

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 107 Local Government Accountability

**SPONSOR(S):** Smith

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 224

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	15 Y, 0 N	Duncan	Hoagland
2) Government Operations Subcommittee			
3) Appropriations Committee			
4) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill requires that budgets and budget amendments of each county, county officer, municipality, special district, water management district and school district be posted on the government entity's website. If the local government entity does not have an official website, the local government must transmit the required budget information to the county or counties in which it is located or to the relevant governing authority.

The bill also requires that budgets be prepared in a similar level of detail required by the annual financial reports under s. 218.32, F.S.

Counties, municipalities, and special districts must file their annual financial reports within nine months of the fiscal year end with the Department of Financial Services and their annual financial audit reports within nine months of the fiscal year end with the Auditor General.

The bill also amends the process used by the Legislative Auditing Committee and the Department of Community Affairs to compel special districts to provide certain information.

The bill is effective October 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **County Budget System**

As provided in the State Constitution and state law, counties are political subdivisions of the state that carry out a variety of services and functions through the governing bodies and constitutional officers (sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court).<sup>1</sup> There are currently 67 counties in Florida. The boards of county commissioners and constitutional officers are participants in the county's budget process.

Florida law establishes a budget system for counties to control finances.<sup>2</sup> The law provides, among other things, that an annual budget must be prepared, approved, adopted, and executed for each fiscal year<sup>3</sup> ending September 30. The budget must be created using sound financial practices and generally accepted accounting principles. The budget controls the levy of taxes and the expenditure of money for all county purposes during the ensuing fiscal year.<sup>4</sup> Each budget must conform to the following general directions and requirements:<sup>5</sup>

- The budget must be prepared, summarized, and approved by the board of county commissioners of each county.
- The budget must be balanced meaning that the total of the estimated receipts, including balances brought forward, must equal the total amount of appropriations and reserves.
- Provision may be made for:
  - A reserve for contingencies may be provided in a sum not to exceed 10 percent of the total of the budget.
  - A reserve for cash balance to be carried over may be provided for the purpose of paying expenses from October 1 of the ensuing fiscal year until the time when the revenues for that year are expected to be available. This reserve may be not more than 20 percent of the total receipts and balances of the budget.
- An appropriation for "outstanding indebtedness" must be made to provide for the payment of vouchers which have been incurred in and charged against the budget for the current year or a prior year, but which are expected to be unpaid at the beginning of the ensuing year for which the budget is being prepared.
- Any surplus arising from an excess of the estimated cash balance over the estimated amount of unpaid obligations to be carried over in a fund at the end of the current fiscal year may be transferred to any of the other funds of the county, and the amount transferred must be budgeted as a receipt to such other funds. However, a fund for debt services may not be transferred to another fund; and a capital outlay reserve fund may not be transferred to another fund until the projects have been completed and all obligations have been paid.

The general fund budget, the county transportation trust fund budget, the budget for county fine and forfeiture, and the capital outlay reserve fund must contain an estimate of receipts by source.<sup>6</sup> A bond interest and sinking fund budget must be made for each county and for each special district included within the county budget having bonds outstanding.

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<sup>1</sup> Section 1, Article VIII, Fla. Constitution; ch. 125, F.S.

<sup>2</sup> Section 129.01, F.S.

<sup>3</sup> The fiscal year of each county begins on October 1 and ends on September 30 of each year. Section 129.04, F.S.

<sup>4</sup> Section 129.01(1), F.S.

<sup>5</sup> Section 129.01(2), F.S.

<sup>6</sup> See statute text for further specifics.

The budget must contain an estimate of receipts by source, including any taxes authorized by law to be levied for that purpose, and including any balances brought forward and an itemized estimate of expenditures and reserves.<sup>7</sup> For each special district included within the county budget, the operating fund budget must contain an estimate of receipts by source and balances and an itemized estimate of expenditures that will need to be incurred to carry on all functions and activities of the special district.<sup>8</sup>

Once the tentative budgets have been received and the board has completed its revisions, the board is required to prepare a statement summarizing all of the adopted tentative budgets. This summary statement must show, for each budget and the total of all budgets, the proposed tax millages, the balances, the reserves, and the total of each major classification of receipts and expenditures, classified according to the classification of accounts prescribed by the appropriate state agency.

The board must advertise the summary statement once in a newspaper of general circulation published in the county, or by posting at the courthouse door if there is no such newspaper. The tentative budgets, adopted tentative budgets, and final budgets are required to be filed in the office of the county auditor as a public record.<sup>9</sup>

Each board of county commissioners is authorized to designate a county budget officer to carry out the responsibilities prescribed under the county budget system. Unless the board designates a different officer, the clerk of the circuit court or the county comptroller is directed to act as the budget officer.<sup>10</sup>

As defined by law, county fee officers are those county officials who are assigned specialized functions within county government and whose budgets are established independently of the local governing body, even though said budgets may be reported to the local governing body or may be composed of funds either generally or specially available to a local governing authority involved.<sup>11</sup> County fee officers are required to prepare an annual budget to reflect the revenues available and the functions for which moneys have been expended. The budget must be balanced and included in the county's annual financial report.<sup>12</sup> Each constitutional officer (sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court) has budgeting requirements specifically related to their respective offices, as well as the county's budget reporting requirements.<sup>13</sup>

It is unlawful for the board of county commissioners to expend or contract for the expenditure in any fiscal year more than the amount budgeted in each fund's budget without a budget amendment. Any indebtedness contracted in excess of the amount budgeted is deemed null and void and no suit may be prosecuted in any court for the collection of the debt. However, the members of the board of county commissioners voting for the contract amounts and the bonds of the members of the board must be held liable for the indebtedness.<sup>14</sup>

### Sheriff Budget Requirements

Each sheriff is required to certify to the board of county commissioners a proposed budget of expenditures required to carry out the powers, duties, and operations of the office for the ensuing fiscal year of the county. The fiscal year begins on October 1 and ends on September 30 of each year.<sup>15</sup>

The sheriff must submit with the proposed budget, a sworn certificate, stating that the proposed expenditures are reasonable and necessary for the proper and efficient operation of the office for the ensuing year. The proposed budget must show the estimated amounts of all proposed expenditures for operating and equipping the sheriff's office and jail, excluding the cost of construction, repair, or capital improvement of county buildings during the fiscal year.<sup>16</sup>

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<sup>7</sup> Section 129.02(5), F.S.

<sup>8</sup> Section 129.02(6), F.S.

<sup>9</sup> Section 129.03(3)(c), F.S.

<sup>10</sup> Section 129.025, F.S.

<sup>11</sup> Section 218.31(8), F.S.

<sup>12</sup> Section 218.35(1) and (3), F.S.

<sup>13</sup> Sections 30.49, 195.087, 129.201, 218.35, F.S.

<sup>14</sup> Section 129.07, F.S.

<sup>15</sup> Section 30.49(1), F.S.

<sup>16</sup> Section 30.49(2)(a), F.S.

Expenditures must be itemized within the appropriate fund and functional category in accordance with the uniform chart of accounts prescribed by the Department of Financial Services as follows:<sup>17</sup>

- Personal services.
- Operating expenses.
- Capital outlay.
- Debt service.
- Nonoperating disbursements and contingency reserves.

The sheriff is required to provide the board of county commission or the county's budget commission all relevant and pertinent information concerning expenditures made in the previous fiscal years and proposed expenditures deemed necessary.

#### Supervisor of Elections Budget Requirements

Each supervisor of elections is required to certify to the board of county commissioners or the county's budget commission a proposed budget of expenditures required to carry out the powers, duties, and operations of the office for the ensuing fiscal year of the county. The fiscal year begins on October 1 and ends on September 30 of each year.<sup>18</sup>

Expenditures must be itemized as follows:<sup>19</sup>

- Compensation for the supervisor of elections and other office personnel.
- Operating expenses.
- Capital outlay.
- Contingencies and transfers.

The budget must be further itemized in conformance with the Uniform Accounting System for Local Governments adopted by rule of the Chief Financial Officer.<sup>20</sup> The supervisor of elections must provide the board of county commission or the county's budget commission all relevant and pertinent information determined as necessary by the county.<sup>21</sup>

#### Property Appraisers and Tax Collectors Budget Requirements

Annually, each property appraiser must submit to the Department of Revenue (DOR) a budget for the operation of the property appraiser's office for the ensuing fiscal year beginning October 1. The report, due annually on or before June 1, must be submitted in the manner and form required by the DOR. A copy of the budget must be provided to the board of county commissioners at the same time. On or before August 15, the DOR must make its final budget amendments or changes to the budget and notify the property appraiser and the board of county commissioners.<sup>22</sup>

Annually, each tax collector must submit to the DOR, on or before August 1, a budget for the operation of the tax collector's office for the ensuing fiscal year in the manner and form prescribed by the DOR. A copy of the budget must be provided to the board of county commissioners at the same time. The DOR examines the budget and if it is found adequate, the DOR must approve the budget and certify it back to the tax collector.<sup>23</sup>

#### Clerk of the Circuit Court Budget Requirements

The clerk of the circuit court, functioning as the clerk of the circuit and county courts and as clerk of the board of county commissioners, must prepare the budget in two parts:<sup>24</sup>

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<sup>17</sup> Section 30.49(2)(b), F.S.

<sup>18</sup> Section 129.201(1), F.S.

<sup>19</sup> Section 129.201(2)(a), F.S.

<sup>20</sup> Section 129.201(2)(b), F.S.

<sup>21</sup> Section 129.201(3), F.S.

<sup>22</sup> Section 195.087(1)(a), F.S.

<sup>23</sup> Section 195.087(2), F.S.

<sup>24</sup> Section 218.35(2), F.S.

- The budget for funds necessary to perform court-related functions, which detail the methodologies used to apportion costs between court-related and non court-related functions performed by the clerk.
- The budget relating to the requirements of the clerk as the clerk of the board of county commissioners, county auditor, and custodian or treasurer of all county funds and other county-related duties.

### **Municipal Budget Process**

The statutory provisions for the municipal budget process are not as defined as the county budget process.<sup>25</sup> Each municipality is required to follow the same fiscal year as counties, beginning October 1 of each year and ending September 30 of the following year. The governing body of each municipality is required to adopt a budget each fiscal year. The budget must be adopted by ordinance or resolution unless otherwise specified in the respective municipality's charter. The amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total appropriations for expenditures and reserves. The budget must regulate expenditures of the municipality.<sup>26</sup>

The governing body of each municipality at any time within a fiscal year or within up to 60 days following the end of the fiscal year may amend a budget for that year as follows:<sup>27</sup>

- Appropriations for expenditures within a fund may be decreased or increased by motion recorded in the minutes, provided that the total of the appropriations of the fund is not changed.
- The governing body may establish procedures by which the designated budget officer may authorize certain budget amendments within a department, provided that the total of the appropriations of the department is not changed.
- If a budget amendment is required for a purpose not specifically authorized, the budget amendment must be adopted in the same manner as the original budget unless otherwise specified in the charter of the respective municipality.

### **Special Districts**

The Uniform Special District Accountability Act of 1989<sup>28</sup> sets forth for the general provisions for the definition, creation, and operation of all special districts.<sup>29</sup> Special districts are local units of special purpose government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.<sup>30</sup> The term does not include:<sup>31</sup>

- A school district;
- A community college district;
- A Seminole and Miccosukee Tribe special improvement district;<sup>32</sup>
- A municipal service taxing or benefit unit; or
- A board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

As of February 1, 2011, there were approximately 1,626 special districts.<sup>33</sup>

<sup>25</sup> See ss. 129.01 and 166.241, F.S.

<sup>26</sup> Section 166.241(1) and (2), F.S.

<sup>27</sup> Section 166.241(3), F.S.

<sup>28</sup> Chapter 89-169, L.O.F.

<sup>29</sup> Section 189.402(1), F.S.

<sup>30</sup> Section 189.403(1), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> Florida law establishes a special improvement district for each of the areas contained within the reservation set aside for the Seminole and Miccosukee Tribes, respectively. Section 285.17, F.S.

<sup>33</sup> Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, Official List of Special Districts Online, *Special District Statewide Totals*, <http://www.floridaspecialdistricts.org/OfficialList/StateTotals.cfm> (last visited February 1, 2011).

The Act establishes criteria for determining whether a special district is a “dependent special district” or an “independent special district.” A “dependent special district” is a special district that meets at least one of the following criteria:<sup>34</sup>

- The membership of its governing body is identical to that of the governing body of a single county or single municipality.
- All members of its governing body are appointed by the governing body of a single county or single municipality.
- During their unexpired terms, members of the special district’s governing body are subject to removal at will by the governing body of a single county or single municipality.
- The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or single municipality.

As of February 1, 2011, there were 619 active dependent special districts.<sup>35</sup>

An “independent special district” is a special district that is not a dependent special district as defined in state law. A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.<sup>36</sup> As of February 1, 2011, there were 1,007 active independent special districts.<sup>37</sup>

### Special District Budget Process

The budget process for special districts is similar to the municipal budget requirements.<sup>38</sup> The governing body of each special district must adopt a budget by resolution each fiscal year. The total amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total of appropriations for expenditures and reserves. The adopted budget must regulate expenditures of the special district.<sup>39</sup>

The proposed budget of a dependent special district must be presented in accordance with generally accepted accounting principles, contained within the general budget of the local governing authority, and be clearly stated as the budget of the dependent district. However, with the concurrence of the local governing authority, a dependent district may be budgeted separately.<sup>40</sup>

The governing body of each special district at any time within a fiscal year or within up to 60 days following the end of the fiscal year may amend a budget for that year. The budget amendment must be adopted by resolution.<sup>41</sup> A local government may, in its discretion, review the budget or tax levy of any special district located solely within its boundaries.<sup>42</sup>

### Special District Information Program

As provided by law, the Special District Information Program (SDIP) is administered by the Department of Community Affairs (DCA).<sup>43</sup> The DCA has clearinghouse, technical assistance and monitoring responsibilities with no oversight authority and limited enforcement authority.<sup>44</sup> The DCA’s specific responsibilities include the following:<sup>45</sup>

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<sup>34</sup> Section 189.403(2), F.S.

<sup>35</sup> See *supra* note 33.

<sup>36</sup> Section 189.403(3), F.S.

<sup>37</sup> See *supra* note 33.

<sup>38</sup> Section 189.418, F.S.

<sup>39</sup> Section 189.418(3), F.S.

<sup>40</sup> Section 189.418(4), F.S.

<sup>41</sup> Section 189.418(5), F.S.

<sup>42</sup> Section 189.418(6), F.S.

<sup>43</sup> Section 189.412, F.S.

<sup>44</sup> Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, Florida Special District Handbook Online, *The Special District Information Program, Purposes and Responsibilities*, <http://www.floridaspecialdistricts.org/Handbook/1-3SDIP.cfm> (last visited February 1, 2011).

<sup>45</sup> Section 189.412 (1)-(3), (5) and (8), F.S.

- The collection and maintenance of special noncompliance status reports from the Department of Management Services (DMS), the Department of Financial Services (DFS), the Division of Bond Finance of the State Board of Administration, and the Auditor General.
- The maintenance of a master list of independent and dependent special districts available on DCA's website.
- The publishing and updating of a "Florida Special District Handbook."
- The facilitation of coordination and communication among state agencies regarding special district information.
- Provide assistance to local general-purpose governments and certain state agencies in collecting delinquent reports or information, helping special districts comply with reporting requirements, declaring special districts inactive when appropriate, and, when directed by the Legislative Auditing Committee, initiate enforcement proceedings.

When a new special district is created, the special district must file with DCA its creation document, creation document amendments, a written statement referencing the basis for its independent or dependent status, map, and map amendments.<sup>46</sup> Other reporting requirements include:<sup>47</sup>

- Annual Fee
- Regular public meeting schedule
- Annual budget
- Annual Financial Audit Report
- Annual Financial Report
- Retirement System Reports
- Bond Financing Reports
- Public Facilities Reports

Upon notification that a special district has failed to file a financial report, DCA is directed to assist the special district to comply with its financial reporting requirements by sending a certified letter to the special district, and a copy of the letter to the chair of the local general-purpose government, which describes the required report, including statutory submission deadlines; contact information for technical assistance; a 60-day extension of time for filing the required report; and an explanation of the penalties<sup>48</sup> for noncompliance. The DCA may grant an additional 30-day extension, if requested, in writing by the special district.<sup>49</sup> The Legislative Auditing Committee must notify DCA of those districts that have failed to file the required reports and DCA must then file a petition for writ of certiorari in circuit court.<sup>50</sup>

#### *Inactive Special Districts*

Under certain circumstances, DCA may declare a special district inactive and take steps to dissolve a district. In particular, DCA may take steps to dissolve a district if the district fails to file with the appropriate state agency the following:<sup>51</sup>

- Retirement related reports - DMS.
- Annual Financial Report – DFS.
- Annual Financial Audit Report - Auditor General and DFS.
- Bond related reports - State Board of Administration, Division of Bond Finance.

#### **Local Government Annual Financial Reports**

Local governments must submit to the DFS an Annual Financial Report covering their operations for the preceding fiscal year following accounting principles.<sup>52</sup> To assure the use of proper accounting and

<sup>46</sup> Section 189.418(1) and (2), F.S.

<sup>47</sup> Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, *Special Districts Basic Presentation*, at 25 (Jan. 2011), available at <http://www.floridaspecialdistricts.org/files/SpecialDistrictPresentation.pdf>.

<sup>48</sup> Sections 189.421, F.S.

<sup>49</sup> Section 189.421(1), F.S.

<sup>50</sup> Section 189.421(3), F.S.

<sup>51</sup> Section 189.419(3), F.S.

fiscal management each local government must follow uniform accounting practices and procedures as promulgated by rule of the DFS.<sup>53</sup> All Annual Financial Reports are to be electronically produced and submitted through the Bureau of Local Government's web-based Local Government Electronic Reporting System.<sup>54</sup>

Submission of the annual report depends on whether the local government entity is required to have an annual audit. If no audit is required, the deadline is April 30 of each year.<sup>55</sup> If an audit is required the deadline is within 45 days after completion of the audit report, but no later than 12 months after the end of the entity's fiscal year.<sup>56</sup> If the DFS does not receive a completed annual financial report from a local government entity, the DFS must notify the Legislative Auditing Committee, which must schedule a hearing.<sup>57</sup>

### **Local Government Annual Financial Audit Reports**

If, by the first day in any fiscal year, a local government entity, district school board, charter school, or charter technical career center has not been notified that a financial audit for that fiscal year will be performed by the Auditor General, each of the following entities must have an annual financial audit of its accounts and records completed within 12 months after the end its fiscal year by an independent certified public accountant retained by it and paid from its public funds:<sup>58</sup>

- Each county, district school board, charter school, or charter technical center.
- Each municipality with revenues or total of expenditures and expenses of more than \$250,000.
- Each special district with revenues or total of expenditures and expenses of more than \$100,000.
- Each municipality with revenues or total of expenditures and expenses between \$100,000 and \$250,000 that has not been audited within the two preceding fiscal years.
- Each special district with revenues or total of expenditures and expenses between \$50,000 and \$100,000 that has not been audited within the two preceding fiscal years.

### **Actuarial Reports**

The "Florida Protection of Public Employee Retirement Benefits Act" establishes minimum standards for operating and funding public employee retirement systems and plans.<sup>59</sup> The act is applicable to all units of state, county, special district and municipal governments which participate in, operate, or administer a retirement system or plan for public employees, funded in whole or in part by public funds.<sup>60</sup>

The act further provides that a unit of local government may not agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body, and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system, consistent with the actuarial review, and has furnished a copy of such statement to the Division of Retirement (Division) within the DMS.<sup>61</sup>

If a local government does not submit complete and adequate data necessary for the division to perform its statutorily required functions, the division may request additional information. Upon completion of its review, the division may notify the local government about concerns it has regarding the actuarial soundness of a plan. If, after a reasonable period of time, a satisfactory adjustment has not been made, the DMS may notify the DOR and the DFS of the noncompliance and those agencies may withhold and funds not pledged for satisfaction of bonds until such adjustment is made. The

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<sup>52</sup> Section 218.32(1), F.S.

<sup>53</sup> Section 219.33(2), F.S.

<sup>54</sup> Rule 69I-51.003, F.A.C.

<sup>55</sup> Section 218.32(1)(a), F.S.

<sup>56</sup> Section 218.32(1)(d), F.S.

<sup>57</sup> Section 218.32(1)(f), F.S.; *see also* s. 11.40(5), F.S.

<sup>58</sup> Section 218.39, F.S.

<sup>59</sup> Part VII, ch. 112, F.S.

<sup>60</sup> Section 112.62, F.S.

<sup>61</sup> Section 112.63(3), F.S.



affected local government may petition for a hearing.<sup>62</sup> If a special district fails to make the adjustment, the DMS also notifies DCA, which may seek a writ of certiorari in circuit court for noncompliance.<sup>63</sup>

## **Effect of Proposed Changes**

### **County Budget System**

The bill requires counties to provide, at a minimum, a budget that shows, for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit at a level of detail that is at least at the level of detail in the state-required annual financial report. A county's tentative budget must be posted on the county's official website at least 2 days before the public hearing to consider such budget. The final budget must be posted on the website within 30 days after adoption. The bill clarifies county budget amendment provisions and requires budget amendments authorized by resolution or ordinance to be posted on the county's official website within 5 days after adoption. The bill clarifies that it is unlawful for the boards of county commissioners to exceed budgeted appropriations except as provided in s. 129.06, F.S.

The bill also requires budgets of dependent special districts (included within the county's budget) to show budgeted revenues and expenditures by organizational unit at a level of detail that is at least at a level of detail required for the state-required annual financial report. The amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total appropriations for expenditures and reserves. The bill revises provisions specifying how a county fee officer is to prepare and submit a budget.

The bill removes superfluous language and corrects cross references.

### **Sheriff Budget Requirements**

The budget requirements of sheriffs are amended to require each sheriff to annually prepare and submit a proposed budget to the board of county commissioners. The requirements also clarify that personnel services, grants and aid, and other uses must be itemized by the sheriff's office. The sheriff must include expenditures at the subobject code level in accordance with the uniform accounting system prescribed by the Department of Financial Services (DFS). The board of county commissioners or the county budget commission may not amend, modify, increase, or reduce any expenditure at the subobject code level.

### **Supervisor of Elections Budget Requirements**

The bill stipulates that each supervisor of elections is required to prepare and annually submit, rather than certify, to the boards of county commissioners a proposed budget. The bill requires each supervisor of elections to itemize expenditures in accordance with the uniform accounting system prescribed by the DFS into the following categories: personnel services, operating expenses, capital outlay, debt service, grants and aids, and other uses. The supervisor of elections must furnish expenditures to the board at the subobject code level in accordance to the account system prescribed by the DFS. The board or commission may not amend, modify, increase, or reduce any expenditure at the subobject code level.

### **Property Appraisers and Tax Collectors Budget Requirements**

The bill requires property appraisers and tax collectors to post their final approved budget on their official website within 30 days after adoption. Each county's official website must have a link to the websites of the property appraiser or tax collector where the final budget is posted. If the property appraiser or tax collector does not have an official website, the final approved budget must be posted on the county's official website.

### **Clerk of the Circuit Court Budget Requirements**

The bill provides that the budget relating to the requirements of the clerk as the clerk of the board of county commissioners, county auditor, and custodian or treasurer of all county funds must be annually

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<sup>62</sup> Section 112.63(4), F.S.

<sup>63</sup> Sections 112.63(4)(b), F.S.

prepare and submitted to the board of county commissioners. The bill requires that expenditures be itemized in accordance with the uniform accounting system prescribed by the DFS using the following categories: personnel services, operating expenses, capital outlay, debt service, grants and aids, and other uses.

The bill requires the clerk of the circuit court to provide the board of county commissioners with all relevant and pertinent information as the board deems necessary, including expenditures at the subobject code level in accordance with the uniform accounting system prescribed by the DFS.

The bill also requires the clerk of the circuit court's final approved budget to be posted on the county's official website within 30 days after adoption. The final approved budget of the clerk of the circuit court may be included in the county's budget.

### **Municipal Budget Process**

The bill requires the tentative budget must be published on the municipality's official website at least 2 days before the budget hearing. The final adopted budget must be posted on the municipality's official website within 30 days after adoption. If the municipality does not have an official website, the municipality must transmit the tentative budget and final budget to the county manager or administrator for posting on the county's website within a reasonable amount of time as determined by the county. Certain budget amendments must be posted within 5 days after adoption or must be transmitted to the county manager or administrator for posting within a reasonable time as determined by the county. As of February 1, 2011, 63 municipalities do not have websites.<sup>64</sup>

### **Special Districts**

The bill authorizes the Department of Community Affairs (DCA) to declare a special district inactive pursuant to the process prescribed by law<sup>65</sup> for failure to disclose financial reports, or for not having a registered office and agent on file with DCA for one or more years. The Special District Information Program must collect and maintain a special district noncompliance status report prepared by the Legislative Auditing Committee.

The bill requires special districts to provide, at a minimum, a budget that shows, for each fund, as required by law and sound financial practices, revenues and expenditures by organizational unit at a level of detail that is at the level of detail in the state-required annual financial report.

Dependent special districts must provide any budget information requested by the local governing authority. A local general-purpose government or governing authority may request, from any special district located solely within its boundaries, financial information necessary to comply with its reporting requirements for filing state-required annual financial reports and annual financial audit reports. All special districts must comply with these financial reporting requirements.

The tentative budget must be posted on the special district's website at least 2 days before the budget hearing. The final adopted budget must be posted on the special district's official website within 30 after adoption. If the special district does not operate a website, the special district must transmit the tentative budget or final budget to the local general-purpose government in which the special district is located or the local governing authority. The manager or administrator must post the tentative or final budget on the website of the local general-purpose government or the local governing authority.

The bill specifies how special districts may amend their budgets. Certain budget amendment to the adopted budget must be posted on the official website or transmitted to the local general-purpose government or local governing authority within 5 days after adoption. If the special district does not operate a website, the special district must transmit the adopted amendment to the local general-purpose government in which the special district is located or the local governing authority. The manager or administrator must post the adopted amendment on the website of the local general-purpose government or the local governing authority.

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<sup>64</sup> Florida League of Cities, Email from staff regarding HB 107 (February 1, 2011).

<sup>65</sup> Section 189.4044, F.S.

A local general-purpose government or local governing authority is authorized to request from any special district located solely within its boundaries, financial information in order to comply with its reporting requirements for filing state-required annual financial reports and annual financial audit reports. The special district must cooperate with the request and provide the financial information.

The bill clarifies what occurs when an independent special district fails to file reports or information required under chapter 189, F.S., the Uniform Special District Accountability Act of 1989. If the governing body of a local general-purpose government or governments determines that the failure to file the required reports or information is unjustified, the local general-purpose government may notify DCA which then may proceed according to the procedures<sup>66</sup> established by law.

If a dependent special district fails to file reports or information with the local governing authority, the local governing authority must take whatever steps it deems necessary to enforce the special district's accountability, including withholding funds; removing governing board members at will; vetoing the special district's budget; conducting the oversight review process;<sup>67</sup> or amending, merging, or dissolving the special district. State agencies must notify DCA if a special district fails to file certain reports.

The bill also provides procedures for when a special district is unable to meet the 60-day reporting deadline for filing financial reports. When a special district fails to file a report or information required under Chapter 189, or is unable to comply with the 60-day reporting deadline granted by DCA, it must provide a written notice to DCA stating:

- The reason it is unable to comply with the deadline;
- The steps it is taking to prevent the noncompliance from recurring; and
- The estimated date that the special district will file the report with the appropriate agency.

The DCA must forward the written response as follows:

- If the written response refers to the state-required annual financial report or annual financial audit report, then DCA must forward the written response to the Legislative Auditing Committee, which will determine whether state action is needed and notify DCA as to whether they should proceed according to the procedures<sup>68</sup> established by law.
- If the written response refers to special district reports or information that were not filed<sup>69</sup> as required by law, then DCA must forward the response to the local general-purpose government for its consideration in determining what actions to take.
- If the written response refers to the reports or information required for meeting the actuarial reporting requirements under Florida Protection of Public Employee Retirement Benefits Act, then DCA must forward the response to the Department of Management Services for its consideration in determining whether the special district should be subject to further action.

The bill deletes the additional 30-day extension and further amends the law to specify that the failure of a special district to comply with actuarial reporting requirements, as well as specified financial reporting requirements, is deemed final action of the special district. The remedy for noncompliance is writ of certiorari. If the Legislative Auditing Committee or DMS notifies DCA that specific special districts have failed to file required reports DCA must initiate a writ of certiorari in the circuit court within 60 days after receiving such notice. Current law gives DCA 30 days.

### Water Management Districts and School Districts

The bill requires water management districts to post their tentative budgets on their official website at least 2 days before budget hearings. The final adopted budget must be posted on the website within 30 days after adoption.

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<sup>66</sup> See the Special Districts discussion in the Present Situation section of this bill analysis. See also s. 189.421, F.S.

<sup>67</sup> Section 189.428, F.S.

<sup>68</sup> Section 189.421, F.S.

<sup>69</sup> Section 189.419(1), F.S.

The bill also requires district school boards to post a summary of their tentative budgets on the district's official website within 2 days before the budget hearing. The bill also states that the district school board's final adopted budget must be posted on the district's official website within 30 days after adoption, and any budget amendments must be posted on their official websites within 5 days after adoption.

### **Local Government Annual Financial Audit Reports and Annual Financial Reports**

The bill requires local governmental entities to file their audit with the DFS within 9 months, rather than 12 months, after the end of the fiscal year. Local governments not required to file audits must file annual financial reports no later than 9 months after the end of the fiscal year, rather than April 30 of each year. The bill also requires the DFS to file its report on local government entities that are not in compliance with the annual financial report requirements, with DCA's Special District Information Program. Each local governmental entity's website must provide a link to the DFS website to view the entity's annual financial report submitted to the department. If the local government entity does not have an official website, then the county government's website must provide the required link for the local government entity.

The bill requires certain counties, certain municipalities, certain special districts, district school boards, charter schools, and charter technical career centers, to file their annual financial audit report within 9 months, rather than 12 months, after the end of the fiscal year. The bill specifies that the entity's revenues or total expenditures and expenses are as reported on the fund financial statements.

The bill requires auditors to prepare auditing reports in accordance with the rules of the Auditor General. These reports must be filed with the Auditor General within 45 days after the delivery of the report to the audited entity but no later than 9 months after the end of the fiscal year. The bill also requires the Auditor General to notify the Legislative Auditing Committee (Committee) of any audit report that indicates an audited entity has failed to take full corrective action in response to a recommendation that was included in the two preceding financial audit reports.

The Committee is given the authority to direct a local governmental entity to provide a written statement explaining why full corrective action has not been taken or describing corrective action to be taken and when. If the Committee determines that the written statement is not sufficient, it may require the chair of the governing board of the entity or the chair's designee to appear before the Committee.

The bill further authorizes the Committee to take certain actions<sup>70</sup> against an audited entity that has failed to take full corrective action and for which there is no justifiable reason for the entity's inaction, or if the entity has failed to comply with the Committee's requests.

The bill clarifies that a deficit in the fund financial statements of entities required to report under governmental financial reporting standards or on not-for-profit financial statements constitutes a financial distress indicator that subjects the entity to review and oversight for financial emergency. The bill replaces the term "fixed or capital assets" with "property, plant, and essential equipment" as types of property that, if necessary, will not be considered resources available to cover the deficit.

## **B. SECTION DIRECTORY:**

Section 1: Amends s. 11.40, F.S., to clarify that the Department of Community Affairs can declare a special district inactive for failure to disclose financial reports.

Section 2: Amends s. 30.49, F.S., to clarify account categories and level of detail required for each account.

Section 3: Amends s. 112.63, F.S., to authorize the Department of Management Services to notify the Department of Community Affairs that a special district has failed to provide requested information or make appropriate adjustments.

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<sup>70</sup> Section 11.40(5), F.S.

Section 4: Amends s. 129.01, F.S., to require county budgets to be prepared in detail consistent with annual financial reports required by s. 218.32(1), F.S.

Section 5: Amends s. 129.02, F.S., to require budgets of special districts included within in the county budget to be in detail consistent with annual financial reports required by s. 218.32(1), F.S.

Section 6: Amends s. 129.021, F.S., to correct cross-reference.

Section 7: Amends s. 129.03, F.S., to require county tentative, adopted tentative, and final adopted budget to be posted on the county's official website.

Section 8: Amends s. 129.06, F.S., to clarify the budget amendment authority of counties.

Section 9: Amends s. 129.07, F.S., to clarify that a board of county commissioners may not exceed budgeted appropriations, except as provided in s. 129.06, F.S.

Section 10: Amends s. 129.201, F.S., to require supervisor of elections to itemize expenditures according to uniform chart of accounts.

Section 11: Amends s. 166.241, F.S., to require municipalities to provide, at a minimum, detail consistent with the annual financial report required by s. 218.32, F.S., publishing of the tentative, adopted, and final adopted budgets, including amendments, on the municipality's website.

Section 12: Amends s. 189.4044, F.S., to allow the Department of Community Affairs to declare any special district inactive if the district has not had a registered office and agent on file with the department with one or more years.

Section 13: Amends s. 189.412, F.S., to require the Department of Community Affairs Special District Information Program to collect and maintain a special district noncompliance state report prepared by the Legislative Auditing Committee.

Section 14: Amends s. 189.418, F.S., to require special districts to prepare budgets in detail consistent with annual financial reports required by s. 218.32(1), F.S., publishing of the tentative, adopted, and final adopted budgets, including amendments, on the special district's website or on the county's website in which the special district is located.

Section 15: Amends s. 189.419, F.S., to provide procedures to follow when a special district fails to provide certain information.

Section 16: Amends s. 189.421, F.S., to provide procedures to follow when a special district fails to provide financial reports.

Section 17: Amends s. 195.087, F.S., to require each tax collector and property appraiser to post his or her budget on the county's official website.

Section 18: Amends s. 218.32, F.S., to require each local governmental entity's website to provide a link to the Department of Financial Services website to view the entity's annual financial report.

Section 19: Amends s. 218.35, F.S., to specify how county fee officers and clerks of court must prepare budget.

Section 20: Amends s. 218.39, F.S., to require certain local government entities to have annual financial audits completed within 9 months after the end of the fiscal year.

Section 21: Amends s. 218.503, F.S., to clarify how to determine a fund balance deficit.

Section 22: Amends s. 373.536, F.S., to require water management districts to post their tentative and final adopted budgets on their website.

Section 23: Amends s. 1011.03, F.S., to require district school boards to post a summary of their tentative and adopted budgets, including amendments, on their website. If the school district does not operate a website the information shall be posted on the county's website.

Section 24: Amends s. 1011.051, F.S., to correct accounting terminology.

Section 25: Amends s. 1011.64, F.S., to correct accounting terminology.

Section 26: Provides an effective date of October 1, 2011.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The Department of Community Affairs may experience increased expenditures resulting from the enhanced enforcement provisions.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

The bill requires local governments to post annual budget and financial reporting information on its or another unit of local governments website. This requirement may have an indeterminate fiscal impact on affected local governments.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will increase transparency in the budget process of local governments.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill requires counties or municipalities to spend funds or take an action requiring the expenditure of funds. However, the amount of the expenditure is insignificant because most local governments have websites, and therefore an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A.