

1 A bill to be entitled
2 An act relating to local government
3 accountability; amending s. 11.40, F.S.;
4 revising duties of the Legislative Auditing
5 Committee; amending s. 11.45, F.S.; revising
6 reporting requirements of the Auditor General;
7 amending s. 75.05, F.S.; deleting a requirement
8 for an independent special district to submit a
9 copy of a complaint to the Division of Bond
10 Finance of the State Board of Administration;
11 amending s. 112.625, F.S.; revising the
12 definition of "governmental entity" to include
13 counties and district school boards; amending
14 s. 112.63, F.S.; providing for additional
15 information to be provided to the Department of
16 Management Services in actuarial reports with
17 regard to retirement systems and plans and
18 providing procedures therefor; providing for
19 notification of the Department of Revenue and
20 the Department of Banking and Finance, or the
21 Chief Financial Officer on or after January 1,
22 2003, in cases of noncompliance and authorizing
23 the withholding of certain funds; requiring the
24 Department of Management Services to notify the
25 Department of Community Affairs in the case of
26 affected special districts; amending s. 130.04,
27 F.S.; revising provisions governing notice of
28 bids and disposition of bonds; amending s.
29 132.02, F.S.; revising provisions relating to
30 the authorization to issue refund bonds;
31 amending s. 132.09, F.S.; revising provisions

1 relating to the notice of sale, bids, and
2 awards and private sale of bonds; amending s.
3 163.05, F.S.; revising provisions governing the
4 Small County Technical Assistance Program;
5 amending s. 166.121, F.S.; revising provisions
6 governing the issuance of bonds by a
7 municipality; amending s. 166.241, F.S.;
8 providing a municipal budget amendment process
9 and requirements; amending s. 189.4044, F.S.;
10 revising special procedures for determination
11 of inactive special districts; amending s.
12 189.412, F.S.; revising duties of the Special
13 District Information Program of the Department
14 of Community Affairs; amending s. 189.418,
15 F.S.; revising reporting requirements of newly
16 created special districts; authorizing the
17 governing body of a special district to amend
18 its budget; amending s. 189.419, F.S.; revising
19 provisions relating to the failure of special
20 districts to file required reports; amending s.
21 189.421, F.S.; revising provisions governing
22 the failure of special districts to disclose
23 financial reports; providing for extension of
24 time for the filing of said reports; providing
25 remedies for noncompliance; providing for
26 attorney's fees and costs; amending s. 189.428,
27 F.S.; revising provisions governing the special
28 district oversight review process; amending s.
29 189.439, F.S.; revising provisions governing
30 the issuance of bonds by special districts;
31 amending s. 215.981, F.S.; exempting state

1 agency direct-support organizations and citizen
2 support organizations meeting specified expense
3 levels from audit requirements; amending s.
4 218.075, F.S.; revising provisions governing
5 the reduction or waiver of permit processing
6 fees for certain counties; amending s. 218.32,
7 F.S., relating to annual financial reports;
8 requiring the Department of Banking and Finance
9 to notify the Speaker of the House of
10 Representatives and the President of the Senate
11 of any municipality that has not had financial
12 activity for a specified period of time;
13 providing that such notice is sufficient to
14 initiate dissolution procedures; amending s.
15 218.36, F.S.; revising reporting requirements
16 for boards of county commissioners relating to
17 the failure of a county officer to comply with
18 the provisions of the section; amending s.
19 218.369, F.S.; revising the definition of "unit
20 of local government" to include district school
21 boards; renaming pt. V of ch. 218, F.S., as
22 "Local Governmental Entity and District School
23 Board Financial Emergencies"; amending s.
24 218.50, F.S.; renaming ss. 218.50-218.504,
25 F.S., as the "Local Governmental Entity and
26 District School Board Act"; amending s.
27 218.501, F.S.; revising the stated purposes of
28 pt. V of ch. 218, F.S.; amending s. 218.502,
29 F.S.; revising the definition of "local
30 governmental entity"; amending s. 218.503,
31 F.S.; revising provisions governing the

1 determination of financial emergency for local
2 governments and district school boards;
3 amending s. 218.504, F.S.; revising provisions
4 relating to the authority of the Governor and
5 authorizing the Commissioner of Education to
6 terminate all state actions pursuant to ss.
7 218.50-218.504, F.S.; amending s. 236.43, F.S.;
8 revising provisions governing receipt of bids
9 and sale of bonds; amending ss. 237.40,
10 240.299, and 240.331, F.S.; exempting district
11 school board direct-support organizations and
12 citizen support organizations meeting specified
13 expense levels from audit requirements;
14 repealing ch. 131, F.S., consisting of ss.
15 131.01, 131.02, 131.03, 131.04, 131.05, and
16 131.06, F.S., relating to refunding bonds of
17 counties, municipalities, and special
18 districts; repealing s. 132.10, F.S., relating
19 to minimum sale price of bonds; repealing s.
20 165.052, F.S., relating to special dissolution
21 procedures for municipalities; repealing s.
22 189.409, F.S., relating to determination of
23 financial emergencies of special districts;
24 repealing s. 189.422, F.S., relating to actions
25 of the Department of Community Affairs and
26 special districts; repealing s. 200.0684, F.S.,
27 relating to an annual compliance report of the
28 Department of Community Affairs regarding
29 special districts; repealing s. 218.37(1)(h),
30 F.S., relating to the requirement that the
31 Division of Bond Finance use a served copy of

1 the complaint for bond validation to verify
2 compliance by special districts with the
3 requirements in s. 218.38, F.S.; amending s.
4 215.195, F.S.; providing responsibilities of
5 the Comptroller, or the Chief Financial Officer
6 effective January 1, 2003, with regard to
7 preparation of the Statewide Cost Allocation
8 Plan and the monitoring of compliance
9 therewith; amending s. 215.97, F.S.; revising
10 and adding definitions relating to the Florida
11 Single Audit Act; revising duties of the
12 Executive Office of the Governor and the
13 Comptroller, or the Chief Financial Officer
14 effective January 1, 2003, relating to the
15 Florida Single Audit Act; providing duties of
16 state agencies; requiring state agencies to
17 review the audit report of state financial
18 award recipients; revising duties of the
19 Auditor General relating to the Florida Single
20 Audit Act; transferring a position from the
21 Executive Office of the Governor to the
22 Comptroller; providing effective dates.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Paragraphs (a) and (b) of subsection (5) of
27 section 11.40, Florida Statutes, are amended to read:

28 11.40 Legislative Auditing Committee.--

29 (5) Following notification by the Auditor General, the
30 Department of Banking and Finance, or the Division of Bond
31 Finance of the State Board of Administration of the failure of

1 a local governmental entity, district school board, charter
2 school, or charter technical career center to comply with the
3 applicable provisions within s. 11.45(5)-(7), s. 218.32(1), or
4 s. 218.38, the Legislative Auditing Committee may schedule a
5 hearing. If a hearing is scheduled, the committee shall
6 determine if the entity should be subject to further state
7 action. If the committee determines that the entity should be
8 subject to further state action, the committee shall:

9 (a) In the case of a local governmental entity or
10 district school board, direct ~~request~~ the Department of
11 Revenue and the Department of Banking and Finance to withhold
12 any funds not pledged for bond debt service satisfaction which
13 are payable to such entity until the entity complies with the
14 law. The committee, in its request, shall specify the date
15 such action shall begin, and the request must be received by
16 the Department of Revenue and the Department of Banking and
17 Finance 30 days before the date of the distribution mandated
18 by law. The Department of Revenue and the Department of
19 Banking and Finance are authorized to implement the provisions
20 of this paragraph.

21 (b) In the case of a special district, notify the
22 Department of Community Affairs that the special district has
23 failed to comply with the law. Upon receipt of notification,
24 the Department of Community Affairs shall proceed pursuant to
25 the provisions specified in s. ss-189.421 ~~and 189.422~~.

26 Section 2. Subsection (5), paragraph (e) of subsection
27 (7), and subsection (8) of section 11.45, Florida Statutes,
28 are amended to read:

29 11.45 Definitions; duties; authorities; reports;
30 rules.--

31

1 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.--The
 2 Legislative Auditing Committee shall direct the Auditor
 3 General to make an ~~a financial~~ audit of any municipality
 4 whenever petitioned to do so by at least 20 percent of the
 5 electors of that municipality. The supervisor of elections of
 6 the county in which the municipality is located shall certify
 7 whether or not the petition contains the signatures of at
 8 least 20 percent of the electors of the municipality. After
 9 the completion of the audit, the Auditor General shall
 10 determine whether the municipality has the fiscal resources
 11 necessary to pay the cost of the audit. The municipality shall
 12 pay the cost of the audit within 90 days after the Auditor
 13 General's determination that the municipality has the
 14 available resources. If the municipality fails to pay the cost
 15 of the audit, the Department of Revenue shall, upon
 16 certification of the Auditor General, withhold from that
 17 portion of the distribution pursuant to s. 212.20(6)(e)6.
 18 which is distributable to such municipality, a sum sufficient
 19 to pay the cost of the audit and shall deposit that sum into
 20 the General Revenue Fund of the state.

21 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.--

22 (e) The Auditor General shall notify the Governor or
 23 the Commissioner of Education, as appropriate, and the
 24 Legislative Auditing Committee of any audit report reviewed by
 25 the Auditor General pursuant to paragraph (b) that ~~which~~
 26 contains a statement that a the local governmental entity or
 27 district school board has met one or more of the conditions
 28 specified ~~is in a state of financial emergency as provided in~~
 29 s. 218.503. If the Auditor General requests a clarification
 30 regarding information included in an audit report to determine
 31 whether a local governmental entity or district school board

1 has met one or more of the conditions specified in s. 218.503
 2 ~~is in a state of financial emergency~~, the requested
 3 clarification must be provided within 45 days after the date
 4 of the request. If the local governmental entity or district
 5 school board does not comply with the Auditor General's
 6 request, the Auditor General shall notify the Legislative
 7 Auditing Committee. If, after obtaining the requested
 8 clarification, the Auditor General determines that the local
 9 governmental entity or district school board has met one or
 10 more of the conditions specified in s. 218.503 ~~is in a state~~
 11 ~~of financial emergency~~, he or she shall notify the Governor or
 12 the Commissioner of Education and the Legislative Auditing
 13 Committee.

14 (8) RULES OF THE AUDITOR GENERAL.--The Auditor
 15 General, in consultation with the Board of Accountancy, shall
 16 adopt rules for the form and conduct of all financial audits
 17 performed by independent certified public accountants pursuant
 18 to ss. 215.981, 218.39, 237.40, 240.299, and 240.331. The
 19 rules for audits of local governmental entities and district
 20 school boards must include, but are not limited to,
 21 requirements for the reporting of information necessary to
 22 carry out the purposes of the Local Governmental Entity and
 23 District School Board Government Financial Emergencies Act as
 24 stated in s. 218.501.

25 Section 3. Subsection (3) of section 75.05, Florida
 26 Statutes, is amended to read:

27 75.05 Order and service.--

28 (3) ~~In the case of independent special districts as~~
 29 ~~defined in s. 218.31(7), a copy of the complaint shall be~~
 30 ~~served on the Division of Bond Finance of the State Board of~~
 31 ~~Administration.~~Notwithstanding any other provision of law,

1 whether a general law or special act, validation of bonds to
2 be issued by a special district, other than a community
3 development district established pursuant to chapter 190, as
4 provided in s. 190.016(12), is not mandatory, but is at the
5 option of the issuer. However, the validation of bonds issued
6 by such community development districts shall not be required
7 on refunding issues.

8 Section 4. Subsection (5) of section 112.625, Florida
9 Statutes, is amended to read:

10 112.625 Definitions.--As used in this act:

11 (5) "Governmental entity" means the state, for the
12 Florida Retirement System, and the county, municipality, or
13 special district, or district school board which is the
14 employer of the member of a local retirement system or plan.

15 Section 5. Subsection (4) of section 112.63, Florida
16 Statutes, is amended to read:

17 112.63 Actuarial reports and statements of actuarial
18 impact; review.--

19 (4) Upon receipt, pursuant to subsection (2), of an
20 actuarial report, or upon receipt, pursuant to subsection (3),
21 of a statement of actuarial impact, the Department of
22 Management Services shall acknowledge such receipt, but shall
23 only review and comment on each retirement system's or plan's
24 actuarial valuations at least on a triennial basis. If the
25 department finds that the actuarial valuation is not complete,
26 accurate, or based on reasonable assumptions or otherwise
27 fails to satisfy the requirements of this part, the department
28 requires additional information necessary to complete its
29 review of the actuarial valuation of a system or plan or
30 information necessary to satisfy the duties of the department
31 pursuant to s. 112.665(1), or if the department does not

1 receive the actuarial report or statement of actuarial impact,
 2 the department shall notify the administrator of the affected
 3 retirement system or plan and the affected governmental entity
 4 ~~local government~~ and request appropriate adjustment, the
 5 additional information, or the required report or statement.
 6 The notification shall inform the administrator of the
 7 affected retirement system or plan and the affected
 8 governmental entity of the consequences for failure to comply
 9 with the requirements of this subsection. If, after a
 10 reasonable period of time, a satisfactory adjustment is not
 11 made or the report, statement, or additional information is
 12 not provided, the department may notify the Department of
 13 Revenue and the Department of Banking and Finance of such
 14 noncompliance, in which case the Department of Revenue and the
 15 Department of Banking and Finance shall withhold any funds not
 16 pledged for bond debt service satisfaction that are payable to
 17 the affected governmental entity until the adjustment is made
 18 or the report, statement, or additional information is
 19 provided to the department. The department shall specify the
 20 date such action is to begin and notification by the
 21 department must be received by the Department of Revenue, the
 22 Department of Banking and Finance, and the affected
 23 governmental entity 30 days before the date the action is to
 24 begin.

25 (a) Within 21 days after receipt of the notice, the
 26 affected governmental entity ~~local government or the~~
 27 ~~department~~ may petition for a hearing under the provisions of
 28 ss. 120.569 and 120.57 with the Department of Management
 29 Services. The Department of Revenue and the Department of
 30 Banking and Finance shall not be parties to any such hearing
 31 but may request to intervene if requested by the Department of

1 Management Services or if either the Department of Revenue or
 2 the Department of Banking and Finance determines its interests
 3 may be adversely affected by the hearing. If the
 4 administrative law judge recommends in favor of the
 5 department, the department shall perform an actuarial review,
 6 ~~or~~ prepare the statement of actuarial impact, or collect the
 7 requested information. The cost to the department of
 8 performing such actuarial review,~~or~~ preparing such statement,
 9 or collecting the requested information shall be charged to
 10 the affected governmental entity of which the employees are
 11 covered by the retirement system or plan. If payment of such
 12 costs is not received by the department within 60 days after
 13 receipt by the affected governmental entity of the request for
 14 payment, the department shall certify to the Department of
 15 Revenue and the Department of Banking and Finance Comptroller
 16 the amount due, and the Department of Revenue and the
 17 Department of Banking and Finance Comptroller shall pay such
 18 amount to the Department of Management Services from any funds
 19 not pledged for bond debt service satisfaction that are
 20 payable to the affected governmental entity of which the
 21 employees are covered by the retirement system or plan. If the
 22 administrative law judge recommends in favor of the affected
 23 governmental entity local retirement system and the department
 24 performs an actuarial review, prepares the statement of
 25 actuarial impact, or collects the requested information, the
 26 cost to the department of performing the actuarial review,
 27 preparing the statement, or collecting the requested
 28 information shall be paid by the Department of Management
 29 Services.

30 (b) In the case of an affected special district, the
 31 Department of Management Services shall also notify the

1 Department of Community Affairs. Upon receipt of
2 notification, the Department of Community Affairs shall
3 proceed pursuant to the provisions of s. 189.421 with regard
4 to the special district.

5 Section 6. Effective January 1, 2003, subsection (4)
6 of section 112.63, Florida Statutes, as amended by this act,
7 is amended to read:

8 112.63 Actuarial reports and statements of actuarial
9 impact; review.--

10 (4) Upon receipt, pursuant to subsection (2), of an
11 actuarial report, or upon receipt, pursuant to subsection (3),
12 of a statement of actuarial impact, the Department of
13 Management Services shall acknowledge such receipt, but shall
14 only review and comment on each retirement system's or plan's
15 actuarial valuations at least on a triennial basis. If the
16 department finds that the actuarial valuation is not complete,
17 accurate, or based on reasonable assumptions or otherwise
18 fails to satisfy the requirements of this part, the department
19 requires additional information necessary to complete its
20 review of the actuarial valuation of a system or plan or
21 information necessary to satisfy the duties of the department
22 pursuant to s. 112.665(1), or the department does not receive
23 the actuarial report or statement of actuarial impact, the
24 department shall notify the administrator of the affected
25 retirement system or plan and the affected governmental entity
26 and request appropriate adjustment, the additional
27 information, or the required report or statement. The
28 notification shall inform the administrator of the affected
29 retirement system or plan and the affected governmental entity
30 of the consequences for failure to comply with the
31 requirements of this subsection. If, after a reasonable period

1 of time, a satisfactory adjustment is not made or the report,
 2 statement, or additional information is not provided, the
 3 department may notify the Department of Revenue and the Chief
 4 Financial Officer ~~Department of Banking and Finance~~ of such
 5 noncompliance, in which case the Department of Revenue and the
 6 Chief Financial Officer ~~Department of Banking and Finance~~
 7 shall withhold any funds not pledged for bond debt service
 8 satisfaction that are payable to the affected governmental
 9 entity until the adjustment is made or the report, statement,
 10 or additional information is provided to the department. The
 11 department shall specify the date such action is to begin and
 12 notification by the department must be received by the
 13 Department of Revenue, the Chief Financial Officer ~~Department~~
 14 ~~of Banking and Finance~~, and the affected governmental entity
 15 30 days before the date the action is to begin.

16 (a) Within 21 days after receipt of the notice, the
 17 affected governmental entity may petition for a hearing under
 18 the provisions of ss. 120.569 and 120.57 with the Department
 19 of Management Services. The Department of Revenue and the
 20 Chief Financial Officer ~~Department of Banking and Finance~~
 21 shall not be parties to any such hearing but may request to
 22 intervene if requested by the Department of Management
 23 Services or if ~~either~~ the Department of Revenue or the Chief
 24 Financial Officer ~~Department of Banking and Finance~~ determines
 25 the respective ~~its~~ interests of either may be adversely
 26 affected by the hearing. If the administrative law judge
 27 recommends in favor of the department, the department shall
 28 perform an actuarial review, prepare the statement of
 29 actuarial impact, or collect the requested information. The
 30 cost to the department of performing such actuarial review,
 31 preparing such statement, or collecting the requested

1 information shall be charged to the affected governmental
 2 entity of which the employees are covered by the retirement
 3 system or plan. If payment of such costs is not received by
 4 the department within 60 days after receipt by the affected
 5 governmental entity of the request for payment, the department
 6 shall certify to the Department of Revenue and the Chief
 7 Financial Officer ~~Department of Banking and Finance~~ the amount
 8 due, and the Department of Revenue and the Chief Financial
 9 Officer ~~Department of Banking and Finance~~ shall pay such
 10 amount to the Department of Management Services from any funds
 11 not pledged for bond debt service satisfaction that are
 12 payable to the affected governmental entity of which the
 13 employees are covered by the retirement system or plan. If the
 14 administrative law judge recommends in favor of the affected
 15 governmental entity and the department performs an actuarial
 16 review, prepares the statement of actuarial impact, or
 17 collects the requested information, the cost to the department
 18 of performing the actuarial review, preparing the statement,
 19 or collecting the requested information shall be paid by the
 20 Department of Management Services.

21 (b) In the case of an affected special district, the
 22 Department of Management Services shall also notify the
 23 Department of Community Affairs. Upon receipt of notification,
 24 the Department of Community Affairs shall proceed pursuant to
 25 the provisions of s. 189.421 with regard to the special
 26 district.

27 Section 7. Section 130.04, Florida Statutes, is
 28 amended to read:

29 130.04 Sale ~~Notice for bids and disposition~~ of
 30 bonds.--In case the issuing of bonds shall be authorized by
 31 the result of such election, the county commissioners shall

1 ~~sell the bonds in the manner provided in s. 218.385. cause~~
 2 ~~notice to be given by publication in a newspaper published in~~
 3 ~~the county, or in some newspaper published in the same~~
 4 ~~judicial circuit, if there be none published in the county,~~
 5 ~~that they will receive bids for the purchase of county bonds~~
 6 ~~at the clerk's office, on a date not less than 10 days nor~~
 7 ~~more than 60 days from the first publication of such notice.~~
 8 ~~The notice shall specify the amount of bonds offered for sale,~~
 9 ~~the rate of interest, and the time when principal and~~
 10 ~~installments of interest shall be due and payable. Any and~~
 11 ~~all bids shall be rejected if the commissioners shall deem it~~
 12 ~~to the best interest for the county so to do, and they may~~
 13 ~~cause a new notice to be given in like manner inviting other~~
 14 ~~bids for said bonds; provided, that when the rate of interest~~
 15 ~~on said bonds exceeds 5 percent per annum, said bonds shall~~
 16 ~~not be sold for less than 95 cents on the dollar, but when any~~
 17 ~~bonds have heretofore been provided for by election, and the~~
 18 ~~rate of interest is 5 percent per annum, or less, that in such~~
 19 ~~cases the county commissioners may accept less than 95 cents~~
 20 ~~upon the dollar, in the sale of said bonds, or for any portion~~
 21 ~~of said bonds not already sold; provided, however, no bonds~~
 22 ~~shall be sold for less than 90 cents on the dollar.~~

23 Section 8. Subsection (1) of section 132.02, Florida
 24 Statutes, is amended to read:

25 132.02 Taxing units may refund obligations.--

26 (1) Each county, municipality, ~~city, town, special~~
 27 ~~road and bridge district, special tax school district, or and~~
 28 other taxing district ~~districts~~ in this state, herein
 29 sometimes called a unit, may issue, pursuant to a resolution
 30 or resolutions of the governing body thereof (meaning thereby
 31 the board or body vested with the power of determining the

1 amount of tax levies required for taxing the taxable property
2 of such unit for the purpose of such unit) and either with or
3 without the approval of such bonds at an election, except as
4 may be required by the Constitution of the state, bonds of
5 such unit for the purpose of refunding any or all bonds,
6 coupons, or interest on any such bonds, ~~or coupons or paving~~
7 ~~certificates of indebtedness or interest on any such paving~~
8 ~~certificates of indebtedness~~, now or hereafter outstanding, or
9 any other funded debt, all of which are herein referred to as
10 bonds, whether such unit created such indebtedness or has
11 assumed, or may become liable therefor, ~~and whether~~
12 ~~indebtedness to be refunded has matured or to thereafter~~
13 ~~become matured.~~

14 Section 9. Section 132.09, Florida Statutes, is
15 amended to read:

16 132.09 Sale of bonds ~~Notice of sale; bids and award;~~
17 ~~private sale.~~--When sold, the refunding bonds (except as
18 otherwise expressly provided) shall be sold in the manner
19 provided in s. 218.385. ~~pursuant to the terms of a notice of~~
20 ~~sale which shall be published at least twice. The first~~
21 ~~publication to be not less than 7 days before the date fixed~~
22 ~~for the sale and to be published in a newspaper published in~~
23 ~~the unit, or if no newspaper is published in the unit, then in~~
24 ~~a newspaper published in the county, or if no newspaper is~~
25 ~~published in the county, then in a newspaper published in~~
26 ~~Tallahassee, and in the discretion of the governing body of~~
27 ~~the unit may be published in a financial newspaper in the City~~
28 ~~of New York. Such notices shall state the time and place and~~
29 ~~when and where sealed bids will be received, shall state the~~
30 ~~amount of bonds, their dates, maturities, denominations and~~
31 ~~interest rate or rates (which may be a maximum rate), interest~~

1 ~~payment dates, an outline of the terms, if any, on which they~~
2 ~~are redeemable or become payable before maturity, the amount~~
3 ~~which must be deposited with the bid to secure its performance~~
4 ~~if accepted, and such other pertinent information as the~~
5 ~~governing body of the unit may determine. The notice of sale~~
6 ~~may require the bidders to fix the interest rate or rates that~~
7 ~~the bonds are to bear subject to the terms of the notice and~~
8 ~~the maximum rate permitted by this chapter. The award of the~~
9 ~~bonds shall be made by the governing body of the unit to the~~
10 ~~bidder making the most advantageous bid which shall be~~
11 ~~determined by the governing body in its absolute and~~
12 ~~uncontrolled discretion. The right to reject all bids shall~~
13 ~~be reserved to the governing body of the unit. If no bids are~~
14 ~~received at such public sale, or if all bids are rejected, the~~
15 ~~bonds may be sold without notice at private sale at any time~~
16 ~~within one year thereafter, but such bonds shall not be sold~~
17 ~~at private sale on terms less favorable to the unit than were~~
18 ~~contained in the best bid at the prior public sale.~~

19 Section 10. Paragraph (a) of subsection (2) of section
20 163.05, Florida Statutes, is amended to read:

21 163.05 Small County Technical Assistance Program.--

22 (2) Recognizing the findings in subsection (1), the
23 Legislature declares that:

24 (a) The financial difficulties ~~fiscal emergencies~~
25 confronting small counties require an investment that will
26 facilitate efforts to improve the productivity and efficiency
27 of small counties' structures and operating procedures.

28 Section 11. Subsection (2) of section 166.121, Florida
29 Statutes, is amended to read:

30 166.121 Issuance of bonds.--

31

1 (2) The governing body of a municipality shall
2 determine the terms and manner of sale and distribution or
3 other disposition of any and all bonds it may issue,
4 consistent with the provisions of s. 218.385, and shall have
5 any and all powers necessary or convenient to such
6 disposition.

7 Section 12. Section 166.241, Florida Statutes, is
8 amended to read:

9 166.241 Fiscal years, ~~financial reports,~~
10 appropriations, ~~and budgets,~~ and budget amendments.--

11 ~~(1) Each municipality shall report its finances~~
12 ~~annually as provided by general law.~~

13 (1)(2) Each municipality shall make provision for
14 establishing a fiscal year beginning October 1 of each year
15 and ending September 30 of the following year.

16 (2)(3) The governing body of each municipality shall
17 adopt a budget each fiscal year. The budget must be adopted by
18 ordinance unless otherwise specified in the respective
19 municipality's charter, except that municipalities required to
20 establish millage pursuant to chapter 200 shall adopt the
21 budget by resolution or ordinance in the manner specified in
22 s. 200.065(2). The amount available from taxation and other
23 sources, including amounts carried over from prior fiscal
24 years, must equal the total appropriations for expenditures
25 and reserves. The budget must regulate expenditures of the
26 municipality, and it is unlawful for any officer of a
27 municipal government to expend or contract for expenditures in
28 any fiscal year except in pursuance of budgeted
29 appropriations.

30 (3) The governing body of each municipality at any
31 time within a fiscal year or within up to 60 days following

1 the end of the fiscal year may amend a budget for that year as
2 follows:

3 (a) Appropriations for expenditures within a fund may
4 be decreased or increased by motion recorded in the minutes,
5 provided that the total of the appropriations of the fund is
6 not changed.

7 (b) The governing body may establish procedures by
8 which the designated budget officer may authorize certain
9 budget amendments within a department, provided that the total
10 of the appropriations of the department is not changed.

11 (c) If a budget amendment is required for a purpose
12 not specifically authorized in paragraph (a) or paragraph (b),
13 the budget amendment must be adopted in the same manner as the
14 original budget unless otherwise specified in the charter of
15 the respective municipality.

16 Section 13. Section 189.4044, Florida Statutes, is
17 amended to read:

18 189.4044 Special procedures for inactive districts.--

19 (1) The department shall declare inactive any special
20 district in this state by documenting the following ~~filing a~~
21 ~~report with the Speaker of the House of Representatives and~~
22 ~~the President of the Senate which shows that such special~~
23 ~~district is no longer active. The inactive status of the~~
24 ~~special district must be based upon a finding:~~

25 (a) ~~That~~ The special district meets one of the
26 following criteria:

27 1. The registered agent of the district, the chair of
28 the governing body of the district, or the governing body of
29 the appropriate local general-purpose government notifies the
30 department in writing that the district has taken no action
31 for 2 or more calendar years;

1 2. Following an inquiry from the department, the
2 registered agent of the district, the chair of the governing
3 body of the district, or the governing body of the appropriate
4 local general-purpose government notifies the department in
5 writing that the district has not had a governing board or a
6 sufficient number of governing board members to constitute a
7 quorum for 2 or more years or the registered agent of the
8 district, the chair of the governing body of the district, or
9 the governing body of the appropriate local general-purpose
10 government fails to respond to the department's inquiry within
11 21 days; or ~~18 or more months~~

12 3. The department determines, pursuant to s. 189.421,
13 that the district has failed to file ~~or make a good faith~~
14 ~~effort to file~~ any of the reports listed in s. 189.419. ~~or~~

15 4. ~~The district has failed, for 2 consecutive fiscal~~
16 ~~years, to pay fees assessed by the Special District~~
17 ~~Information Program pursuant to this chapter.~~

18 (b) The department, special district, or local
19 general-purpose government published ~~That~~ a notice of the
20 proposed declaration of inactive status ~~has been published~~
21 ~~once a week for 2 weeks~~ in a newspaper of general circulation
22 in within the county or municipality in which ~~wherein~~ the
23 territory of the special district is located and sent a copy
24 of such notice by certified mail to the registered agent or
25 chair of the board, if any. Such notice shall include, stating
26 the name of said special district, the law under which it was
27 organized and operating, a general description of the
28 territory included in said special district, and a statement
29 ~~stating~~ that any objections must be filed pursuant to chapter
30 120 within 21 days after the publication date to the proposed
31 ~~declaration or to any claims against the assets of said~~

1 ~~special district shall be filed not later than 60 days~~
2 ~~following the date of last publication with the department;~~
3 and

4 (c) Twenty-one ~~That 60~~ days have elapsed from the last
5 publication date of the notice of proposed declaration of of
6 inactive status and no administrative appeals were sustained
7 ~~objections have been~~ filed.

8 (2) If any special district is declared inactive
9 pursuant to this section, the property or assets of the
10 special district are subject to legal process for payment of
11 any debts of the district. After the payment of all the debts
12 of said inactive special district, the remainder of its
13 property or assets shall escheat to the county or municipality
14 wherein located. If, however, it shall be necessary, in order
15 to pay any such debt, to levy any tax or taxes on the property
16 in the territory or limits of the inactive special district,
17 the same may be assessed and levied by order of the local
18 general-purpose government wherein the same is situated and
19 shall be assessed by the county property appraiser and
20 collected by the county tax collector.

21 (3) In the case of a district created by special act
22 of the Legislature, the department shall send a notice of
23 declaration of inactive status to notify the Speaker of the
24 House of Representatives and the President of the Senate. The
25 notice of declaration of inactive status shall reference of
26 each known special act creating or amending the charter of any
27 special district declared to be inactive under this section.
28 The declaration of inactive status shall be sufficient notice
29 as required by s. 10, Art. III of the State Constitution to
30 authorize the Legislature to repeal any special laws so
31 reported. In the case of a district created by one or more

1 local general-purpose governments, the department shall send a
2 notice of declaration of inactive status to the chair of the
3 governing body of each local general-purpose government that
4 created the district. In the case of a district created by
5 interlocal agreement, the department shall send a notice of
6 declaration of inactive status to the chair of the governing
7 body of each local general-purpose government that entered
8 into the interlocal agreement.

9 (4) The entity that created a special district
10 declared inactive under this section must dissolve the special
11 district ~~be dissolved by repealing repeal~~ of its enabling laws
12 or by other appropriate means.

13 Section 14. Subsection (1) of section 189.412, Florida
14 Statutes, is amended, and subsection (8) is added to said
15 section, to read:

16 189.412 Special District Information Program; duties
17 and responsibilities.--The Special District Information
18 Program of the Department of Community Affairs is created and
19 has the following special duties:

20 (1) The collection and maintenance of special district
21 noncompliance ~~compliance~~ status reports from the Department of
22 Management Services Auditor General, the Department of Banking
23 and Finance, the Division of Bond Finance of the State Board
24 of Administration, and the Auditor General ~~the Department of~~
25 Management Services, the Department of Revenue, and the
26 Commission on Ethics for the reporting required in ss.
27 ~~112.3144, 112.3145, 112.3148, 112.3149, 112.63, 200.068,~~
28 ~~218.32, 218.34, 218.38, and 218.39, and 280.17 and chapter 121~~
29 ~~and from state agencies administering programs that distribute~~
30 ~~money to special districts. The noncompliance special district~~
31 ~~compliance status reports must list those consist of a list of~~

1 ~~special districts used in that state agency and a list of~~
2 ~~which~~ special districts that did not comply with the statutory
3 reporting requirements ~~statutorily required by that agency.~~

4 (8) Providing assistance to local general-purpose
5 governments and certain state agencies in collecting
6 delinquent reports or information, helping special districts
7 comply with reporting requirements, declaring special
8 districts inactive when appropriate, and, when directed by the
9 Legislative Auditing Committee, initiating enforcement
10 provisions as provided in ss. 189.4044, 189.419, and 189.421.

11 Section 15. Subsections (1) and (2) of section
12 189.418, Florida Statutes, are amended, subsection (5) is
13 renumbered as subsection (6), present subsection (6) is
14 renumbered as subsection (7) and amended, and a new subsection
15 (5) is added to said section, to read:

16 189.418 Reports; budgets; audits.--

17 (1) When a new special district is created, the
18 district must forward to the department, within 30 days after
19 the adoption of the special act, rule, ordinance, resolution,
20 or other document that provides for the creation of the
21 district, a copy of the document and a written statement that
22 includes a reference to the status of the special district as
23 dependent or independent and the basis for such
24 classification. In addition to the document or documents that
25 create the district, the district must also submit a map of
26 the district, showing any municipal boundaries that cross the
27 district's boundaries, and any county lines if the district is
28 located in more than one county. The department must notify
29 the local government or other entity and the district within
30 30 days after receipt of the document or documents that create

31

1 the district as to whether the district has been determined to
2 be dependent or independent.

3 (2) Any amendment, modification, or update of the
4 document by which the district was created, including changes
5 in boundaries, must be filed with the department within 30
6 days after adoption. The department may initiate proceedings
7 against special districts as provided in s. ss. 189.421 and
8 ~~189.422~~ for failure to file the information required by this
9 subsection.

10 (5) The governing body of each special district at any
11 time within a fiscal year or within up to 60 days following
12 the end of the fiscal year may amend a budget for that year.
13 The budget amendment must be adopted by resolution.

14 (7)~~(6)~~ All reports or information required to be filed
15 with a local governing authority under ss. 189.415, 189.416,
16 and 189.417, ~~218.32, and 218.39~~ and this section shall:

17 (a) When the local governing authority is a county, be
18 filed with the clerk of the board of county commissioners.

19 (b) When the district is a multicounty district, be
20 filed with the clerk of the county commission in each county.

21 (c) When the local governing authority is a
22 municipality, be filed at the place designated by the
23 municipal governing body.

24 Section 16. Section 189.419, Florida Statutes, is
25 amended to read:

26 189.419 Effect of failure to file certain reports or
27 information.--

28 (1) If a special district fails to file the reports or
29 information required under s. 189.415, s. 189.416, or s.
30 189.417, ~~s. 189.418, s. 218.32, or s. 218.39~~ and a description
31 ~~of all new bonds as provided in s. 218.38(1)~~ with the local

1 governing authority, the person authorized to receive and read
2 the reports or information shall notify the district's
3 registered agent and the appropriate local governing authority
4 or authorities. If requested by the district ~~At any time~~, the
5 governing authority shall ~~may~~ grant an extension of time of up
6 to 30 days for filing the required reports or information,
7 ~~except that an extension may not exceed 30 days.~~

8 (2) If at any time the local governing authority or
9 authorities or the board of county commissioners determines
10 that there has been an unjustified failure to file the reports
11 or information described in subsection (1), it may notify
12 petition the department and the department may proceed
13 pursuant to initiate proceedings against the special district
14 in the manner provided in s. 189.421.

15 (3) If a special district fails to file the reports or
16 information required under s. 112.63, s. 218.32, s. 218.38, or
17 s. 218.39 with the appropriate state agency, the agency shall
18 notify the department, and the department shall proceed
19 pursuant to s. 189.421 ~~may initiate proceedings against the~~
20 ~~special district in the manner provided in s. 189.421 or~~
21 ~~assess fines of not more than \$25, with an aggregate total not~~
22 ~~to exceed \$50, when formal inquiries do not resolve the~~
23 ~~noncompliance.~~

24 Section 17. Section 189.421, Florida Statutes, is
25 amended to read:

26 (Substantial rewording of section. See
27 s. 189.421, F.S., for present text.)

28 189.421 Failure of district to disclose financial
29 reports.--

30 (1) When notified pursuant to s. 189.419, the
31 department shall attempt to assist a special district to

1 comply with its financial reporting requirements by sending a
 2 certified letter to the special district, and a copy of the
 3 letter to the chair of the governing body of the local
 4 general-purpose government, which includes the following: a
 5 description of the required report, including statutory
 6 submission deadlines, a contact telephone number for technical
 7 assistance to help the special district comply, a 60-day
 8 extension of time for filing the required report with the
 9 appropriate entity, the address where the report must be
 10 filed, and an explanation of the penalties for noncompliance.
 11 The department may grant an additional 30-day extension of
 12 time if requested to do so in writing by the special district.
 13 The department shall notify the appropriate entity of the new
 14 extension of time. In the case of a special district that did
 15 not timely file the reports or information required by s.
 16 218.38, the department shall send a certified technical
 17 assistance letter to the special district that summarizes the
 18 requirements and encourages the special district to take steps
 19 to prevent the noncompliance from reoccurring.

20 (2) Failure of a special district to comply with the
 21 financial reporting requirements after the procedures of
 22 subsection (1) are exhausted shall be deemed final action of
 23 the special district. The financial reporting requirements
 24 are hereby declared to be essential requirements of law.
 25 Remedy for noncompliance shall be by writ of certiorari as set
 26 forth in subsection (3).

27 (3) Pursuant to s. 11.40(5)(b), the Legislative
 28 Auditing Committee shall notify the department of those
 29 districts that failed to file the required report. Within 30
 30 days after receiving this notice or within 30 days after the
 31 extension date provided in subsection (1), whichever occurs

1 later, the department shall proceed as follows:
2 notwithstanding the provisions of chapter 120, the department
3 shall file a petition for writ of certiorari with the circuit
4 court. Venue for all actions pursuant to this subsection
5 shall be in Leon County. The court shall award the prevailing
6 party attorney's fees and costs in all cases filed pursuant to
7 this section unless affirmatively waived by all parties. A
8 writ of certiorari shall be issued unless a respondent
9 establishes that the notification of the Legislative Auditing
10 Committee was issued as a result of material error.
11 Proceedings under this subsection shall otherwise be governed
12 by the Rules of Appellate Procedure.

13 Section 18. Subsection (5) of section 189.428, Florida
14 Statutes, is amended to read:

15 189.428 Special districts; oversight review process.--

16 (5) Those conducting the oversight review process
17 shall, at a minimum, consider the listed criteria for
18 evaluating the special district, but may also consider any
19 additional factors relating to the district and its
20 performance. If any of the listed criteria does ~~do~~ not apply
21 to the special district being reviewed, it ~~they~~ need not be
22 considered. The criteria to be considered by the reviewer
23 include:

24 (a) The degree to which the service or services
25 offered by the special district are essential or contribute to
26 the well-being of the community.

27 (b) The extent of continuing need for the service or
28 services currently provided by the special district.

29 (c) The extent of municipal annexation or
30 incorporation activity occurring or likely to occur within the
31

1 boundaries of the special district and its impact on the
2 delivery of services by the special district.

3 (d) Whether there is a less costly alternative method
4 of delivering the service or services that would adequately
5 provide the district residents with the services provided by
6 the district.

7 (e) Whether transfer of the responsibility for
8 delivery of the service or services to an entity other than
9 the special district being reviewed could be accomplished
10 without jeopardizing the district's existing contracts, bonds,
11 or outstanding indebtedness.

12 (f) Whether the Auditor General has notified the
13 Legislative Auditing Committee that the special district's
14 audit report, reviewed pursuant to s. 11.45(7), indicates that
15 the district has met any of the conditions specified in s.
16 218.503(1) or that a deteriorating financial condition exists
17 that may cause a condition described in s. 218.503(1) to occur
18 if actions are not taken to address such condition.

19 ~~(g) Whether the Auditor General has determined that~~
20 ~~the special district is in a state of financial emergency as~~
21 ~~provided in s. 218.503(1), and has notified the Governor and~~
22 ~~the Legislative Auditing Committee.~~

23 (g)(h) Whether the district is inactive according to
24 the official list of special districts, and whether the
25 district is meeting and discharging its responsibilities as
26 required by its charter, as well as projected increases or
27 decreases in district activity.

28 (h)(i) Whether the special district has failed to
29 comply with any of the reporting requirements in this chapter,
30 including preparation of the public facilities report.

31

1 ~~(i)~~^(j) Whether the special district has designated a
2 registered office and agent as required by s. 189.416, and has
3 complied with all open public records and meeting
4 requirements.

5 Section 19. Paragraph (a) of subsection (1) of section
6 189.439, Florida Statutes, is amended to read:

7 189.439 Bonds.--

8 (1) AUTHORIZATION AND FORM OF BONDS.--

9 (a) The authority may issue and sell bonds for any
10 purpose for which the authority has the power to expend money,
11 including, without limitation, the power to obtain working
12 capital loans to finance the costs of any project and to
13 refund any bonds or other indebtedness at the time outstanding
14 at or before maturity. Bonds may be sold in the manner
15 provided in s. 218.385 and ~~by public or negotiated sale after~~
16 ~~advertisement, if any, as the board considers advisable.~~
17 ~~Bonds~~ may be authorized by resolution of the board.

18 Section 20. Section 215.981, Florida Statutes, is
19 amended to read:

20 215.981 Audits of state agency direct-support
21 organizations and citizen support organizations.--Each
22 direct-support organization and each citizen support
23 organization, created or authorized pursuant to law, and
24 created, approved, or administered by a state agency, other
25 than a university, district board of trustees of a community
26 college, or district school board, shall provide for an annual
27 financial audit of its accounts and records to be conducted by
28 an independent certified public accountant in accordance with
29 rules adopted by the Auditor General pursuant to s. 11.45(8)
30 and the state agency that created, approved, or administers
31 the direct-support organization or citizen support

1 organization, whenever the organization's expenditures and
2 expenses exceed \$100,000. The audit report shall be submitted
3 within 9 months after the end of the fiscal year to the
4 Auditor General and to the state agency responsible for
5 creation, administration, or approval of the direct-support
6 organization or citizen support organization. Such state
7 agency, the Auditor General, and the Office of Program Policy
8 Analysis and Government Accountability shall have the
9 authority to require and receive from the organization or from
10 the independent auditor any records relative to the operation
11 of the organization.

12 Section 21. Subsection (3) of section 218.075, Florida
13 Statutes, is amended to read:

14 218.075 Reduction or waiver of permit processing
15 fees.--Notwithstanding any other provision of law, the
16 Department of Environmental Protection and the water
17 management districts shall reduce or waive permit processing
18 fees for counties with a population of 50,000 or less on April
19 1, 1994, until such counties exceed a population of 75,000 and
20 municipalities with a population of 25,000 or less, or any
21 county or municipality not included within a metropolitan
22 statistical area. Fee reductions or waivers shall be approved
23 on the basis of fiscal hardship or environmental need for a
24 particular project or activity. The governing body must
25 certify that the cost of the permit processing fee is a fiscal
26 hardship due to one of the following factors:

27 (3) Any condition specified in s. 218.503(1), that
28 results in the county or municipality being in ~~determines~~ a
29 state of financial emergency;

30
31

1 The permit applicant must be the governing body of a county or
2 municipality or a third party under contract with a county or
3 municipality and the project for which the fee reduction or
4 waiver is sought must serve a public purpose. If a permit
5 processing fee is reduced, the total fee shall not exceed
6 \$100.

7 Section 22. Subsection (3) is added to section 218.32,
8 Florida Statutes, to read:

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

11 (3) The department shall notify the President of the
12 Senate and the Speaker of the House of Representatives of any
13 municipality that has not had financial activity for the last
14 4 fiscal years. Such notice shall be sufficient to initiate
15 dissolution procedures described in s. 165.051(1)(a). Any
16 special law authorizing the incorporation or creation of said
17 municipality shall be included within the notification.

18 Section 23. Subsection (3) of section 218.36, Florida
19 Statutes, is amended to read:

20 218.36 County officers; record and report of fees and
21 disposition of same.--

22 (3) The board of county commissioners may ~~shall, on~~
23 ~~the 32nd day following the close of the fiscal year,~~ notify
24 the Governor of the failure of any county officer to comply
25 with the provisions of this section. Such notification shall
26 specify the name of the officer and the office held by him or
27 her at the time of such failure and shall subject said officer
28 to suspension from office at the Governor's discretion.

29 Section 24. Section 218.369, Florida Statutes, is
30 amended to read:

31

1 218.369 Definitions applicable to ss.
2 218.37-218.386.--As used in this section and in ss. 218.37,
3 218.38, 218.385, and 218.386, the term "unit of local
4 government," except where exception is made, means a county,
5 municipality, special district, district school board, local
6 agency, authority, or consolidated city-county government or
7 any other local governmental body or public body corporate and
8 politic authorized or created by general or special law and
9 granted the power to issue general obligation or revenue
10 bonds; and the words "general obligation or revenue bonds"
11 shall be interpreted to include within their scope general
12 obligation bonds, revenue bonds, special assessment bonds,
13 limited revenue bonds, special obligation bonds, debentures,
14 and other similar instruments, but not bond anticipation
15 notes.

16 Section 25. Part V of chapter 218, Florida Statutes,
17 entitled "Financial Emergencies" is renamed "Local
18 Governmental Entity and District School Board Financial
19 Emergencies."

20 Section 26. Section 218.50, Florida Statutes, is
21 amended to read:

22 218.50 Short title.--Sections 218.50-218.504 shall be
23 known as the "Local Governmental Entity and District School
24 Board ~~Government~~ Financial Emergencies Act."

25 Section 27. Section 218.501, Florida Statutes, is
26 amended to read:

27 218.501 Purposes.--The purposes of ss. 218.50-218.504
28 are:

29 (1) To promote ~~preserve and protect~~ the fiscal
30 responsibility ~~solveny~~ of local governmental entities and
31 district school boards.

1 (2) To assist local governmental entities and district
2 school boards in providing essential services without
3 interruption and in meeting their financial obligations.

4 (3) To assist local governmental entities and district
5 school boards through the improvement of local financial
6 management procedures.

7 Section 28. Section 218.502, Florida Statutes, is
8 amended to read:

9 218.502 Definition.--As used in ss. 218.50-218.504,
10 the term "local governmental entity" means a county,
11 municipality, or special district, ~~or district school board.~~

12 Section 29. Section 218.503, Florida Statutes, as
13 amended by chapter 2001-354, Laws of Florida, is amended to
14 read:

15 218.503 Determination of financial emergency.--

16 (1) ~~A~~ Local governmental entities and district school
17 boards shall be subject to review and oversight by the
18 Governor or the Commissioner of Education ~~entity is in a state~~
19 ~~of financial emergency~~ when any one of the following
20 conditions occurs:

21 (a) Failure within the same fiscal year in which due
22 to pay short-term loans from banks or failure to make bond
23 debt service or other long-term debt payments when due, as a
24 result of a lack of funds.

25 (b) Failure to pay uncontested claims from creditors
26 within 90 days after the claim is presented, as a result of a
27 lack of funds.

28 (c) ~~(b)~~ Failure to transfer at the appropriate time,
29 due to lack of funds:

- 30 1. Taxes withheld on the income of employees; or
31 2. Employer and employee contributions for:

- 1 a. Federal social security; or
2 b. Any pension, retirement, or benefit plan of an
3 employee.

4 ~~(d)(c)~~ Failure for one pay period to pay, due to lack
5 of funds:

- 6 1. Wages and salaries owed to employees; or
7 2. Retirement benefits owed to former employees.

8 ~~(e)(d)~~ An unreserved or total fund balance or retained
9 earnings deficit, or unrestricted or total net assets deficit,
10 as reported on the balance sheet or statement of net assets on
11 the general purpose or fund financial statements, for which
12 sufficient resources of the local governmental entity, as
13 reported on the balance sheet or statement of net assets on
14 the general purpose or fund financial statements, are not
15 available to cover the deficit for 2 successive years.
16 Resources available to cover reported deficits include net
17 assets that are not otherwise restricted by federal, state, or
18 local laws, bond covenants, contractual agreements, or other
19 legal constraints. Fixed or capital assets, the disposal of
20 which would impair the ability of a local governmental entity
21 to carry out its functions, are not considered resources
22 available to cover reported deficits.

23 ~~(e)~~ ~~Noncompliance of the local government retirement~~
24 ~~system with actuarial conditions provided by law.~~

25 (2) A local governmental entity shall notify the
26 Governor and the Legislative Auditing Committee, and a
27 district school board shall notify the Commissioner of
28 Education and the Legislative Auditing Committee, when one or
29 more of the conditions specified in subsection (1) have
30 occurred or will occur if action is not taken to assist the
31 local governmental entity or district school board. In

1 addition, any state agency must, within 30 days after a
 2 determination that one or more of the conditions specified in
 3 subsection (1) have occurred or will occur if action is not
 4 taken to assist the local governmental entity or district
 5 school board ~~the identification of the financial emergency,~~
 6 notify the Governor or the Commissioner of Education, as
 7 appropriate, and the Legislative Auditing Committee ~~when one~~
 8 ~~or more of the conditions specified in subsection (1) have~~
 9 ~~occurred or will occur if action is not taken to assist a~~
 10 ~~local governmental entity.~~

11 (3) Upon notification that one or more of the
 12 conditions in subsection (1) exist, the Governor or his or her
 13 designee shall contact the local governmental entity or the
 14 Commissioner of Education or his or her designee shall contact
 15 the district school board to determine what actions have been
 16 taken by the local governmental entity or the district school
 17 board to resolve the condition ~~financial emergency.~~ The
 18 Governor or the Commissioner of Education, as appropriate,
 19 shall determine whether the local governmental entity or the
 20 district school board needs state assistance to resolve the
 21 condition. If state assistance is needed, the local
 22 governmental entity or district school board is considered to
 23 be in a state of financial emergency. The Governor or the
 24 Commissioner of Education, as appropriate, has the authority
 25 to implement measures as set forth in ss. 218.50-218.504 to
 26 assist the local governmental entity or district school board
 27 in resolving ~~resolve~~ the financial emergency. Such measures
 28 may include, but are not limited to:

29 (a) Requiring approval of the local governmental
 30 entity's budget by the Governor or approval of the district
 31 school board's budget by the Commissioner of Education.

1 (b) Authorizing a state loan to a ~~the~~ local
2 governmental entity and providing for repayment of same.

3 (c) Prohibiting a local governmental entity or
4 district school board from issuing bonds, notes, certificates
5 of indebtedness, or any other form of debt until such time as
6 it is no longer subject to this section.

7 (d) Making such inspections and reviews of records,
8 information, reports, and assets of the local governmental
9 entity or district school board. The appropriate local
10 officials shall cooperate in such, ~~in which~~ inspections and
11 reviews ~~the appropriate local officials shall cooperate~~.

12 (e) Consulting with ~~the~~ officials and auditors of the
13 local governmental entity or the district school board and the
14 appropriate state officials ~~agency~~ regarding any steps
15 necessary to bring the books of account, accounting systems,
16 financial procedures, and reports into compliance with state
17 requirements.

18 (f) Providing technical assistance to the local
19 governmental entity or the district school board.

20 (g)1. Establishing a financial emergency ~~emergencies~~
21 board to oversee the activities of the local governmental
22 entity or the district school board. If a financial emergency
23 ~~The~~ board, if is established for a local governmental entity,
24 ~~shall be appointed by~~ the Governor shall appoint board members
25 and select a chair. If a financial emergency board is
26 established for a district school board, the State Board of
27 Education shall appoint board members and select a chair. ~~The~~
28 ~~Governor shall select a chair and such other officers as are~~
29 ~~necessary.~~ The financial emergency board shall adopt such
30 rules as are necessary for conducting board business. The
31 board may:

1 a. Make such reviews of records, reports, and assets
2 of the local governmental entity or the district school board
3 as are needed.

4 b. Consult with ~~the~~ officials and auditors of the
5 local governmental entity or the district school board and the
6 appropriate state officials regarding any steps necessary to
7 bring the books of account, accounting systems, financial
8 procedures, and reports of the local governmental entity or
9 the district school board into compliance with state
10 requirements.

11 c. Review the operations, management, efficiency,
12 productivity, and financing of functions and operations of the
13 local governmental entity or district school board.

14 2. The recommendations and reports made by the
15 financial emergency board must be submitted to the Governor
16 for local governmental entities or to the Commissioner of
17 Education and the State Board of Education for district school
18 boards for appropriate action.

19 (h) Requiring and approving a plan, to be prepared by
20 ~~officials of the appropriate state agency in conjunction with~~
21 the local governmental entity or the district school board in
22 consultation with the appropriate state officials, prescribing
23 actions that will cause the local governmental entity or
24 district school board to no longer be subject to this section.
25 The plan must include, but need not be limited to:

26 1. Provision for payment in full of obligations
27 outlined in subsection (1), designated as priority items, that
28 are currently ~~all payments~~ due or will to come due ~~on debt~~
29 ~~obligations, pension payments, and all payments and charges~~
30 ~~imposed or mandated by federal or state law and for all~~
31

1 ~~judgments and past due accounts, as priority items of~~
2 ~~expenditures.~~

3 2. Establishment of ~~a basis of~~ priority budgeting or
4 zero-based budgeting in order, ~~so as~~ to eliminate ~~low-priority~~
5 items that are not affordable.

6 3. The prohibition of a level of operations which can
7 be sustained only with nonrecurring revenues.

8 (4) ~~A During the financial emergency period, the local~~
9 governmental entity or district school board may not seek
10 application of laws under the bankruptcy provisions of the
11 United States Constitution except with the prior approval of
12 the Governor for local governmental entities or the
13 Commissioner of Education for district school boards.

14 (5)(a) The governing authority of any municipality
15 having a resident population of 300,000 or more on or after
16 April 1, 1999, which has been declared in a state of financial
17 emergency pursuant to this section may impose a discretionary
18 per-vehicle surcharge of up to 20 percent on the gross
19 revenues of the sale, lease, or rental of space at parking
20 facilities within the municipality which are open for use to
21 the general public.

22 (b) A municipal governing authority that imposes the
23 surcharge authorized by this subsection may use the proceeds
24 of such surcharge for the following purposes only:

25 1. No less than 60 percent and no more than 80 percent
26 of the surcharge proceeds shall be used by the governing
27 authority to reduce its ad valorem tax millage rate or to
28 reduce or eliminate non-ad valorem assessments.

29 2. A portion of the balance of the surcharge proceeds
30 shall be used by the governing authority to increase its
31 budget reserves; however, the governing authority shall not

1 reduce the amount it allocates for budget reserves from other
2 sources below the amount allocated for reserves in the fiscal
3 year prior to the year in which the surcharge is initially
4 imposed. When a 15-percent budget reserve is achieved, based
5 on the average gross revenue for the most recent 3 prior
6 fiscal years, the remaining proceeds from this subparagraph
7 shall be used for the payment of annual debt service related
8 to outstanding obligations backed or secured by a covenant to
9 budget and appropriate from non-ad valorem revenues.

10 (c) This subsection expires June 30, 2006.

11 Section 30. Section 218.504, Florida Statutes, is
12 amended to read:

13 218.504 Cessation of state action.--The Governor or
14 the Commissioner of Education, as appropriate, has the
15 authority to terminate all state actions pursuant to ss.
16 218.50-218.504. Cessation of state action must not occur
17 until the Governor or the Commissioner of Education, as
18 appropriate, has determined that:

19 (1) The local governmental entity or district school
20 board:

21 (a) Has established and is operating an effective
22 financial accounting and reporting system.

23 (b) Has resolved ~~corrected or eliminated~~ the ~~fiscal~~
24 ~~emergency~~ conditions outlined in s. 218.503(1).

25 (2) None of the ~~No new fiscal emergency~~ conditions
26 outlined in s. 218.593(1) exist.

27 Section 31. Section 236.43, Florida Statutes, is
28 amended to read:

29 236.43 Receiving bids and sale of bonds.--

30 (1) In case the issuance of bonds shall be authorized
31 at said election, or in case any bonds outstanding against the

1 district are being refunded, the school board shall sell the
2 bonds in the manner provided in s. 218.385.~~cause notice to be~~
3 ~~given by publication in some newspaper published in the~~
4 ~~district that said board will receive bids for the purchase of~~
5 ~~the bonds at the office of the superintendent of said~~
6 ~~district. The notice shall be published twice and the first~~
7 ~~publication shall be given not less than 30 days prior to the~~
8 ~~date set for receiving the bids. Said notice shall specify~~
9 ~~the amount of the bonds offered for sale and shall state~~
10 ~~whether the bids shall be sealed bids or whether the bonds are~~
11 ~~to be sold at auction, shall give the schedule of maturities~~
12 ~~of the proposed bonds and such other pertinent information as~~
13 ~~may be prescribed by regulations of the state board. Bidders~~
14 ~~may be invited to name the rate of interest which the bonds~~
15 ~~are to bear or the school board may name rates of interest and~~
16 ~~invite bids thereon. In addition to publication of notice of~~
17 ~~the proposed sale as set forth above, the school board shall~~
18 ~~also notify in writing at least three recognized bond dealers~~
19 ~~in the state and shall also at the same time notify the~~
20 ~~Department of Education concerning the proposed sale,~~
21 ~~enclosing a copy of the advertisement.~~

22 (2) ~~All bonds and refunding bonds issued as provided~~
23 ~~by law shall be sold to the highest and best bidder at such~~
24 ~~public sale unless sold at a better price or yield basis~~
25 ~~within 30 days after failure to receive an acceptable bid at a~~
26 ~~duly advertised public sale; provided, that at no time shall~~
27 ~~bonds or refunding bonds be sold or exchanged at less than par~~
28 ~~value except as specifically authorized by the department; and~~
29 ~~provided, further, that the school board shall have the right~~
30 ~~to reject all bids and cause a new notice to be given in like~~
31 ~~manner inviting other bids for such bonds, or to sell all or~~

1 ~~any part of such bonds to the state board at a price and yield~~
2 ~~basis which shall not be less advantageous to the school board~~
3 ~~than that represented by the highest and best bid received.~~

4 In the marketing of said bonds the school board shall be
5 entitled to have such assistance as can be rendered by the
6 Governor, the State Treasurer, the Commissioner of Education,
7 or any other public state officer or agency. In determining
8 the highest and best bidder for bonds offered for sale by
9 competitive bid, the true net interest cost to the school
10 board ~~as shown in standard bond tables~~ shall govern,^r
11 provided, that the determination of the school board as to the
12 highest and best bidder shall be final.

13 Section 32. Subsection (4) of section 237.40, Florida
14 Statutes, is amended to read:

15 237.40 Direct-support organization; use of property;
16 board of directors; audit.--

17 (4) ANNUAL AUDIT.--Each direct-support organization
18 with more than \$100,000 in expenditures and expenses shall
19 provide for an annual financial audit of its accounts and
20 records, to be conducted by an independent certified public
21 accountant in accordance with rules adopted by the Auditor
22 General pursuant to s. 11.45(8) and the Commissioner of
23 Education. The annual audit report shall be submitted within 9
24 months after the fiscal year's end to the district school
25 board and the Auditor General. The Commissioner of Education,
26 the Auditor General, and the Office of Program Policy Analysis
27 and Government Accountability have the authority to require
28 and receive from the organization or the district auditor any
29 records relative to the operation of the organization. The
30 identity of donors and all information identifying donors and
31 prospective donors are confidential and exempt from the

1 provisions of s. 119.07(1), and that anonymity shall be
2 maintained in the auditor's report. All other records and
3 information shall be considered public records for the
4 purposes of chapter 119.

5 Section 33. Subsection (5) of section 240.299, Florida
6 Statutes, is amended to read:

7 240.299 Direct-support organizations; use of property;
8 board of directors; activities; audit; facilities.--

9 (5) ANNUAL AUDIT.--Each direct-support organization
10 with more than \$100,000 in expenditures and expenses shall
11 provide for an annual financial audit of its accounts and
12 records to be conducted by an independent certified public
13 accountant in accordance with rules adopted by the Auditor
14 General pursuant to s. 11.45(8) and by the Board of Regents.
15 The annual audit report shall be submitted, within 9 months
16 after the end of the fiscal year, to the Auditor General and
17 the Board of Regents for review. The Board of Regents, the
18 Auditor General, and the Office of Program Policy Analysis and
19 Government Accountability shall have the authority to require
20 and receive from the organization or from its independent
21 auditor any records relative to the operation of the
22 organization. The identity of donors who desire to remain
23 anonymous shall be protected, and that anonymity shall be
24 maintained in the auditor's report. All records of the
25 organization other than the auditor's report, management
26 letter, and any supplemental data requested by the Board of
27 Regents, the Auditor General, and the Office of Program Policy
28 Analysis and Government Accountability shall be confidential
29 and exempt from the provisions of s. 119.07(1).

30 Section 34. Subsection (6) of section 240.331, Florida
31 Statutes, is amended to read:

1 240.331 Community college direct-support
2 organizations.--

3 (6) ANNUAL AUDIT.--Each direct-support organization
4 with more than \$100,000 in expenditures and expenses shall
5 provide for an annual financial audit of its accounts and
6 records in accordance with rules adopted by the Auditor
7 General pursuant to s. 11.45(8). The annual audit report must
8 be submitted, within 9 months after the end of the fiscal
9 year, to the Auditor General, the State Board of Community
10 Colleges, and the board of trustees for review. The board of
11 trustees, the Auditor General, and the Office of Program
12 Policy Analysis and Government Accountability may require and
13 receive from the organization or from its independent auditor
14 any detail or supplemental data relative to the operation of
15 the organization. The identity of donors who desire to remain
16 anonymous shall be protected, and that anonymity shall be
17 maintained in the auditor's report. All records of the
18 organization, other than the auditor's report, any information
19 necessary for the auditor's report, any information related to
20 the expenditure of funds, and any supplemental data requested
21 by the board of trustees, the Auditor General, and the Office
22 of Program Policy Analysis and Government Accountability,
23 shall be confidential and exempt from the provisions of s.
24 119.07(1).

25 Section 35. Chapter 131, Florida Statutes, consisting
26 of sections 131.01, 131.02, 131.03, 131.04, 131.05, and
27 131.06, Florida Statutes, is repealed.

28 Section 36. Section 132.10, Florida Statutes, is
29 repealed.

30 Section 37. Section 165.052, Florida Statutes, is
31 repealed.

1 Section 38. Section 189.409, Florida Statutes, is
2 repealed.

3 Section 39. Section 189.422, Florida Statutes, is
4 repealed.

5 Section 40. Section 200.0684, Florida Statutes, is
6 repealed.

7 Section 41. Paragraph (h) of subsection (1) of section
8 218.37, Florida Statutes, is repealed.

9 Section 42. Effective July 1, 2002, section 215.195,
10 Florida Statutes, is amended to read:

11 215.195 Agency deposits relating to the Statewide Cost
12 Allocation Plan.--

13 (1) APPLICATION FOR ALLOCABLE STATEWIDE
14 OVERHEAD.--Each state agency, and the judicial branch, making
15 application for federal grant or contract funds shall, in
16 accordance with the Statewide Cost Allocation Plan(SWCAP),
17 include in its application a prorated share of the cost of
18 services provided by state central service agencies which are
19 reimbursable to the state pursuant to the provisions of Office
20 of Management and Budget Circular A-87. Preparation of the
21 Statewide Cost Allocation Plan and coordination thereof with
22 all applicable parties is the responsibility of the
23 Comptroller. The Comptroller shall ensure that the SWCAP
24 presents the most favorable allocation of central services
25 cost allowable to the state by the Federal Government.

26 (2) DEPOSIT OF OVERHEAD IN THE GENERAL REVENUE
27 FUND.--If an application for federal grant or contract funds
28 is approved, the state agency or judicial branch receiving the
29 federal grant or contract shall identify that portion
30 representing reimbursement of allocable statewide overhead and
31 deposit that amount into the General Revenue Fund unallocated

1 as directed by the Comptroller ~~Executive Office of the~~
2 ~~Governor~~. The Comptroller shall be responsible for monitoring
3 agency compliance with this section.

4 Section 43. Effective July 1, 2002, section 215.97,
5 Florida Statutes, is amended to read:

6 215.97 Florida Single Audit Act.--

7 (1) The purposes of the section are to:

8 (a) Establish uniform state audit requirements for
9 state financial assistance provided by state agencies to
10 nonstate entities to carry out state projects.

11 (b) Promote sound financial management, including
12 effective internal controls, with respect to state financial
13 assistance administered by nonstate entities.

14 (c) Promote audit economy and efficiency by relying to
15 the extent possible on already required audits of federal
16 financial assistance provided to nonstate entities.

17 (d) Provide for identification of state financial
18 assistance transactions in the appropriations act, state
19 accounting records, and recipient organization records.

20 (e) Promote improved coordination and cooperation
21 within and between affected state agencies providing state
22 financial assistance and nonstate entities receiving state
23 assistance.

24 (f) Ensure, to the maximum extent possible, that state
25 agencies monitor, use, and followup on audits of state
26 financial assistance provided to nonstate entities.

27 (2) Definitions; as used in this section, the term:

28 (a) "Audit threshold" means the threshold amount used
29 to determine ~~to use in determining~~ when a state single audit
30 of a nonstate entity shall be conducted in accordance with
31 this section. Each nonstate entity that expends a total amount

1 of state financial assistance equal to or in excess of
 2 \$300,000 in any fiscal year of such nonstate entity shall be
 3 required to have a state single audit for such fiscal year in
 4 accordance with the requirements of this section. Every 2
 5 years the Auditor General, after consulting with the Executive
 6 Office of the Governor, the Comptroller, and all state
 7 awarding agencies ~~that provide state financial assistance to~~
 8 ~~nonstate entities~~, shall review the threshold amount for
 9 requiring audits under this section and may adjust such
 10 threshold dollar amount consistent with the purposes ~~purpose~~
 11 of this section.

12 (b) "Auditing standards" means the auditing standards
 13 as stated in the rules of the Auditor General as applicable to
 14 for-profit organizations, nonprofit organizations, or local
 15 governmental entities.

16 (c) "Catalog of State Financial Assistance" means a
 17 comprehensive listing of state projects. The Catalog of State
 18 Financial Assistance shall be issued by the Comptroller
 19 ~~Executive Office of the Governor~~ after conferring with ~~the~~
 20 ~~Comptroller and~~ all state awarding agencies ~~that provide state~~
 21 ~~financial assistance to nonstate entities~~. The Catalog of
 22 State Financial Assistance shall include for each listed state
 23 project: the responsible state awarding agency; standard state
 24 project number identifier; official title; legal
 25 authorization; and description of the state project, including
 26 objectives, restrictions, application and awarding procedures,
 27 and other relevant information determined necessary.

28 (d) "Coordinating agency" means the state awarding
 29 agency that provides the predominant amount of state financial
 30 assistance expended by a recipient, as determined by the
 31 recipient's Schedule of Expenditures of State Financial

1 Assistance. To provide continuity, the determination of the
2 predominant amount of state financial assistance shall be
3 based upon state financial assistance expended in the
4 recipient's fiscal years ending in 2003, 2006, and 2009, and
5 every third year thereafter.

6 (e)~~(d)~~ "Financial reporting package" means the
7 nonstate entities' financial statements, Schedule of
8 Expenditures of State Financial Assistance, auditor's reports,
9 management letter, auditee's written responses or corrective
10 action plan, correspondence on followup of prior years'
11 corrective actions taken, and such other information
12 determined by the Auditor General to be necessary and
13 consistent with the purposes of this section.

14 (f)~~(e)~~ "Federal financial assistance" means financial
15 assistance from federal sources passed through the state and
16 provided to nonstate organizations ~~entities~~ to carry out a
17 federal program. "Federal financial assistance" includes all
18 types of federal assistance as defined in applicable United
19 States Office of Management and Budget circulars.

20 (g)~~(f)~~ "For-profit organization" means any
21 organization or sole proprietor that ~~but~~ is not a local
22 governmental entity or a nonprofit organization.

23 (h)~~(g)~~ "Independent auditor" means an external state
24 or local governmental ~~government~~ auditor or a certified public
25 accountant who meets the independence standards.

26 (i)~~(h)~~ "Internal control over state projects" means a
27 process, effected by a nonstate ~~an~~ entity's management and
28 other personnel, designed to provide reasonable assurance
29 regarding the achievement of objectives in the following
30 categories:

- 31 1. Effectiveness and efficiency of operations.

1 2. Reliability of financial operations.
2 3. Compliance with applicable laws and regulations.
3 (j)~~(i)~~ "Local governmental entity" means a county
4 ~~agency~~, municipality, or special district or any other entity
5 (other than a district school board, charter school, ~~or~~
6 community college, or public university), however styled,
7 which independently exercises any type of governmental
8 function within the state.

9 (k)~~(j)~~ "Major state project" means any state project
10 meeting the criteria as stated in the rules of the Comptroller
11 ~~Executive Office of the Governor~~. Such criteria shall be
12 established after consultation with all ~~the Comptroller and~~
13 ~~appropriate~~ state awarding agencies ~~that provide state~~
14 ~~financial assistance~~ and shall consider the amount of state
15 project expenditures and ~~or~~ expenses or inherent risks. Each
16 major state project shall be audited in accordance with the
17 requirements of this section.

18 (l)~~(k)~~ "Nonprofit organization" means any corporation,
19 trust, association, cooperative, or other organization that:

20 1. Is operated primarily for scientific, educational
21 service, charitable, or similar purpose in the public
22 interest;

23 2. Is not organized primarily for profit;

24 3. Uses net proceeds to maintain, improve, or expand
25 the operations of the organization; and

26 4. Has no part of its income or profit distributable
27 to its members, directors, or officers.

28 (m)~~(l)~~ "Nonstate entity" means a local governmental
29 entity, nonprofit organization, or for-profit organization
30 that receives state financial assistance ~~resources~~.

31

1 (n) "Nonstate organization" means a local governmental
2 entity, nonprofit organization, or for-profit organization
3 that receives state resources.

4 (o)~~(m)~~ "Recipient" means a nonstate entity that
5 receives state financial assistance directly from a state
6 awarding agency.

7 (p)~~(n)~~ "Schedule of Expenditures of State Financial
8 Assistance" means a document prepared in accordance with the
9 rules of the Comptroller and included in each financial
10 reporting package required by this section.

11 (q)~~(o)~~ "State awarding agency" means a ~~the~~ state
12 agency, as defined in s. 216.011, that provides ~~provided~~ state
13 financial assistance to ~~a~~ the nonstate entity.

14 (r)~~(p)~~ "State financial assistance" means ~~financial~~
15 ~~assistance from~~ state resources, not including federal
16 financial assistance and state matching on federal programs,
17 provided to a nonstate entity ~~entities~~ to carry out a state
18 project. "State financial assistance" shall include the
19 ~~includes all~~ types of state resources ~~assistance as~~ stated in
20 the rules of the Comptroller ~~Executive Office of the Governor~~
21 established in consultation with all ~~the Comptroller and~~
22 ~~appropriate~~ state awarding agencies ~~that provide state~~
23 ~~financial assistance. It includes~~ State financial assistance
24 may be provided directly by state awarding agencies or
25 indirectly by nonstate entities ~~recipients of state awards or~~
26 ~~subrecipients.~~ State financial assistance ~~It~~ does not include
27 procurement contracts used to buy goods or services from
28 vendors and. ~~Audits of such procurement contracts with vendors~~
29 ~~are outside of the scope of this section. Also, audits of~~
30 contracts to operate state-owned ~~state-government-owned~~ and
31

1 contractor-operated facilities ~~are excluded from the audit~~
2 ~~requirements of this section.~~

3 (s)(q) "State matching" means state resources provided
4 to a nonstate entity ~~entities to be used~~ to meet federal
5 financial participation matching requirements ~~of federal~~
6 ~~programs.~~

7 (t) "State program" means a set of special purpose
8 activities undertaken to realize identifiable goals and
9 objectives in order to achieve a state agency's mission and
10 legislative intent requiring accountability for state
11 resources.

12 (u)(r) "State project" means a state program that
13 provides all state financial assistance to a nonstate
14 organization and that must be ~~entity~~ assigned a ~~single~~ state
15 project number identifier in the Catalog of State Financial
16 Assistance.

17 (v)(s) "State Projects Compliance Supplement" means a
18 document issued by the Comptroller ~~Executive Office of the~~
19 ~~Governor~~, in consultation with ~~the Comptroller and~~ all state
20 awarding agencies that provide state financial assistance. The
21 State Projects Compliance Supplement shall identify state
22 projects, the significant compliance requirements, eligibility
23 requirements, matching requirements, suggested audit
24 procedures, and other relevant information determined
25 necessary.

26 (w)(t) "State project-specific audit" means an audit
27 of one state project performed in accordance with the
28 requirements of subsection (10)(9).

29 (x)(u) "State single audit" means an audit of a
30 nonstate entity's financial statements and state financial
31 assistance. Such audits shall be conducted in accordance with

1 the auditing standards as stated in the rules of the Auditor
2 General.

3 (y)~~(v)~~ "Subrecipient" means a nonstate entity that
4 receives state financial assistance through another nonstate
5 entity.

6 (z)~~(w)~~ "Vendor" means a dealer, distributor, merchant,
7 or other seller providing goods or services that are required
8 for the conduct of a state project. These goods or services
9 may be for an organization's own use or for the use of
10 beneficiaries of the state project.

11 (3) The Executive Office of the Governor shall be
12 responsible for notifying the Comptroller of any actions
13 during the budgetary process that impact the Catalog of State
14 Financial Assistance.+

15 ~~(a) Upon conferring with the Comptroller and all state~~
16 ~~awarding agencies, adopt rules necessary to provide~~
17 ~~appropriate guidance to state awarding agencies, recipients~~
18 ~~and subrecipients, and independent auditors of state financial~~
19 ~~assistance relating to the requirements of this section,~~
20 ~~including:~~

21 1. ~~The types or classes of financial assistance~~
22 ~~considered to be state financial assistance which would be~~
23 ~~subject to the requirements of this section. This would~~
24 ~~include guidance to assist in identifying when the state~~
25 ~~agency or recipient has contracted with a vendor rather than~~
26 ~~with a recipient or subrecipient.~~

27 2. ~~The criteria for identifying a major state project.~~

28 3. ~~The criteria for selecting state projects for~~
29 ~~audits based on inherent risk.~~

30 ~~(b) Be responsible for coordinating the initial~~
31 ~~preparation and subsequent revisions of the Catalog of State~~

1 ~~Financial Assistance after consultation with the Comptroller~~
2 ~~and all state awarding agencies.~~

3 ~~(c) Be responsible for coordinating the initial~~
4 ~~preparation and subsequent revisions of the State Projects~~
5 ~~Compliance Supplement, after consultation with the Comptroller~~
6 ~~and all state awarding agencies.~~

7 (4) The Comptroller shall:

8 (a) Upon conferring with the Executive Office of the
9 Governor and all state awarding agencies, adopt rules
10 necessary to provide appropriate guidance to state awarding
11 agencies, nonstate entities, and independent auditors of state
12 financial assistance relating to the requirements of this
13 section, including:

14 1. The types or classes of state resources considered
15 to be state financial assistance that would be subject to the
16 requirements of this section. This would include guidance to
17 assist in identifying when the state awarding agency or a
18 nonstate entity has contracted with a vendor rather than with
19 a recipient or subrecipient.

20 2. The criteria for identifying a major state project.

21 3. The criteria for selecting state projects for
22 audits based on inherent risk.

23 (b) Be responsible for coordinating revisions to the
24 Catalog of State Financial Assistance after consultation with
25 the Executive Office of the Governor and all state awarding
26 agencies.

27 (c) Be responsible for coordinating with the Executive
28 Office of the Governor actions affecting the budgetary process
29 under paragraph (b).

30 (d) Be responsible for coordinating revisions to the
31 State Projects Compliance Supplement, after consultation with

1 the Executive Office of the Governor and all state awarding
2 agencies.

3 (e)~~(a)~~ Make enhancements to the state's accounting
4 system to provide for the:

5 1. Recording of state financial assistance and federal
6 financial assistance appropriations and expenditures within
7 the state awarding agencies' operating funds.

8 2. Recording of state project number identifiers, as
9 provided in the Catalog of State Financial Assistance, for
10 state financial assistance.

11 3. Establishment and recording of an identification
12 code for each financial transaction, including state awarding
13 agencies' disbursements of state financial assistance and
14 federal financial assistance, as to the corresponding type or
15 organization that is party to the transaction (e.g., other
16 governmental agencies, nonprofit organizations, and for-profit
17 organizations), and disbursements of federal financial
18 assistance, as to whether the party to the transaction is or
19 is not a nonstate entity recipient or subrecipient.

20 (f)~~(b)~~ Upon conferring with the Executive Office of
21 the Governor and all state awarding agencies, adopt rules
22 necessary to provide appropriate guidance to state awarding
23 agencies, nonstate entities recipients and subrecipients, and
24 independent auditors of state financial assistance relating to
25 the format for the Schedule of Expenditures of State Financial
26 Assistance.

27 (g)~~(c)~~ Perform any inspections, reviews,
28 investigations, or audits of state financial assistance
29 considered necessary in carrying out the Comptroller's legal
30 responsibilities for state financial assistance or to comply
31 with the requirements of this section.

1 (5) Each state awarding agency shall:

2 (a) Provide to each a recipient information needed by
3 the recipient to comply with the requirements of this section,
4 including:

5 1. The audit and accountability requirements for state
6 projects as stated in this section and applicable ~~rules of the~~
7 ~~Executive Office of the Governor~~, rules of the Comptroller,
8 and rules of the Auditor General.

9 2. Information from the Catalog of State Financial
10 Assistance, including the standard state project number
11 identifier; official title; legal authorization; and
12 description of the state project including objectives,
13 restrictions, and other relevant information determined
14 necessary.

15 3. Information from the State Projects Compliance
16 Supplement, including the significant compliance requirements,
17 eligibility requirements, matching requirements, suggested
18 audit procedures, and other relevant information determined
19 necessary.

20 (b) Require the recipient, as a condition of receiving
21 state financial assistance, to allow the state awarding
22 agency, the Comptroller, and the Auditor General access to the
23 recipient's records and the recipient's independent auditor's
24 working papers as necessary for complying with the
25 requirements of this section.

26 (c) Notify the recipient that this section does not
27 limit the authority of the state awarding agency to conduct or
28 arrange for the conduct of additional audits or evaluations of
29 state financial assistance or limit the authority of any state
30 awarding agency inspector general, the Auditor General, or any
31 other state official.

1 (d) Be provided one copy of each financial reporting
2 package prepared in accordance with the requirement of this
3 section.

4 (e) Review the recipient's ~~recipient~~ financial
5 reporting package, including the management letters and
6 corrective action plans, to the extent necessary to determine
7 whether timely and appropriate corrective action has been
8 taken with respect to audit findings and recommendations
9 pertaining to state financial assistance that is specific to
10 ~~provided by~~ the state awarding agency.

11 (f) Designate within the state awarding agency a
12 division, bureau, or other organizational unit that will be
13 responsible for reviewing financial reporting packages
14 pursuant to paragraph (e).

15
16 If the state awarding agency is not the coordinating agency as
17 defined in paragraph (2)(d), the state awarding agency's
18 designated division, bureau, or other organizational unit
19 shall communicate to the coordinating agency the state
20 awarding agency's approval of the recipient's corrective
21 action plan with respect to findings and recommendations that
22 are not specific to the state awarding agency.

23 (6) Each coordinating agency shall:

24 (a) Review the recipient's financial reporting
25 package, including the management letter and corrective action
26 plan, to identify audit findings and recommendations that
27 affect state financial assistance that is not specific to a
28 particular state awarding agency.

29 (b) For any such findings and recommendations
30 determine:

31

1 1. Whether timely and appropriate corrective action
2 has been taken.

3 2. Promptly inform the state awarding agency's
4 contact, as designated pursuant to paragraph (5)(f), of
5 actions taken by the recipient to comply with the approved
6 corrective action plan.

7 (c) Maintain records of followup actions taken for the
8 use of any succeeding coordinating agency.

9 (7)(6) As a condition of receiving state financial
10 assistance, each nonstate entity recipient that provides state
11 financial assistance to a subrecipient shall:

12 (a) Provide to each a subrecipient information needed
13 by the subrecipient to comply with the requirements of this
14 section, including:

15 1. Identification of the state awarding agency.

16 2. The audit and accountability requirements for state
17 projects as stated in this section and applicable ~~rules of the~~
18 ~~Executive Office of the Governor~~, rules of the Comptroller,
19 and rules of the Auditor General.

20 3. Information from the Catalog of State Financial
21 Assistance, including the standard state project number
22 identifier; official title; legal authorization; and
23 description of the state project, including objectives,
24 restrictions, and other relevant information.

25 4. Information from the State Projects Compliance
26 Supplement including the significant compliance requirements,
27 eligibility requirements, matching requirements, and suggested
28 audit procedures, and other relevant information determined
29 necessary.

30 (b) Review the financial reporting package of the
31 subrecipient ~~audit reports~~, including the management letter

1 and corrective action plan letters, to the extent necessary to
2 determine whether timely and appropriate corrective action has
3 been taken with respect to audit findings and recommendations
4 pertaining to state financial assistance provided by a the
5 state awarding agency or nonstate entity.

6 (c) Perform such other procedures as specified in
7 terms and conditions of the written agreement with the state
8 awarding agency or nonstate entity including any required
9 monitoring of the subrecipient's use of state financial
10 assistance through onsite visits, limited scope audits, or
11 other specified procedures.

12 (d) Require subrecipients, as a condition of receiving
13 state financial assistance, to permit the independent auditor
14 of the nonstate entity recipient, the state awarding agency,
15 the Comptroller, and the Auditor General access to the
16 subrecipient's records and the subrecipient's independent
17 auditor's working papers as necessary to comply with the
18 requirements of this section.

19 ~~(8)(7)~~ Each recipient or subrecipient of state
20 financial assistance shall comply with the following:

21 (a) Each nonstate entity that ~~receives state financial~~
22 ~~assistance and~~ meets the audit threshold requirements, in any
23 fiscal year of the nonstate entity, as stated in the rules of
24 the Auditor General, shall have a state single audit conducted
25 for such fiscal year in accordance with the requirements of
26 this act and with additional requirements established in ~~rules~~
27 ~~of the Executive Office of the Governor,~~ rules of the
28 Comptroller, and rules of the Auditor General. If only one
29 state project is involved in a nonstate entity's fiscal year,
30 the nonstate entity may elect to have only a state
31

1 project-specific audit ~~of the state project for that fiscal~~
2 ~~year.~~

3 (b) Each nonstate entity that ~~receives state financial~~
4 ~~assistance and~~ does not meet the audit threshold requirements,
5 in any fiscal year of the nonstate entity, as stated in this
6 law or the rules of the Auditor General is exempt for such
7 fiscal year from the state single audit requirements of this
8 section. However, such nonstate entity must meet terms and
9 conditions specified in the written agreement with the state
10 awarding agency or nonstate entity.

11 (c) Regardless of the amount of ~~the~~ state financial
12 assistance, the provisions of this section do not exempt a
13 nonstate entity from compliance with provisions of law
14 relating to maintaining records concerning state financial
15 assistance to such nonstate entity or allowing access and
16 examination of those records by the state awarding agency,
17 nonstate entity, the Comptroller, or the Auditor General.

18 (d) Audits conducted pursuant to this section shall be
19 performed annually.

20 (e) Audits conducted pursuant to this section shall be
21 conducted by independent auditors in accordance with auditing
22 standards as stated in rules of the Auditor General.

23 (f) Upon completion of the audit as required by this
24 section, a copy of the recipient's financial reporting package
25 shall be filed with the state awarding agency and the Auditor
26 General. Upon completion of the audit as required by this
27 section, a copy of the subrecipient's financial reporting
28 package shall be filed with the nonstate entity recipient that
29 provided the state financial assistance and the Auditor
30 General. The financial reporting package shall be filed in
31 accordance with the rules of the Auditor General.

1 (g) All financial reporting packages prepared pursuant
2 to the requirements of this section shall be available for
3 public inspection.

4 (h) If an audit conducted pursuant to this section
5 discloses any significant audit findings relating to state
6 financial assistance, including material noncompliance with
7 individual state project compliance requirements or reportable
8 conditions in internal controls of the nonstate entity, the
9 nonstate entity shall submit as part of the financial
10 reporting ~~audit~~ package to the state awarding agency or
11 nonstate entity a plan for corrective action to eliminate such
12 audit findings or a statement describing the reasons that
13 corrective action is not necessary.

14 (i) An audit conducted in accordance with this section
15 is in addition to any audit of federal awards required by the
16 federal Single Audit Act and other federal laws and
17 regulations. To the extent that such federally required audits
18 provide the state awarding agency or nonstate entity with
19 information it requires to carry out its responsibilities
20 under state law or other guidance, the ~~a~~ state awarding agency
21 or nonstate entity shall rely upon and use that information.

22 (j) Unless prohibited by law, the costs ~~cost~~ of audits
23 pursuant to this section are ~~is~~ allowable charges to state
24 projects. However, any charges to state projects should be
25 limited to those incremental costs incurred as a result of the
26 audit requirements of this section in relation to other audit
27 requirements. The nonstate entity should allocate such
28 incremental costs to all state projects for which it expended
29 state financial assistance.

30 (k) Audit costs may not be charged to state projects
31 when audits required by this section have not been made or

1 have been made but not in accordance with this section. If a
2 nonstate entity fails to have an audit conducted consistent
3 with this section, a state awarding agency or nonstate entity
4 ~~agencies~~ may take appropriate corrective action to enforce
5 compliance.

6 (l) This section does not prohibit the state awarding
7 agency or nonstate entity from including terms and conditions
8 in the written agreement which require additional assurances
9 that state financial assistance meets the applicable
10 requirements of laws, regulations, and other compliance rules.

11 (m) A state awarding agency or nonstate entity that
12 ~~provides state financial assistance to nonstate entities and~~
13 conducts or arranges for audits of state financial assistance
14 that are in addition to the audits conducted under this act,
15 including audits of nonstate entities that do not meet the
16 audit threshold requirements, shall, consistent with other
17 applicable law, arrange for funding the full cost of such
18 additional audits.

19 ~~(9)(8)~~ The independent auditor when conducting a state
20 single audit of a nonstate entity ~~recipients or subrecipients~~
21 shall:

22 (a) Determine whether the nonstate entity's financial
23 statements are presented fairly in all material respects in
24 conformity with generally accepted accounting principles.

25 (b) Determine whether state financial assistance shown
26 on the Schedule of Expenditures of State Financial Assistance
27 is presented fairly in all material respects in relation to
28 the nonstate entity's financial statements taken as a whole.

29 (c) With respect to internal controls pertaining to
30 each major state project:

- 31 1. Obtain an understanding of internal controls;

- 1 2. Assess control risk;
2 3. Perform tests of controls unless the controls are
3 deemed to be ineffective; and
4 4. Determine whether the nonstate entity has internal
5 controls in place to provide reasonable assurance of
6 compliance with the provisions of laws and rules pertaining to
7 state financial assistance that have a material effect on each
8 major state project.

9 (d) Determine whether each major state project
10 complied with the provisions of laws, rules, and guidelines as
11 identified in the State Projects Compliance Supplement, or
12 otherwise identified by the state awarding agency, which have
13 a material effect on each major state project. When major
14 state projects are less than 50 percent of the nonstate
15 entity's total expenditures for all state financial
16 assistance, the auditor shall select and test additional state
17 projects as major state projects as necessary to achieve audit
18 coverage of at least 50 percent of the expenditures for all
19 state financial assistance provided to the nonstate entity.
20 Additional state projects needed to meet the 50-percent
21 requirement may be selected on an inherent risk basis as
22 stated in the rules of the Comptroller ~~Executive Office of the~~
23 ~~Governor~~.

24 (e) Report on the results of any audit conducted
25 pursuant to this section in accordance with the ~~rules of the~~
26 ~~Executive Office of the Governor~~, rules of the Comptroller,
27 and rules of the Auditor General. Financial reporting packages
28 ~~Audit reports~~ shall include summaries of the auditor's results
29 regarding the nonstate entity's financial statements; Schedule
30 of Expenditures of State Financial Assistance; internal
31 controls; and compliance with laws, rules, and guidelines.

1 (f) Issue a management letter as prescribed in the
2 rules of the Auditor General.

3 (g) Upon notification by the nonstate entity, make
4 available the working papers relating to the audit conducted
5 pursuant to the requirements of this section to the state
6 awarding agency, the Comptroller, or the Auditor General for
7 review or copying.

8 ~~(10)(9)~~ The independent auditor, when conducting a
9 state project-specific audit of a nonstate entity recipients
10 ~~or subrecipients~~, shall:

11 (a) Determine whether the nonstate entity's Schedule
12 of Expenditures of State Financial Assistance is presented
13 fairly in all material respects in conformity with stated
14 accounting policies.

15 (b) Obtain an understanding of internal controls
16 ~~control~~ and perform tests of internal controls ~~control~~ over
17 the state project consistent with the requirements of a major
18 state project.

19 (c) Determine whether or not the auditee has complied
20 with applicable provisions of laws, rules, and guidelines as
21 identified in the State Projects Compliance Supplement, or
22 otherwise identified by the state awarding agency, which could
23 have a direct and material effect on the state project.

24 (d) Report on the results of the ~~a~~ state
25 project-specific audit consistent with the requirements of the
26 state single audit and issue a management letter as prescribed
27 in the rules of the Auditor General.

28 (e) Upon notification by the nonstate entity, make
29 available the working papers relating to the audit conducted
30 pursuant to the requirements of this section to the state
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1 awarding agency, the Comptroller, or the Auditor General for
2 review or copying.

3 ~~(11)(10)~~ The Auditor General shall:

4 (a) Have the authority to audit state financial
5 assistance provided to any nonstate entity when determined
6 necessary by the Auditor General or when directed by the
7 Legislative Auditing Committee.

8 (b) Adopt rules that state the auditing standards that
9 independent auditors are to follow for audits of nonstate
10 entities required by this section.

11 (c) Adopt rules that describe the contents and the
12 filing deadlines for the financial reporting package.

13 (d) Provide technical advice upon request of the
14 Comptroller, ~~Executive Office of the Governor,~~ and state
15 awarding agencies relating to financial reporting and audit
16 responsibilities contained in this section.

17 (e) Be provided one copy of each financial reporting
18 package prepared in accordance with the requirements of this
19 section.

20 (f) Perform ongoing reviews of a sample of financial
21 reporting packages filed pursuant to the requirements of this
22 section to determine compliance with the reporting
23 requirements of this section and applicable ~~rules of the~~
24 ~~Executive Office of the Governor,~~ rules of the Comptroller,
25 and rules of the Auditor General.

26 Section 44. Effective July 1, 2002, one full-time
27 equivalent position is transferred from the Executive Office
28 of the Governor to the Comptroller.

29 Section 45. Effective January 1, 2003, section
30 215.195, Florida Statutes, as amended by this act, is amended
31 to read:

1 215.195 Agency deposits relating to the Statewide Cost
2 Allocation Plan.--

3 (1) APPLICATION FOR ALLOCABLE STATEWIDE
4 OVERHEAD.--Each state agency, and the judicial branch, making
5 application for federal grant or contract funds shall, in
6 accordance with the Statewide Cost Allocation Plan (SWCAP),
7 include in its application a prorated share of the cost of
8 services provided by state central service agencies which are
9 reimbursable to the state pursuant to the provisions of Office
10 of Management and Budget Circular A-87. Preparation of the
11 Statewide Cost Allocation Plan and coordination thereof with
12 all applicable parties is the responsibility of the Chief
13 Financial Officer ~~Comptroller~~. The Chief Financial Officer
14 ~~Comptroller~~ shall ensure that the SWCAP presents the most
15 favorable allocation of central services cost allowable to the
16 state by the Federal Government.

17 (2) DEPOSIT OF OVERHEAD IN THE GENERAL REVENUE
18 FUND.--If an application for federal grant or contract funds
19 is approved, the state agency or judicial branch receiving the
20 federal grant or contract shall identify that portion
21 representing reimbursement of allocable statewide overhead and
22 deposit that amount into the General Revenue Fund unallocated
23 as directed by the Chief Financial Officer ~~Comptroller~~. The
24 Chief Financial Officer ~~Comptroller~~ shall be responsible for
25 monitoring agency compliance with this section.

26 Section 46. Effective January 1, 2003, section 215.97,
27 Florida Statutes, as amended by this act, is amended to read:

28 215.97 Florida Single Audit Act.--

29 (1) The purposes of the section are to:
30
31

1 (a) Establish uniform state audit requirements for
2 state financial assistance provided by state agencies to
3 nonstate entities to carry out state projects.

4 (b) Promote sound financial management, including
5 effective internal controls, with respect to state financial
6 assistance administered by nonstate entities.

7 (c) Promote audit economy and efficiency by relying to
8 the extent possible on already required audits of federal
9 financial assistance provided to nonstate entities.

10 (d) Provide for identification of state financial
11 assistance transactions in the appropriations act, state
12 accounting records, and recipient organization records.

13 (e) Promote improved coordination and cooperation
14 within and between affected state agencies providing state
15 financial assistance and nonstate entities receiving state
16 assistance.

17 (f) Ensure, to the maximum extent possible, that state
18 agencies monitor, use, and followup on audits of state
19 financial assistance provided to nonstate entities.

20 (2) Definitions; as used in this section, the term:

21 (a) "Audit threshold" means the threshold amount used
22 to determine when a state single audit of a nonstate entity
23 shall be conducted in accordance with this section. Each
24 nonstate entity that expends a total amount of state financial
25 assistance equal to or in excess of \$300,000 in any fiscal
26 year of such nonstate entity shall be required to have a state
27 single audit for such fiscal year in accordance with the
28 requirements of this section. Every 2 years the Auditor
29 General, after consulting with the Executive Office of the
30 Governor, the Chief Financial Officer ~~Comptroller~~, and all
31 state awarding agencies, shall review the threshold amount for

1 requiring audits under this section and may adjust such
2 threshold dollar amount consistent with the purposes of this
3 section.

4 (b) "Auditing standards" means the auditing standards
5 as stated in the rules of the Auditor General as applicable to
6 for-profit organizations, nonprofit organizations, or local
7 governmental entities.

8 (c) "Catalog of State Financial Assistance" means a
9 comprehensive listing of state projects. The Catalog of State
10 Financial Assistance shall be issued by the Chief Financial
11 Officer ~~Comptroller~~ after conferring with all state awarding
12 agencies. The Catalog of State Financial Assistance shall
13 include for each listed state project: the responsible state
14 awarding agency; standard state project number identifier;
15 official title; legal authorization; and description of the
16 state project, including objectives, restrictions, application
17 and awarding procedures, and other relevant information
18 determined necessary.

19 (d) "Coordinating agency" means the state awarding
20 agency that provides the predominant amount of state financial
21 assistance expended by a recipient, as determined by the
22 recipient's Schedule of Expenditures of State Financial
23 Assistance. To provide continuity, the determination of the
24 predominant amount of state financial assistance shall be
25 based upon state financial assistance expended in the
26 recipient's fiscal years ending in 2003, 2006, and 2009, and
27 every third year thereafter.

28 (e) "Financial reporting package" means the nonstate
29 entities' financial statements, Schedule of Expenditures of
30 State Financial Assistance, auditor's reports, management
31 letter, auditee's written responses or corrective action plan,

1 correspondence on followup of prior years' corrective actions
2 taken, and such other information determined by the Auditor
3 General to be necessary and consistent with the purposes of
4 this section.

5 (f) "Federal financial assistance" means financial
6 assistance from federal sources passed through the state and
7 provided to nonstate organizations to carry out a federal
8 program. "Federal financial assistance" includes all types of
9 federal assistance as defined in applicable United States
10 Office of Management and Budget circulars.

11 (g) "For-profit organization" means any organization
12 or sole proprietor that is not a local governmental entity or
13 a nonprofit organization.

14 (h) "Independent auditor" means an external state or
15 local governmental auditor or a certified public accountant
16 who meets the independence standards.

17 (i) "Internal control over state projects" means a
18 process, effected by a nonstate entity's management and other
19 personnel, designed to provide reasonable assurance regarding
20 the achievement of objectives in the following categories:

- 21 1. Effectiveness and efficiency of operations.
- 22 2. Reliability of financial operations.
- 23 3. Compliance with applicable laws and regulations.

24 (j) "Local governmental entity" means a county,
25 municipality, or special district or any other entity (other
26 than a district school board, charter school, community
27 college, or public university), however styled, which
28 independently exercises any type of governmental function
29 within the state.

30 (k) "Major state project" means any state project
31 meeting the criteria as stated in the rules of the Chief

1 Financial Officer ~~Comptroller~~. Such criteria shall be
2 established after consultation with all state awarding
3 agencies and shall consider the amount of state project
4 expenditures and expenses or inherent risks. Each major state
5 project shall be audited in accordance with the requirements
6 of this section.

7 (1) "Nonprofit organization" means any corporation,
8 trust, association, cooperative, or other organization that:

9 1. Is operated primarily for scientific, educational
10 service, charitable, or similar purpose in the public
11 interest;

12 2. Is not organized primarily for profit;

13 3. Uses net proceeds to maintain, improve, or expand
14 the operations of the organization; and

15 4. Has no part of its income or profit distributable
16 to its members, directors, or officers.

17 (m) "Nonstate entity" means a local governmental
18 entity, nonprofit organization, or for-profit organization
19 that receives state financial assistance.

20 (n) "Nonstate organization" means a local governmental
21 entity, nonprofit organization, or for-profit organization
22 that receives state resources.

23 (o) "Recipient" means a nonstate entity that receives
24 state financial assistance directly from a state awarding
25 agency.

26 (p) "Schedule of Expenditures of State Financial
27 Assistance" means a document prepared in accordance with the
28 rules of the Chief Financial Officer ~~Comptroller~~ and included
29 in each financial reporting package required by this section.
30
31

1 (q) "State awarding agency" means a state agency, as
2 defined in s. 216.011, that provides state financial
3 assistance to a nonstate entity.

4 (r) "State financial assistance" means state
5 resources, not including federal financial assistance and
6 state matching on federal programs, provided to a nonstate
7 entity to carry out a state project. "State financial
8 assistance" shall include the types of state resources stated
9 in the rules of the Chief Financial Officer ~~Comptroller~~
10 established in consultation with all state awarding agencies.
11 State financial assistance may be provided directly by state
12 awarding agencies or indirectly by nonstate entities. State
13 financial assistance does not include procurement contracts
14 used to buy goods or services from vendors and contracts to
15 operate state-owned and contractor-operated facilities.

16 (s) "State matching" means state resources provided to
17 a nonstate entity to meet federal financial participation
18 matching requirements.

19 (t) "State program" means a set of special purpose
20 activities undertaken to realize identifiable goals and
21 objectives in order to achieve a state agency's mission and
22 legislative intent requiring accountability for state
23 resources.

24 (u) "State project" means a state program that
25 provides state financial assistance to a nonstate organization
26 and that must be assigned a state project number identifier in
27 the Catalog of State Financial Assistance.

28 (v) "State Projects Compliance Supplement" means a
29 document issued by the Chief Financial Officer ~~Comptroller~~, in
30 consultation with all state awarding agencies. The State
31 Projects Compliance Supplement shall identify state projects,

1 the significant compliance requirements, eligibility
2 requirements, matching requirements, suggested audit
3 procedures, and other relevant information determined
4 necessary.

5 (w) "State project-specific audit" means an audit of
6 one state project performed in accordance with the
7 requirements of subsection (10).

8 (x) "State single audit" means an audit of a nonstate
9 entity's financial statements and state financial assistance.
10 Such audits shall be conducted in accordance with the auditing
11 standards as stated in the rules of the Auditor General.

12 (y) "Subrecipient" means a nonstate entity that
13 receives state financial assistance through another nonstate
14 entity.

15 (z) "Vendor" means a dealer, distributor, merchant, or
16 other seller providing goods or services that are required for
17 the conduct of a state project. These goods or services may be
18 for an organization's own use or for the use of beneficiaries
19 of the state project.

20 (3) The Executive Office of the Governor shall be
21 responsible for notifying the Chief Financial Officer
22 ~~Comptroller~~ of any actions during the budgetary process that
23 impact the Catalog of State Financial Assistance.

24 (4) The Chief Financial Officer ~~Comptroller~~ shall:

25 (a) Upon conferring with the Executive Office of the
26 Governor and all state awarding agencies, adopt rules
27 necessary to provide appropriate guidance to state awarding
28 agencies, nonstate entities, and independent auditors of state
29 financial assistance relating to the requirements of this
30 section, including:

1 1. The types or classes of state resources considered
2 to be state financial assistance that would be subject to the
3 requirements of this section. This would include guidance to
4 assist in identifying when the state awarding agency or a
5 nonstate entity has contracted with a vendor rather than with
6 a recipient or subrecipient.

7 2. The criteria for identifying a major state project.

8 3. The criteria for selecting state projects for
9 audits based on inherent risk.

10 (b) Be responsible for coordinating revisions to the
11 Catalog of State Financial Assistance after consultation with
12 the Executive Office of the Governor and all state awarding
13 agencies.

14 (c) Be responsible for coordinating with the Executive
15 Office of the Governor actions affecting the budgetary process
16 under paragraph (b).

17 (d) Be responsible for coordinating revisions to the
18 State Projects Compliance Supplement, after consultation with
19 the Executive Office of the Governor and all state awarding
20 agencies.

21 (e) Make enhancements to the state's accounting system
22 to provide for the:

23 1. Recording of state financial assistance and federal
24 financial assistance appropriations and expenditures within
25 the state awarding agencies' operating funds.

26 2. Recording of state project number identifiers, as
27 provided in the Catalog of State Financial Assistance, for
28 state financial assistance.

29 3. Establishment and recording of an identification
30 code for each financial transaction, including state awarding
31 agencies' disbursements of state financial assistance and

1 federal financial assistance, as to the corresponding type or
2 organization that is party to the transaction (e.g., other
3 governmental agencies, nonprofit organizations, and for-profit
4 organizations), and disbursements of federal financial
5 assistance, as to whether the party to the transaction is or
6 is not a nonstate entity.

7 (f) Upon conferring with the Executive Office of the
8 Governor and all state awarding agencies, adopt rules
9 necessary to provide appropriate guidance to state awarding
10 agencies, nonstate entities, and independent auditors of state
11 financial assistance relating to the format for the Schedule
12 of Expenditures of State Financial Assistance.

13 (g) Perform any inspections, reviews, investigations,
14 or audits of state financial assistance considered necessary
15 in carrying out the Chief Financial Officer's ~~Comptroller's~~
16 legal responsibilities for state financial assistance or to
17 comply with the requirements of this section.

18 (5) Each state awarding agency shall:

19 (a) Provide to each recipient information needed by
20 the recipient to comply with the requirements of this section,
21 including:

22 1. The audit and accountability requirements for state
23 projects as stated in this section and applicable rules of the
24 Chief Financial Officer ~~Comptroller~~ and rules of the Auditor
25 General.

26 2. Information from the Catalog of State Financial
27 Assistance, including the standard state project number
28 identifier; official title; legal authorization; and
29 description of the state project including objectives,
30 restrictions, and other relevant information determined
31 necessary.

1 3. Information from the State Projects Compliance
2 Supplement, including the significant compliance requirements,
3 eligibility requirements, matching requirements, suggested
4 audit procedures, and other relevant information determined
5 necessary.

6 (b) Require the recipient, as a condition of receiving
7 state financial assistance, to allow the state awarding
8 agency, the Chief Financial Officer ~~Comptroller~~, and the
9 Auditor General access to the recipient's records and the
10 recipient's independent auditor's working papers as necessary
11 for complying with the requirements of this section.

12 (c) Notify the recipient that this section does not
13 limit the authority of the state awarding agency to conduct or
14 arrange for the conduct of additional audits or evaluations of
15 state financial assistance or limit the authority of any state
16 awarding agency inspector general, the Auditor General, or any
17 other state official.

18 (d) Be provided one copy of each financial reporting
19 package prepared in accordance with the requirement of this
20 section.

21 (e) Review the recipient's financial reporting
22 package, including the management letters and corrective
23 action plans, to the extent necessary to determine whether
24 timely and appropriate corrective action has been taken with
25 respect to audit findings and recommendations pertaining to
26 state financial assistance that is specific to the state
27 awarding agency.

28 (f) Designate within the state awarding agency a
29 division, bureau, or other organizational unit that will be
30 responsible for reviewing financial reporting packages
31 pursuant to paragraph (e).

1
2 If the state awarding agency is not the coordinating agency as
3 defined in paragraph (2)(d), the state awarding agency's
4 designated division, bureau, or other organizational unit
5 shall communicate to the coordinating agency the state
6 awarding agency's approval of the recipient's corrective
7 action plan with respect to findings and recommendations that
8 are not specific to the state awarding agency.

9 (6) Each coordinating agency shall:

10 (a) Review the recipient's financial reporting
11 package, including the management letter and corrective action
12 plan, to identify audit findings and recommendations that
13 affect state financial assistance that is not specific to a
14 particular state awarding agency.

15 (b) For any such findings and recommendations
16 determine:

17 1. Whether timely and appropriate corrective action
18 has been taken.

19 2. Promptly inform the state awarding agency's
20 contact, as designated pursuant to paragraph (5)(f), of
21 actions taken by the recipient to comply with the approved
22 corrective action plan.

23 (c) Maintain records of followup actions taken for the
24 use of any succeeding coordinating agency.

25 (7) As a condition of receiving state financial
26 assistance, each nonstate entity that provides state financial
27 assistance to a subrecipient shall:

28 (a) Provide to each subrecipient information needed by
29 the subrecipient to comply with the requirements of this
30 section, including:

31 1. Identification of the state awarding agency.

1 2. The audit and accountability requirements for state
2 projects as stated in this section and applicable rules of the
3 Chief Financial Officer ~~Comptroller~~ and rules of the Auditor
4 General.

5 3. Information from the Catalog of State Financial
6 Assistance, including the standard state project number
7 identifier; official title; legal authorization; and
8 description of the state project, including objectives,
9 restrictions, and other relevant information.

10 4. Information from the State Projects Compliance
11 Supplement including the significant compliance requirements,
12 eligibility requirements, matching requirements, and suggested
13 audit procedures, and other relevant information determined
14 necessary.

15 (b) Review the financial reporting package of the
16 subrecipient, including the management letter and corrective
17 action plan, to the extent necessary to determine whether
18 timely and appropriate corrective action has been taken with
19 respect to audit findings and recommendations pertaining to
20 state financial assistance provided by a state awarding agency
21 or nonstate entity.

22 (c) Perform such other procedures as specified in
23 terms and conditions of the written agreement with the state
24 awarding agency or nonstate entity including any required
25 monitoring of the subrecipient's use of state financial
26 assistance through onsite visits, limited scope audits, or
27 other specified procedures.

28 (d) Require subrecipients, as a condition of receiving
29 state financial assistance, to permit the independent auditor
30 of the nonstate entity, the state awarding agency, the Chief
31 Financial Officer ~~Comptroller~~, and the Auditor General access

1 to the subrecipient's records and the subrecipient's
2 independent auditor's working papers as necessary to comply
3 with the requirements of this section.

4 (8) Each recipient or subrecipient of state financial
5 assistance shall comply with the following:

6 (a) Each nonstate entity that meets the audit
7 threshold requirements, in any fiscal year of the nonstate
8 entity, as stated in the rules of the Auditor General, shall
9 have a state single audit conducted for such fiscal year in
10 accordance with the requirements of this act and with
11 additional requirements established in rules of the Chief
12 Financial Officer ~~Comptroller~~ and rules of the Auditor
13 General. If only one state project is involved in a nonstate
14 entity's fiscal year, the nonstate entity may elect to have
15 only a state project-specific audit.

16 (b) Each nonstate entity that does not meet the audit
17 threshold requirements, in any fiscal year of the nonstate
18 entity, as stated in this law or the rules of the Auditor
19 General is exempt for such fiscal year from the state single
20 audit requirements of this section. However, such nonstate
21 entity must meet terms and conditions specified in the written
22 agreement with the state awarding agency or nonstate entity.

23 (c) Regardless of the amount of state financial
24 assistance, the provisions of this section do not exempt a
25 nonstate entity from compliance with provisions of law
26 relating to maintaining records concerning state financial
27 assistance to such nonstate entity or allowing access and
28 examination of those records by the state awarding agency,
29 nonstate entity, the Chief Financial Officer ~~Comptroller~~, or
30 the Auditor General.

31

1 (d) Audits conducted pursuant to this section shall be
2 performed annually.

3 (e) Audits conducted pursuant to this section shall be
4 conducted by independent auditors in accordance with auditing
5 standards as stated in rules of the Auditor General.

6 (f) Upon completion of the audit as required by this
7 section, a copy of the recipient's financial reporting package
8 shall be filed with the state awarding agency and the Auditor
9 General. Upon completion of the audit as required by this
10 section, a copy of the subrecipient's financial reporting
11 package shall be filed with the nonstate entity that provided
12 the state financial assistance and the Auditor General. The
13 financial reporting package shall be filed in accordance with
14 the rules of the Auditor General.

15 (g) All financial reporting packages prepared pursuant
16 to the requirements of this section shall be available for
17 public inspection.

18 (h) If an audit conducted pursuant to this section
19 discloses any significant audit findings relating to state
20 financial assistance, including material noncompliance with
21 individual state project compliance requirements or reportable
22 conditions in internal controls of the nonstate entity, the
23 nonstate entity shall submit as part of the financial
24 reporting package to the state awarding agency or nonstate
25 entity a plan for corrective action to eliminate such audit
26 findings or a statement describing the reasons that corrective
27 action is not necessary.

28 (i) An audit conducted in accordance with this section
29 is in addition to any audit of federal awards required by the
30 federal Single Audit Act and other federal laws and
31 regulations. To the extent that such federally required audits

1 provide the state awarding agency or nonstate entity with
2 information it requires to carry out its responsibilities
3 under state law or other guidance, the state awarding agency
4 or nonstate entity shall rely upon and use that information.

5 (j) Unless prohibited by law, the costs of audits
6 pursuant to this section are allowable charges to state
7 projects. However, any charges to state projects should be
8 limited to those incremental costs incurred as a result of the
9 audit requirements of this section in relation to other audit
10 requirements. The nonstate entity should allocate such
11 incremental costs to all state projects for which it expended
12 state financial assistance.

13 (k) Audit costs may not be charged to state projects
14 when audits required by this section have not been made or
15 have been made but not in accordance with this section. If a
16 nonstate entity fails to have an audit conducted consistent
17 with this section, a state awarding agency or nonstate entity
18 may take appropriate corrective action to enforce compliance.

19 (l) This section does not prohibit the state awarding
20 agency or nonstate entity from including terms and conditions
21 in the written agreement which require additional assurances
22 that state financial assistance meets the applicable
23 requirements of laws, regulations, and other compliance rules.

24 (m) A state awarding agency or nonstate entity that
25 conducts or arranges for audits of state financial assistance
26 that are in addition to the audits conducted under this act,
27 including audits of nonstate entities that do not meet the
28 audit threshold requirements, shall, consistent with other
29 applicable law, arrange for funding the full cost of such
30 additional audits.

31

1 (9) The independent auditor when conducting a state
2 single audit of a nonstate entity shall:

3 (a) Determine whether the nonstate entity's financial
4 statements are presented fairly in all material respects in
5 conformity with generally accepted accounting principles.

6 (b) Determine whether state financial assistance shown
7 on the Schedule of Expenditures of State Financial Assistance
8 is presented fairly in all material respects in relation to
9 the nonstate entity's financial statements taken as a whole.

10 (c) With respect to internal controls pertaining to
11 each major state project:

12 1. Obtain an understanding of internal controls;

13 2. Assess control risk;

14 3. Perform tests of controls unless the controls are
15 deemed to be ineffective; and

16 4. Determine whether the nonstate entity has internal
17 controls in place to provide reasonable assurance of
18 compliance with the provisions of laws and rules pertaining to
19 state financial assistance that have a material effect on each
20 major state project.

21 (d) Determine whether each major state project
22 complied with the provisions of laws, rules, and guidelines as
23 identified in the State Projects Compliance Supplement, or
24 otherwise identified by the state awarding agency, which have
25 a material effect on each major state project. When major
26 state projects are less than 50 percent of the nonstate
27 entity's total expenditures for all state financial
28 assistance, the auditor shall select and test additional state
29 projects as major state projects as necessary to achieve audit
30 coverage of at least 50 percent of the expenditures for all
31 state financial assistance provided to the nonstate entity.

1 Additional state projects needed to meet the 50-percent
2 requirement may be selected on an inherent risk basis as
3 stated in the rules of the Chief Financial Officer
4 ~~Comptroller~~.

5 (e) Report on the results of any audit conducted
6 pursuant to this section in accordance with the rules of the
7 Chief Financial Officer ~~Comptroller~~ and rules of the Auditor
8 General. Financial reporting packages shall include summaries
9 of the auditor's results regarding the nonstate entity's
10 financial statements; Schedule of Expenditures of State
11 Financial Assistance; internal controls; and compliance with
12 laws, rules, and guidelines.

13 (f) Issue a management letter as prescribed in the
14 rules of the Auditor General.

15 (g) Upon notification by the nonstate entity, make
16 available the working papers relating to the audit conducted
17 pursuant to the requirements of this section to the state
18 awarding agency, the Chief Financial Officer ~~Comptroller~~, or
19 the Auditor General for review or copying.

20 (10) The independent auditor, when conducting a state
21 project-specific audit of a nonstate entity, shall:

22 (a) Determine whether the nonstate entity's Schedule
23 of Expenditures of State Financial Assistance is presented
24 fairly in all material respects in conformity with stated
25 accounting policies.

26 (b) Obtain an understanding of internal controls and
27 perform tests of internal controls over the state project
28 consistent with the requirements of a major state project.

29 (c) Determine whether or not the auditee has complied
30 with applicable provisions of laws, rules, and guidelines as
31 identified in the State Projects Compliance Supplement, or

1 otherwise identified by the state awarding agency, which could
2 have a direct and material effect on the state project.

3 (d) Report on the results of the state
4 project-specific audit consistent with the requirements of the
5 state single audit and issue a management letter as prescribed
6 in the rules of the Auditor General.

7 (e) Upon notification by the nonstate entity, make
8 available the working papers relating to the audit conducted
9 pursuant to the requirements of this section to the state
10 awarding agency, the Chief Financial Officer ~~Comptroller~~, or
11 the Auditor General for review or copying.

12 (11) The Auditor General shall:

13 (a) Have the authority to audit state financial
14 assistance provided to any nonstate entity when determined
15 necessary by the Auditor General or when directed by the
16 Legislative Auditing Committee.

17 (b) Adopt rules that state the auditing standards that
18 independent auditors are to follow for audits of nonstate
19 entities required by this section.

20 (c) Adopt rules that describe the contents and the
21 filing deadlines for the financial reporting package.

22 (d) Provide technical advice upon request of the Chief
23 Financial Officer ~~Comptroller~~ and state awarding agencies
24 relating to financial reporting and audit responsibilities
25 contained in this section.

26 (e) Be provided one copy of each financial reporting
27 package prepared in accordance with the requirements of this
28 section.

29 (f) Perform ongoing reviews of a sample of financial
30 reporting packages filed pursuant to the requirements of this
31 section to determine compliance with the reporting

1 requirements of this section and applicable rules of the Chief
2 Financial Officer ~~Comptroller~~ and rules of the Auditor
3 General.

4 Section 47. Except as otherwise provided herein, this
5 act shall take effect upon becoming a law.

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