuarial soundness of the local government's pension plans or requests a clarification of the information submitted. This additional information may include, for example, legal clarification, copies of ordinances, and/or explanations of logic. These requests may or may not result in the Division rejecting the actuarial reports. In addition, the Division, upon completing a review, may notify the local government about concerns it has regarding the actuarial soundness of a plan(s).

Auditor General Report No. 01-075 disclosed that many local governments have not timely responded to the Division's notifications. According to Division records, 21 local governments had been sent written requests for additional information regarding 74 actuarial reports or impact statements relating to 26 plans without a response (the requests/notifications had been sent from 1 to 55 months prior to August 31, 2000). These included 6 local governments, regarding 17 actuarial reports or impact statements relating to 7 plans, that had been notified that their plans were currently not State-accepted (i.e., the plans were not accepted as being actuarially sound).

Municipality and Special District Budget Amendment Procedures

While State law specifically addresses budget amendments for counties, similar statutory guidance does not exist for municipalities and special districts. Sections 166.241(3) and 218.34(1), F.S., require municipalities and special districts, respectively, to adopt a budget; however, these sections do not address whether municipalities and special districts can amend the budget, the manner in which the budget may be amended, or the time frame in which the budget may be amended. In some instances, a municipality's or special district's charter may address budget amendments; however, in other instances, the charter is silent or unclear, creating confusion as to whether budget amendments are permitted, how the amendments are to be done, and the time frame in which budget amendments may be made. This situation could result in governing bodies of municipalities and special districts making unauthorized budget amendments or failing to make necessary budget amendments.

Audits of Direct-Support Organizations and Citizen Support Organizations

Citizen Support Organizations (CSOs) and Direct Support Organizations (DSOs) are not for profit corporations which have been created to provide support for state agencies, district school boards, the state university system, and the community college system. These organizations are authorized to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in their own names, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the entities they support.

Because CSOs and DSOs often have limited financial resources and expenditures, until recently some were not required to have an annual audit conducted by an independent certified public accountant. Due to the expense of a typical audit, only CSOs and DSOs having annual expenditures of $100,000 or more were required to have such an independent audit. However, in enacting s. 22 of ch. 2001-266, L.O.F., the 2001 Legislature deleted the exemption from audits for CSOs and DSOs having annual expenditures of less than $100,000. The deleted provisions were included in an omnibus bill (SB 822) primarily relating to auditing matters. The bill consolidated a number of provisions of law establishing CSO and DSO audit requirements into four provisions, i.e., ss. 215.981, 237.40(4), 240.299(5), and 240.331(6), F.S. In these provisions, no such organizations were exempted from audit requirements.

For some CSOs and DSOs the cost of the required audit may exceed annual revenues. The Joint Legislative Auditing Committee estimates that a typical CSO or DSO audit would cost $1,500-$5,000.

C. EFFECT OF PROPOSED CHANGES:

The Local Government Financial Emergencies Act (Chapter 218, Part V, Florida Statutes)

Sections 218.50, 218.501, 218.502, 218.503, 218.504, F.S. are amended to clarify that district school boards are subject to the oversight of the Commissioner of Education. Local government entities and district school boards, in determination of financial emergencies, will be subject to review and oversight by the Governor, or the Commissioner of Education for district school boards. In addition, s. 218.503, F.S., is amended to adjust criteria that trigger notification of financial concerns to conform with changes to new accounting standards (GASB 34). Notification does not result in automatic labeling of a school district board or local government as being in a financial emergency. Further review is allowed before a determination of a financial emergency is made.

Sections 11.45, 163.05, 189.428, 218.075, F.S., are amended and section 189.409, F.S. is repealed to conform to revisions to ch. 218, part V, F.S.

Filing Complaints for Bond Validation

Sections 75.05, 218.37, F.S. are amended to eliminate unnecessary bond validation reporting requirements by special districts and their use by the State Board of Administration, Division of Bond Finance. Also, reference to an Advisory Council to the State Board of Administration that no longer exists is deleted from s. 218.37, F.S.

Bonds/Refunding Issues

Section 218.369, F.S. is amended to include "school district" in the term "unit of local government" as it relates to refunding in ss. 218.37-218.386, F.S. Section 132.10, F.S., is repealed to eliminate obsolete or conflicting language. Section 130.04, F.S., is amended to delete existing provisions governing notice of bids and disposition of county bonds authorized by the result of an election, and to require the sell of such bonds in the manner provided in s. 218.385, F.S. Section 130.04, F.S., is amended to delete existing provisions governing notice of bids and disposition of county bonds authorized as the result of an election, and to require the sell of such bonds in the manner provided in s. 218.385, F.S. Section 132.09, F.S., is amended to provide for the sale of county refunding bonds in the manner provided in s. 218.385, F.S. Section 166.121, F.S., is amended to require the issuance of bonds by municipalities to be consistent with s. 218.385, F.S. Section 189.439, F.S., is amended to authorize special districts to sale bonds in the manner provided in s. 218.385, F.S. Section 236.43, F.S., is amended to delete provisions governing the sale of district school board bonds authorized by election, and to require the sale of such bonds in the manner provided in s. 218.385, F.S. In addition, ch. 131, F.S., relating to refunding bonds by counties, municipalities, and special districts is repealed to provide for the issuance of refunding bonds through 218.35, F.S.

County Officer Fee Reports

Section 218.36, F.S., is amended to conform law to current practice. The amendment authorizes, rather than requires, a board of county commissioners to notify the Governor when a board of county commissioners is unable to obtain county officer fee reports in a timely manner.

Classification of Special Districts

Section 189.418, F.S., is amended to require that when a new special district is created, a written statement be provided to DCA that includes a reference to the status of the special district as dependent or independent and the basis for such classification.

Dissolution of Municipalities

Section 218.32, F.S., is amended to require the Department of Banking and Finance to notify the President of the Senate and the Speaker of the House of Representatives of any municipality that has not had financial activity for the last four fiscal years. Such notice shall be sufficient to initiate dissolution procedures described within s. 165.051(1)(a), F.S. Any special law authorizing the incorporation or creation of said municipality must be included within the notification.

Dissolution of Special Districts/Financial Reporting

Section 189.4044, F.S., is amended to clarify special procedures for inactive districts for the DCA and special districts. Provisions clarify and streamline procedures for declaring a special district inactive and dissolving it. DCA is required to declare inactive any special district in this state by documenting the following:

- If notified by the districts' registered agent, or chair of the district's governing body, or the governing body of the appropriate local general-purpose government in writing that the district has taken no action for two or more years; or,

- Following an inquiry from DCA, if notified by the districts' registered agent, or chair of the district's governing body, or the governing body of the appropriate local general-purpose government in writing that the district has not had a governing board or a sufficient number of governing board members to constitute a quorum for two or more years, rather than 18 months, or

- Following an inquiry from the DCA, the districts' registered agent, or chair of the district's governing body, or the governing body of the appropriate local general-purpose government fails to respond within twenty-one days; or

- DCA determines, pursuant to 189.421, F.S., that the district has failed to file any of the financial reports listed in s. 189.419, F.S.

The DCA, special district, or general-purpose government must publish a notice of the Proposed Declaration of Inactive Status, once, rather than twice, in a newspaper of general circulation within the county or municipality wherein the territory of the special district is located. However, a copy of such notice must be sent by certified mail to the registered agent or of the board, if any. Any objections must be filed pursuant to ch. 120, F.S., within twenty-one days of the publication date, rather than sixty days.

Section 189.412. F.S., relating to the Special District Information Program, is amended to correct cross references and create duties for providing assistance to general–purpose governments and certain state agencies in collecting delinquent reports or information, helping special districts comply with reporting requirements, declaring special districts inactive when appropriate, and, when directed by the Legislative Auditing Committee, initiating enforcement provisions as provided in ss. 189.4044, 189.419, and 189.421, F.S.

Section 189.419, F.S., is amended to clarify language relating to the effect of failure to file certain reports and to make technical cross-referencing changes.

Section 189.421, F.S., is amended to specify the duties of DCA in contacting and assisting special districts when notified pursuant to s.189.419, F.S. or s. 11.40(5)(b), F.S., that required financial reports are not filed. Failure of special districts to comply with financial reporting requirements after such actions by DCA must be remedied by writ of certiorari with the Circuit Court of Leon County, Florida.

Section 11.40, F. S., is amended to give the Legislative Auditing Committee the authority to direct, as opposed to request, the Department of Revenue and the Department of Banking and Finance to withhold any funds not pledged for bond debt service satisfaction which are payable to local entities which fail to provide financial reports to the state pursuant to s. 11.45(5)-(7) and s. 218.32(1), F.S.

Department of Management Services, Division of Retirement, Oversight of Local Governments Pension Plans

Section 112.625, F. S., is amended to add county and district school board to the definition of "governmental entity" which is the employer of the member of a local retirement system. This clarifies reporting responsibilities of these entities.

Section 112.63, F. S., is amended to provide for the timely response to requests for additional information, to delete the existing administrative law remedy; and, to direct the Department of Revenue and the Department of Banking and Finance to withhold funds that are payable to the affected local retirement system's or plan's sponsor until the Department of Management Services' (DMS) request is complied with. Appeal procedures are clarified, and the bill directs DMS to also notify DCA, and provides for DCA to proceed pursuant to the provisions of ss.189.421 and 189.422, F.S., regarding the affected special district.

Municipality and Special District Budget Amendment Procedures

Section 166.241, F. S., is amended to provide procedures for amending budgets of municipalities. Under the bill, municipalities must adopt a budget by ordinance, except that municipalities required to establish millage pursuant to ch. 200, F.S., shall adopt the budget by ordinance or resolution in the manner specified in s. 200.065(2), F.S. The governing body of a municipality at any time within a fiscal year, or within up to 60 days following the end of the fiscal year, may amend a budget for that year as follows:

- Appropriations for expenditures within a fund may be decreased or increased by motion recorded in the minutes, provided the total of the appropriations of the funds is not changed.

- The governing body may establish procedures by which the designated budget officer may authorize certain budget amendments within a department, provided that the total of the appropriations of the department is not changed.

- If a budget amendment is required for a purpose not specifically authorized in the two points immediately above, the budget amendment must be adopted in the same manner as the original budget unless otherwise specified in the respective municipalities charter.

These provisions are modeled after similar authority granted to counties in subsection (2) of section 129.06, F.S. Please note that in his report No. 01-075, the Auditor General did not specify a time frame in which budgets are to be amended. The Auditor General does not concur with the recommendation that the governing body of a municipality may amend their budgets after the end of the fiscal year.

Section 189.418, F.S., is amended to authorize the governing body of each special district at any time within a fiscal year or within up to 60 days following the end of the fiscal year to amend a budget for that year. This provision has the same Auditor General Caveat regarding post fiscal year end adjustments as above. The budget amendment must be adopted by resolution. Other technical cross-referencing changes are made.

Audits of Direct-Support Organizations and Citizen Support Organizations

Sections 215.981, 237.40(4), 240.299, and 240.331(6), F.S., are modified to establish the threshold for an annual independent financial audit for Citizen Support Organizations (CSOs) and Direct Support Organizations (DSOs) with more than at $100,000 in expenses. These organizations support state agencies, district school boards, the state university system, and the community college system.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Subsection (5) of s. 11.40, F.S., is amended to give the Legislative Auditing Committee the authority to direct, as opposed to request, the Department of Revenue and the Department of Banking and Finance to withhold any funds not pledged for bond debt service satisfaction which are payable to local entities which have failed to provide financial reports to the state pursuant to s. 11.45(5)-(7) and s. 218.32(1), F.S.

Section 2. Section 11.45, F.S., relating to the duties of the Auditor General, is amended to conform with revisions to ch. 218, part V, F.S.

Section 3. Subsection (3) of s. 75.05, F.S., is amended to strike the requirement for independent special districts to file a copy of a bond validation with the Division of Bond Finance. This eliminates an unnecessary requirement and conforms the law to the current administrative practice.

Section 4. Subsection (5) of s. 112.625, F.S., is amended to add county and district school board to the definition of "governmental entity".

Section 5. Subsection (4) of s. 112.63, F.S., is amended to provide for the timely response to requests for additional information, deleting the existing administrative law remedy; and, directing the Department of Revenue and the Department of Banking and Finance to withhold funds that are payable to the affected local retirement system's or plan's sponsor until the Department of Management Services' (DMS) request is complied with. Appeal procedures are clarified. The proposed subsection (4)(b) directs DMS to also notify the Department of Community Affairs (DCA), and DCA is directed to proceed pursuant to the provisions of ss.189.421 and 189.422, F.S., regarding the affected special district.

Section 6. Section 130.04, F.S., is amended to delete existing provisions governing notice of bids and disposition of county bonds authorized as the result of an election, and to require the sale of such bonds in the manner provided in s. 218.385, F.S.

Section 7. Subsection (1) of s. 132.02, F.S., relating to the authority of counties, municipalities, school districts, and specific special districts to refund obligations, is amended to apply the provision to counties, municipalities, school districts, and other taxing districts.

Section 7. Section 130.04, F.S., is amended to delete existing provisions governing notice of bids and disposition of county bonds authorized as the result of an election, and to require the sale of such bonds in the manner provided in s. 218.385, F.S.

Section 8. Section 132.09, F.S., is amended to provide for the sale of county refunding bonds in the manner provided in s. 218.385, F.S.

Section 9. Section 163.05, F.S., relating to the Small County Technical Assistance Program, is amended to conform with revisions to ch. 218, part V, F.S.

Section 10. Subsection (2) of s. 166.121, F.S., is amended to require the issuance of bonds by municipalities to be consistent with s. 218.385, F.S.

Section 11. Current subsection (1) of s. 166.241, F.S., is deleted, subsections (2) and (3) are renumbered as subsections (1) and (2), and a new subsection (3) is added to said section to provide procedures for amending budgets of municipalities.

Section 12. Section 189.4044, F.S., is amended to revise special procedures for inactive districts for the Department of Community Affairs and special districts. The section also streamlines procedures for declaring a special district inactive and dissolving it.

Section 13. Subsection (1) of s. 189.412, F.S., relating to the Special District Information Program, is amended, and a new subsection (8) is added to the section to correct cross references and create duties for providing assistance to general–purpose governments and certain state agencies in collecting delinquent reports or information, helping special districts comply with reporting requirements, declaring special districts inactive when appropriate, and, when directed by the Joint Legislative Auditing Committee, initiating enforcement provisions as provided in ss. 189.4044, 189.419, and 189.421, F.S.

Section 14. Section 189.418, F.S., is amended to require that when a new special district is created, a written statement be provided to the Department of Community Affairs that includes a reference to the status of the special district as dependent or independent and the basis for such classification. The section is further amended to authorize the governing body of each special district at any time within a fiscal year or within up to 60 days following the end of the fiscal year to amend a budget for that year. The budget amendment must be adopted by resolution. Other technical cross-referencing changes are made.

Section 15. Section 189.419, F.S., is amended to revise language relating to the effect of failure by special districts to file certain reports. The section is further amended to make technical cross-referencing changes.

Section 16. Section 189.421, F.S., is amended to specify the duties of DCA in contacting and assisting special districts when notified pursuant to s.189.419, F.S. or s. 11.40(5)(b), F.S. that required financial reports are not filed. Failure of special districts to comply with financial reporting requirements after such actions by DCA shall be remedied by writ of certiorari with the Circuit Court of Leon County, Florida.

Section 17. Subsection (5) of s. 189.428, F.S., relating to the oversight review process of special districts, is amended to conform with revisions to ch. 218, part V, F.S.

Section 18. Paragraph (a) of subsection (1) of s. 189.439, F.S., is amended to authorize special districts to sell bonds in the manner provided in s. 218.385, F.S.

Section 19. Section 215.981, F.S., is amended to establish the threshold for an annual independent financial audit for each Citizen Support Organization (CSO) and each Direct Support Organization (DSO) with more than $100,000 in expenses, created or authorized pursuant to law, and created, approved, or administered by a state agency, other than a university, district board of trustees of a community college, or district school board.

Section 20. Subsection (3) of s. 218.075, F.S., relating to the reduction or waiver of permit fees, is amended to conform with revisions to other sections of ch. 218, part V, F.S.

Section 21. A new subsection (3) is added to s. 218.32, F.S., to require the Department of Banking and Finance to notify the President of the Senate and the Speaker of the House of Representatives of any municipality that has not had financial activity for the last four fiscal years. Such notice is sufficient to initiate dissolution procedures described within s. 165.051(1)(a), F.S. Any special law authorizing the incorporation or creation of said municipality must be included within the notification.

Section 22. Subsection (3) of s. 218.36, F.S., is amended to authorize, rather than require, boards of county commissioners to notify the Governor when a board of county commissioners is unable to obtain county officer fee reports in a timely manner.

Section 23. Section 218.369, F.S., is amended to include “school district” in the term “unit of local government” as it relates to refunding bonds in ss. 218.37-218.386, F.S.

Section 24. The title of part V of ch. 218, F.S., is amended to reflect the inclusion of district school boards.

Section 25. The catchline of s. 218.50, F.S., is amended to revise the section catchline.

Section 26. Section 218.501, F.S., is amended to clarify inclusion of district school boards in part V of ch. 218, F.S., and to more accurately reflect the purposes to promote fiscal responsibility.

Section 27. Section 218.502, F.S., is amended to delete district school board from the definition of “local governmental entity”. This change helps clarify that district school boards are subject to the oversight of the Commissioner of Education rather than the Governor.

Section 28. Section 218.503, F.S., is amended to clarify that local government entities and district school boards, in determination of financial emergencies, will be subject to review and oversight by the Governor, or the Commissioner of Education for district school boards. The section is further amended to revise conditions triggering such oversight, to revise oversight activities, and to provide conditions under which a local government or district school board shall be considered in a state of financial emergency.

Section 29. Section 218.504, F.S., is amended to authorize the Commissioner of Education, as appropriate, to terminate state actions resulting from a declaration of financial emergency.

Section 30. Subsections (1) and (2) of s. 236.43, F.S., are amended to delete provisions governing the sale of district school board bonds authorized by election, and to require the sale of such bonds in the manner provided in s. 218.385, F.S.

Section 31. Subsection (4) of s. 237.40, F.S., is amended to establish the threshold for an annual independent financial audit for each Direct Support Organization (DSO), as defined in s. 237.40, F.S., with more than $100,000 in expenses, that supports a district school board.

Section 32. Subsection (5) of s. 240.299, F.S., is amended to establish the threshold for an annual independent financial audit for each Direct Support Organization (DSO), as defined in this section, with more than at $100,000 in expenses, that supports a state university.

Section 33. Subsection (6) of s. 240.331, F.S., is amended to establish the threshold for an annual independent financial audit for each Direct Support Organization (DSO), as defined in this section, with more than at $100,000 in expenses, that supports a community college.

Section 34. Chapter 131, F.S., relating to refunding bonds of counties, municipalities, and special districts, is repealed.

Section 35. Section 132.10, F.S., relating to minimum sales price of refunding bonds, is repealed to delete obsolete or conflicting language.

Section 36. Section 165.052, F.S., relating to special dissolution procedures for municipalities, is repealed.

Section 37. Section 189.409, F.S., relating to determination of financial emergency (special districts), is repealed to conform with revisions to ch. 218, part V, F.S.

Section 38. Section 189.422, F.S., relating to actions of DCA with respect to inactive special districts, is repealed to reflect revisions to s 189.421, F.S..

Section 39. Section 200.0684, F.S., relating to annual compliance reports by DCA, is repealed to delete obsolete language.

Section 40. Paragraph (h) of subsection (1) s. 218.37, F.S., is repealed to remove the requirement that the Division of Bond Finance use the copy of the complaint for bond validation to verify compliance of independent special districts with other debt issuance reporting requirements. Reporting of debt issuance by local governments, including independent special districts, is verified through examination of bond industry publications by the Division of Bond Finance.
Section 41. An effective date of upon becoming law is provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Revisions to statutory provisions governing the dissolution of municipalities and special districts should reduce state agency costs associated with these activities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Reinstating the threshold for an annual independent financial audit for Citizen Support Organizations (CSOs) and Direct Support Organizations (DSOs) with more than at $100,000 in expenses will save exempted organizations the cost of such audits. These organizations support state agencies, district school boards, the state university system, and the community college system.

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 counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

As discussed in the "Effects of Proposed Changes" section of the analysis, section 11 of the bill amends s. 166.241, F. S., to provide procedures for amending budgets of municipalities. The section authorizes the governing body of a municipality at any time within a fiscal year, or within up to 60 days following the end of the fiscal year, to amend a budget for that year. Section 14 of the bill amends s.189.418, F.S., to authorize the governing body of each special district at any time within a fiscal year or within up to 60 days following the end of the fiscal year to amend a budget for that year.

These provisions are modeled after similar authority granted to counties in subsection (2) of section 129.06, F.S. Please note that in his report No. 01-075, the Auditor General did not specify a time frame in which budgets are to be amended. The Auditor General does not concur with the recommendation that the governing body of a municipality or special district may amend their budgets after the end of the fiscal year. Under current law, s. 129.06, F.S., allows counties to amend their budgets up to 60 days following the end of the fiscal year.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:	Staff Director:
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