

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Committee

BILL: CS/SB 224

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Dean

SUBJECT: Local Government Accountability

DATE: April 21, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Favorable
2.	McKay	Roberts	GO	Fav/CS
3.	Martin	Meyer, C.	BC	Pre-meeting
4.				
5.				
6.				

I. Summary:

This bill provides minimum budgeting standards for counties, county officers, municipalities, and special districts. The bill requires the budget of each county, municipality, special district, water management district, school district, and certain county officers to be posted on the government entity’s website. The bill requires counties, municipalities, and special districts to file their annual financial report and annual financial audit report with the Department of Financial Services (DFS) and the annual financial audit report with the Office of the Auditor General (OAG) within nine months of the end of the fiscal year. This bill also amends the reporting process used by the Legislative Auditing Committee (“LAC” or “Committee”) and the Department of Community Affairs (DCA), to compel special districts to file certain required financial reports.

This bill substantially amends the following sections of the Florida Statutes: 11.40, 30.49, 112.63, 129.01, 129.02, 129.021, 129.03, 129.06, 129.07, 129.201, 166.241, 189.4044, 189.412, 189.418, 189.419, 189.421, 195.087, 218.32, 218.35, 218.39, 218.503, 373.536, 1011.03, 1011.051 and 1011.64.

II. Present Situation:

Local Government Budgets

The Florida Constitution specifically provides for four types of local governments: counties, municipalities, school districts, and special districts. Florida’s 67 counties are subdivisions of the state that operate to provide a variety of core services through constitutional officers (county commissioners, sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the

court) pursuant to authority granted in the constitution, consistent with general law.¹ A municipality is a local government entity located within a county that is created to perform additional functions and services for the particular benefit of the population within the municipality. There are more than 400 municipalities in Florida, which exist pursuant to individual charters established by law and approved by the electorate in a referendum.

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.² Counties operating under a county charter have all powers of self-government not inconsistent with general law, or special law approved by the vote of the electors.³ Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform its functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.⁴

Local government entities have the authority to raise revenues and spend funds, subject to certain restrictions on the ability to tax, borrow, and spend as provided in both the Florida Constitution and Florida Statutes.⁵ The Florida Constitution limits the millage rate that local governments can levy in ad valorem taxes⁶ and allows public access to public meetings and records.⁷ Section 166.241, F.S., specifies how local governments and local government officials may develop and maintain their budget each fiscal year.⁸ The fiscal year for counties and municipalities begins on October 1 of each year and ends on September 30 of the following year.⁹

Florida Statutes also contain provisions designed to promote accountability and transparency in the budgetary process. Local governments are subject to financial reporting guidelines that are reviewed by the Legislature and by state agencies such as the DFS and DMS (DMS).¹⁰ Section 200.065(2)(d), F.S., currently requires local government entities that have taxing authority to provide notice of their adopted tentative budget in a newspaper of general circulation in the respective county.¹¹

Currently, there are no statutory provisions requiring local government entities to publish budget information on their local government website. With the exception of Calhoun, Lafayette, and Union Counties, each county within the state of Florida has an official website. Those that do not have official websites do have websites for the county clerk, which can be used to publish county information.

¹ FLA. CONST. art. VIII, s. 1.

² FLA. CONST. art. VIII, s. 1(f).

³ FLA. CONST. art. VIII, s. 1(g).

⁴ FLA. CONST. art. VIII, s. 2(b). *See also* s. 166.021, F.S.

⁵ *See* Art. VII, Fla. Const.

⁶ FLA. CONST. art. VII, s. 9.

⁷ FLA. CONST. art. I, s. 24.

⁸ *See* s. 166.241, F.S.

⁹ Section 129.04, F.S.

¹⁰ Part III, Chapter 218; s. 112.63, F.S.

¹¹ Section 200.065(2)(d) and (3), F.S.

Municipal Budget Requirements

Section 166.241(2), F.S., provides that each municipality must annually adopt a budget by ordinance or resolution unless the municipality has a charter that specifies another method for adoption. The funds available from taxation and other sources must equal the total appropriations for expenditures and reserves.¹² Officers of a municipal government may not expend funds except according to the budgeted appropriations. A municipality may amend its budget up to 60 days following the end of the fiscal year under certain conditions.¹³

County Budget Requirements

Chapter 129, F.S., establishes a budget system that controls the finances of the boards of county commissioners of Florida counties. Pursuant to s. 129.01, F.S., each county is required to prepare, approve, adopt, and execute an annual budget each fiscal year for such funds as may be required by law or by sound financial practices and generally accepted accounting principles, which controls the levy of taxes and the expenditure of money for all county purposes during the ensuing fiscal year.¹⁴ The budget is prepared by the board of county commissioners and must be balanced so that the total of the estimated receipts, including balances brought forward, equals the total of the appropriations and reserves.¹⁵ The receipts portion of the budget must include 95 percent of all receipts reasonably anticipated from all sources, including taxes to be levied, and must include all balances estimated to be brought forward at the beginning of the fiscal year.¹⁶

Section 129.01, F.S., also specifies the budget requirements relating to reserves for contingencies and cash balances to be carried over for future costs, stating that any surplus to be carried over can be placed in any other county fund and budgeted as a receipt to such other fund.¹⁷ However, a fund for debt services cannot be transferred to another fund, and a capital outlay reserve fund may not be transferred until the funded projects have been finished and paid for. In addition to these requirements, ch. 129, F.S., also contains other detailed provisions as to:

- Budget requirements for various funds;¹⁸
- Requirement that county officers submit budgets in sufficient detail and containing sufficient information;¹⁹ and
- Requirements for the preparation, adoption;²⁰ and amendment of such budgets.²¹

Each board of county commissioners may designate a county budget officer to carry out the duties prescribed by statute as to county budgets. If such board fails to designate a different officer, the clerk of the circuit court or the county comptroller, if applicable, will be the budget

¹² Section 166.241(2), F.S.

¹³ Section 166.241(3), F.S.

¹⁴ Section 129.01(1), F.S.

¹⁵ Section 129.01(2), F.S.

¹⁶ Section 129.01, F.S.

¹⁷ Sections 129.01 and 129.02(6), F.S.

¹⁸ Sections 129.01 and 129.02, F.S.

¹⁹ Sections 129.01 and 129.021, F.S.

²⁰ Section 129.03, F.S.

²¹ Section 129.06, F.S.

officer.²² County fee officers are also subject to reporting requirements.²³ County fee officers are defined in Florida Statutes as “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.”²⁴ For example, each sheriff, clerk of the circuit court, property appraiser and tax collector has budget reporting requirements of their own in addition to the budget reporting requirements of the county.²⁵

It is unlawful for the board of county commissioners to expend more than the amount budgeted for a fund absent a budget amendment. Any indebtedness contracted in excess of the amount budgeted is void and no suit for its collection may be maintained. A commissioner approving contracts for such amounts, and their surety company, may be liable for these debts.²⁶

Sheriff Budget Requirements

Section 30.49, F.S., requires each sheriff to certify to the board of county commissioners a proposed budget of expenditures for the ensuing fiscal year, commencing on October 1 and ending on the following September 30. 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. The sheriff must itemize expenditures in accordance with the uniform chart of accounts prescribed by DFS, as: personal services, operating expenses, capital outlay, debt service, and non-operating disbursements and contingency reserves.

The Supreme Court of Florida has stated that “the internal operation of the sheriff’s office and the allocation of appropriated monies within the six items of the budget is a function which belongs uniquely to the sheriff as the chief law enforcement officer of the county.”²⁷ Therefore, although a county can increase or reduce by lump sums the items, a county cannot dictate how the money allocated to an individual item should be used.²⁸

Supervisor of Elections Budget Requirements

Section 129.201, F.S., requires each supervisor of elections to certify to the board of county commissioners a proposed budget of expenditures for the ensuing fiscal year, commencing on October 1 and ending on the following September 30. The supervisor of elections must itemize expenditures such as: personnel compensation, operating expenses, capital outlay, contingencies, and transfers.

²² Section 129.025, F.S.

²³ See s. 218.35, F.S.

²⁴ Section 218.31(8), F.S.

²⁵ See ss. 30.49 (sheriffs’ budgets), 218.35(2) (clerks of the court reporting requirements), 195.087 (property appraisers and tax collectors budget reporting requirements), F.S.

²⁶ Section 129.07, F.S. See also, *Edwards v. City of Ocala*, 58 Fla. 217, 50 So. 421 (1909) and *White v. Crandon*, 116 Fla. 162, 156 So. 303 (1934) (discussing county commissioner liability for misappropriation of funds).

²⁷ *Weitzenfeld v. Dierks*, 312 So.2d 194 (Fla. 1975); Fla. Atty. Gen. Op. 93-92 (December 17, 1993).

²⁸ *Id.*

The proposed budget must be submitted to the board of county commissioners or county budget commission to be included in the general county budget.²⁹

Special Districts

Special Districts are governed by the Uniform Special District Accountability Act of 1989 in Chapter 189, F.S.³⁰ Section 189.403(1), F.S., defines a “special district” as a confined local government unit established for a special purpose.³¹ A special district can be created by general law, special act, local ordinance, or by Governor or Cabinet rule.³² A special district does not include:

- A school district;
- A community college district;
- A special improvement district (Seminole and Miccosukee Tribes under s. 285.17, F.S.);
- A municipal service taxing or benefit unit (MSTU/MSBU); or
- A political subdivision board of a municipality providing electrical service.³³

Special districts have the same governing powers and restrictions as counties and municipalities.³⁴ Like other forms of local government, special districts operate through a governing board and can “enter contracts, employ workers . . . issue debt, impose taxes, levy assessments and . . . charge fees for their services”.³⁵ Special districts are held accountable to the public, and are therefore subject to public sunshine laws and financial reporting requirements.³⁶

There are two types of special districts in Florida: dependent special districts and independent special districts. With some exceptions, dependent special districts are districts created by individual counties and municipalities that meet at least one of the following characteristics:

- The membership of its governing body is identical to the governing body of a single county or municipality;
- All members of its governing body are appointed by the governing body of a single county or 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 municipality; and
- 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 municipality.³⁷

²⁹ Section 129.201(7), F.S.

³⁰ Ch. 189, F.S., *see* s. 189.401, F.S.

³¹ Section 189.403(1), F.S.

³² *Id.*

³³ *Id.*

³⁴ Mizany, Kimia and April Manatt, WHAT’S SO SPECIAL ABOUT SPECIAL DISTRICTS? CITIZENS GUIDE TO SPECIAL DISTRICTS IN CALIFORNIA, 3rd ed., 2 (Feb. 2002).

³⁵ *Id.* (alteration to original) (citation omitted).

³⁶ Presentation by Jack Gaskins Jr., from the Department of Community Affairs, Special District Information Program, SPECIAL DISTRICT BASICS PRESENTATION (May 2010) (on file with the Senate Committee on Community Affairs). *See also* ss. 189.417 and 189.418, F.S.

³⁷ Section 189.403 (2) (a)-(d), F.S.

Section 189.403(3), F.S., defines an independent special district as a district that does not meet the statutory classifications of a dependent special district.³⁸ Independent special districts may encompass more than one county.³⁹ The public policy behind special districts is to provide an alternative governing method to “manage, own, operate, construct and finance basic capital infrastructure, facilities and services.”⁴⁰

As of January 2011, there were approximately 1,625 special districts in the state of Florida: 618 dependent districts and 1,007 independent districts.⁴¹ Examples of special districts in Florida include but are not limited to water management districts, community development districts, housing authority districts, fire control and rescue districts, mosquito control districts, and transportation districts.⁴²

A. Special District Information Program

The Special District Information Program (SDIP), administered by the DCA is designed to collect, update, and share detailed information on Florida’s special districts with more than 685 state and local agencies.⁴³ The SDIP is also charged with assisting special districts to comply with Florida’s local government financial reporting system. Specifically, the program:

- Provides technical assistance as it relates to the general requirements of Florida’s special districts;
- Acts as a "one-stop shop" source of information about special districts; and,
- Promotes special district accountability by:
 - Monitoring important financial report filings;
 - Assisting state agencies and local governments in collecting delinquent reports;
 - Helping non-complying special districts come into compliance through technical assistance letters and telephone calls; and
 - When necessary, initiating legal enforcement.⁴⁴

There are ten basic reporting requirements that each special district must follow under the Uniform Special District Accountability Act. All special districts must report it’s:

- Creating document and boundary map;
- Registered agent and office;
- Annual fee and update;
- Regular public meeting schedule;
- Annual budget;
- Annual financial audit report;
- Annual financial report;
- Three retirement system reports;

³⁸ Section 189.403(3), F.S.

³⁹ *Id.*

⁴⁰ Section 189.402(3)-(4), F.S.

⁴¹ Gaskins, *supra* note 36. Note: This number is subject to change daily.

⁴² Florida Department of Community Affairs, OFFICIAL LIST OF SPECIAL DISTRICTS ONLINE, available online at <http://www.floridaspecialdistricts.org/OfficialList/index.cfm> (last visited on Jan. 10, 2010).

⁴³ Florida Department of Community Affairs, SPECIAL DISTRICTS INFORMATION PROGRAM, available online at <http://www.floridaspecialdistricts.org> (last visited on Sept. 21, 2010).

⁴⁴ *See* s. 189.412, F.S.

- Two bond reports; and
- Three public facilities reports.⁴⁵

B. Special District Budget Requirements

The governing body of each special district is directed by statute to adopt a budget by resolution each fiscal year. The total funds available must equal the total of appropriated expenditures and reserves.⁴⁶ It is unlawful for any officer of a special district to spend district money in any fiscal year except pursuant to a budgeted appropriation. The proposed budget of a dependent special district shall 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.⁴⁷ 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.⁴⁸

All reports or information required to be filed with a local governing authority are filed with:

- The clerk of the board of county commissioners when the local governing authority is a county;
- The clerk of the county commission in each county when the district is a multicounty district; or
- At the place designated by the municipal governing body when the local governing authority is a municipality.⁴⁹

Local Government Annual Financial Reports

Section 218.32 (1), F.S., requires local governments to submit an Annual Financial Report to the DFS covering their operations for the preceding fiscal year. DFS provides an electronic filing system for local governments to use that accumulates the financial information reported on the annual financial reports into a database.⁵⁰ This information is available to the public in an electronic format.

In order to improve government accountability by making financial information reported by Florida's local governments more comparable, and thereby enabling local taxpayers and local policy makers to better understand and evaluate local government service delivery and operations, all local governmental reports are required to follow accounting principles when preparing their Annual Financial Report.⁵¹

⁴⁵ Gaskins, *supra* note 36.

⁴⁶ Section 189.418(3), F.S.

⁴⁷ Section 189.418(4), F.S.

⁴⁸ Section 189.418(5), F.S.

⁴⁹ Section 189.418(7), F.S.

⁵⁰ Information obtained from the Florida Department of Financial Services website, Local Government Annual Reports, available online at <http://www.myfloridacfo.com/sitePages/services/flow.aspx?ut=Local+Governments> (last visited on Jan. 10, 2010).

⁵¹ Section 218.33(2), F.S.

The submission deadline for the local government's annual financial report depends on whether or not the entity is required to have an annual audit.⁵² If no audit is required then the entity's annual report deadline is April 30 of each year.⁵³ The deadline for entities that are required to provide an audit is no later than 12 months after the end of the fiscal year.⁵⁴ If DFS does not receive a completed annual financial report from a local government entity within the required period, the department must notify the LAC, which must then schedule a hearing.⁵⁵

If the LAC determines that an entity should be subject to further state action, s. 11.40, F.S., provides that the committee must:

- In the case of a local government entity or a district school board, direct the Department of Revenue and the DFS to withhold any funds not pledged for bond debt service satisfaction until the local government entity or the district school board is in compliance. The committee must specify the date that action will begin and both departments must receive notification 30 days before the date the withheld funds would normally be distributed.
- In the case of a special district, the committee must notify the DCA and the department must offer assistance to the special district. If the district still fails to comply, the department must petition the circuit court in Leon County for a writ of certiorari and the court must award attorney costs and court fees to the prevailing party.⁵⁶
- In the case of a charter school or charter technical career center, the committee must notify the appropriate sponsoring entity that may terminate the charter.⁵⁷

Local Government Annual Financial Audit Reports

Section 218.39, F.S., provides that if a local government entity, district school board, charter school, or charter technical career center has been notified by the first day in any fiscal year that it will not be audited by the Auditor General, then each of the following entities must provide for an annual financial audit to be completed within 12 months after the end of the fiscal year. The audit must be conducted by an independent certified public accountant retained by the entity and paid for from public funds. The entities referenced in statute include:

- Each county, district school board, charter school, or charter technical center;⁵⁸
- Any municipality with revenues or expenditures and expenses of more than \$250,000;
- Any special district with revenues or expenditures and expenses of more than \$100,000;
- Each municipality with revenues or expenditures and expenses between \$100,000 and \$250,000 that has not been audited within the 2 preceding fiscal years; and
- Each special district with revenues or expenditures and expenses between \$50,000 and \$100,000 that has not been audited within the 2 preceding fiscal years.

⁵² Information obtained from the Florida Department of Financial Services, *see supra* note 50.

⁵³ Section 218.32(e), F.S.

⁵⁴ Section 218.32(d), F.S.

⁵⁵ Section 218.32(f), F.S.

⁵⁶ *See also* s. 189.421(3), F.S., providing that “[v]enue for all actions pursuant to this subsection shall be in Leon County.”

⁵⁷ *See* s. 11.40(5)(a)–(c), F.S.

⁵⁸ Referring to charter schools established under s. 1002.33, F.S., and each charter technical center established under s. 1002.34, F.S.

Actuarial Reports

The “Florida Protection of Public Employee Retirement Benefits Act” located in part VII, of ch. 112, F.S., provides minimum operation and funding standards for public employee retirement plans.⁵⁹ The legislative intent of this Act is to “prohibit the use of any procedure, methodology, or assumptions, the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current tax payers.”⁶⁰ The Division of Retirement (Division) within the Florida Department of Management Services (DMS) is primarily responsible for administering this Act and helping ensure that local governments maintain the necessary level of funding for public employee retirement systems and plans. In order to meet this requirement, each retirement system or plan is required to submit regularly scheduled actuarial reports to the Division for its review and approval.

If DMS determines that a local government entity’s actuarial valuation of its retirement system or plan is incomplete, inaccurate, or not based on reasonable assumptions, the department can request additional information.⁶¹ If, after a reasonable period of time, a satisfactory adjustment has not been made, the DMS may notify the Department of Revenue and the DFS of the noncompliance and those agencies may withhold any funds not pledged for satisfaction of bonds until such adjustment is made to the report. The affected governmental entity may petition for a hearing. If the entity failing to make the adjustment is a special district, DMS also notifies the DCA, which must proceed under the procedures prescribed in s. 189.421, F.S., which may result in a writ of certiorari with the circuit court.

III. Effect of Proposed Changes:

Section 1 amends s. 11.40, F.S., to clarify that the DCA can declare a special district inactive for failure to disclose financial reports.

Section 2 amends s. 30.49, F.S., to provide that each sheriff shall annually prepare and submit a proposed budget to the board of county commissioners. This section clarifies that “personnel services,” “grants and aids” and “other uses” need to be itemized by the sheriff’s office. It further specifies that expenditures need to be itemized at the sub-object code level in accordance with the uniform accounting system prescribed by the DFS.⁶² The board or commission is precluded from changing any expenditure at the sub-object code level.

Section 3 amends s. 112.63, F.S., to provide that the failure of a special district to provide sufficient information to fulfill its actuarial reporting requirements despite requests from the DMS is considered a final agency action by the district. The DMS, Division of Retirement, can request that the DCA seek a writ of certiorari in accordance with the provisions set forth in s. 189.421(4), F.S.

⁵⁹ Section 112.61, F.S.

⁶⁰ *Id.*

⁶¹ Section 112.63(4), F.S.

⁶² The Department of Financial Services website has additional information on state expenditure object codes at <http://www.myfloridacfo.com/aadir/eocodespdf.htm>. For local governments, the object and sub-object codes are listed in the three separate Uniform Accounting Manuals for counties, cities, and special districts, which can be found at <http://www.myfloridacfo.com/aadir/localgov/> (website last visited on April 21, 2011).

Section 4 amends s. 129.01, F.S., to require boards of county commissioners to provide, at a minimum, that their budget show for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit in detail consistent with the annual financial report required under s. 218.32(1), F.S. The bill also deletes redundant language.

Section 5 amends s. 129.02, F.S., to require financial reports for dependent special districts included in the county budget to show budgeted expenditures and revenues in detail consistent with the annual financial report required under s. 218.32(1), F.S. The amount of money available must equal the total appropriations for expenditures and reserves.

Section 6 amends s. 129.021, F.S., to correct a cross reference.

Section 7 amends s. 129.03, F.S., to require a county's tentative budget to be posted on the county's official website at least 2 days before the public hearing to consider such budget, and to require the county's final budget be posted on the website within 30 days after adoption.

Section 8 amends s. 129.06, F.S., to clarify the budget amendment authority of counties and to require that budget amendments authorized by resolution or ordinance, rather than statute, be posted on the county's website within 5 days after adoption.

Section 9 amends s. 129.07, F.S., to clarify language explaining 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 each supervisor of elections to itemize expenditures according to the uniform chart of accounts 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 also 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 sub-object code level.

Section 11 amends s. 166.241, F.S., to require municipalities to provide, at a minimum, that their budget show for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit in detail consistent with the annual financial report required under s. 218.32(1), F.S. The bill requires the tentative and adopted budgets be published on the municipality's official website at least 2 days before the public hearing to consider the budget. If the municipality does not have an official website, the budget must be posted on the website of the county or counties in which the municipality is located. The final adopted budget must be posted on the municipality's official website within 30 days of adoption, or must be transmitted to the county for posting within a reasonable time established by the county. Certain budget amendments of the municipality must be posted within 5 days after adoption or must be transmitted to the county for posting within a reasonable time established by the county.

Section 12 amends s. 189.4044, F.S., to allow the DCA to declare any special district inactive if the district has not had a registered office and agent on file with the department for one or more years.

Section 13 amends s. 189.412(1), F.S., to require the DCA Special District Information Program to collect and maintain a special district noncompliance status report prepared by the LAC.

Section 14 amends s. 189.418, F.S., to require special districts to provide, at a minimum, that their budgets show for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit in detail consistent with the annual financial report required under s. 218.32(1), F.S. It also requires tentative budgets to be posted on the special district's official website at least 2 days before the budget hearings and final adopted budgets within 30 days. If the special district does not have an official website, the budget must be posted on the website of the county or counties in which the special district is located. These new requirements do not apply to water management districts. Certain budget amendments of the special district must be posted on the special district's official website within 5 days after adoption, or transmitted as determined reasonable by the county or counties in which the special district is located. The bill specifies how a special district may amend its budget. The bill requires certain special districts to provide any budget information requested by the local governing authority.

Section 15 amends s. 189.419, F.S., to clarify what happens when an independent special district fails to file reports and information the district is required to file by statute. If the failure is not justified, the local general purpose government within which the independent district is located must notify the DCA which must proceed according to the procedures specified in s. 189.421, F.S., (see discussion of section 16 below). If a dependent special district fails to file required reports with the local governing authority, that authority must take whatever steps it deems necessary to enforce accountability including: withholding funds, removing governing board members at will, vetoing the special district's budget, conducting an oversight review process as specified in s. 189.428, F.S., or amend, merge, or dissolve the special district.

If a special district fails to file a required report with a state agency, the agency must notify the DCA, which shall send a certified technical assistance letter to the special district summarizing the requirements and encouraging the special district to take steps to prevent the noncompliance from reoccurring. If a special district fails to file actuarial reports or information under s. 112.63, F.S., then the appropriate state agency must notify the DCA which shall proceed according to s. 189.421(1), F.S. If a special district fails to file the annual financial report or annual financial audit report under ss. 218.32 and 218.39, F.S., respectively, then the state agency shall and the LAC may, notify the DCA, which shall proceed according to s. 189.421, F.S.

Section 16 amends s. 189.421, F.S., to provide that when a special district fails to file a report or information required under ch.189, F.S., or is unable to comply with the 60-day reporting deadline granted by the DCA, it must provide a written notice to the DCA stating: (1) the reason it is unable to comply with the deadline; (2) the steps it is taking to prevent the noncompliance from recurring; and (3) the estimated date that it will file the report with the appropriate agency.

If the written response refers to the annual financial report or annual financial audit report under ss. 218.32 and 218.39, F.S., then the DCA must forward the written response to the LAC, which, under s. 11.40(5)(b), F.S., will determine whether state action is needed and notify the DCA as to whether they should proceed according to s. 189.421, F.S. If the written response refers to

special district reports listed in s. 189.419 (1), F.S., then the DCA must forward the response to the local general-purpose government for its consideration in determining what actions to take. When the special district does not comply with its actuarial reporting requirements under s. 112.63, F.S., the DCA must forward the response to the DMS for its consideration in determining whether the special district should be subject to further action.

The additional 30-day extension provided in current law is deleted. The bill 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 LAC or the DMS notifies the DCA that specific special districts have failed to file required reports the DCA must initiate a writ of certiorari in the circuit court within 60 days after receiving such notice (current law gives the DCA only 30 days).

Section 17 amends s. 195.087, F.S., to require each tax collector and property appraiser to post their final approved budget on the county's official website within 30 days after adoption of the county's budget. The bill also requires each county's official website to have a link to the tax collector or property appraiser's website where the final approved budget is posted. If the property appraiser or tax collector does not have an official website, the bill states that the final approved budget must be posted on the county's official website.

Section 18 amends s. 218.32, F.S., to require local governmental entities to file their audit with the DFS within 9 months after the end of the fiscal year, (instead of 12 months). Local governments not required to file audits must file annual financial reports no later than 9 months after the end of the fiscal year (instead of 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 s. 218.32, F.S., with the DCA Special District Information Program. The bill requires each local governmental entity's website to provide a link to the DFS website to view the entity's annual financial report submitted to the DFS. If the local government does not have an official website, then the county government's website must provide this required link.

Section 19 amends s. 218.35, F.S., to revise provisions specifying how a county fee officer is to prepare and submit a budget. In preparing the budget related to the clerk's duties for the commission, pursuant to s. 129.03, F.S., 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 also requires the clerk of court to provide the board 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 requires fee officers to post the clerk of court's final approved budget on the county's official website within 30 days of adoption. The final approved budget of the clerk of the circuit court may be included in the county's budget.

Section 20 amends s. 218.39, F.S., to require 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 after the end of the fiscal year (instead of

12 months). 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 LAC 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. It provides the LAC with the authority to direct a local governmental entity to provide a written statement concerning the lack of corrective action or describing corrective action that will be taken in the future. If the Committee determines that the written statement is not sufficient, it may require the entity to appear before the Committee.

The bill further authorizes the Committee to take certain actions prescribed in s. 11.40(5), F.S., 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.

Section 21 amends s. 218.503, F.S., to clarify that a deficit in the fund financial statements of entities required to report under governmental financial reporting standards or on nonprofit financial statements shall constitute a financial distress indicator that shall subject 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.

Section 22 amends s. 373.536, F.S., to require 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.

Section 23 amends s. 1011.03, F.S., to require 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.

Section 24 amends s. 1011.051, F.S., to amend accounting terminology.

Section 25 amends s. 1011.64, F.S., to amend accounting terminology.

Section 26 provides that this act shall take effect on October 1, 2011.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Section 18(a), Article VII, of the State Constitution, prohibits any general law that would require cities and counties to spend funds or take action requiring the expenditure of funds unless the legislature determines that the law fulfills an important state interest and one of the following exceptions apply:

- Estimated funds are appropriated to cover the mandate;
- The legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate sufficient funds, by a simple majority vote of the governing body of each county or municipality;
- It is approved by a two-thirds vote of the membership in each house of the legislature;
- Similarly situated persons are all required to comply; or
- The law is required to comply with a federal requirement or for a federal entitlement.⁶³

Subsection (d) of section 18 of Article VII, of the State Constitution, provides an exemption if the law is determined to have an insignificant fiscal impact.⁶⁴ An insignificant fiscal impact means an amount not greater than the average statewide population for the applicable fiscal year times ten cents (FY 2011-2012 \$1.9 million).⁶⁵

Although there will be some costs to local government entities associated with posting budget information on their website, the costs probably do not rise to the level of a constitutional mandate. If it is determined that this bill has more than an insignificant fiscal impact (i.e. the costs exceed \$1.9 million), the bill would require a finding of an important state interest and a two-thirds vote of the membership of each house of the Legislature to effectively bind cities and counties.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

⁶³ FLA. CONST. art. VII, s. 18(a).

⁶⁴ FLA. CONST. art. VII, s. 18(d).

⁶⁵ Florida Economic Estimating Conference, Short-Run Tables, on file with the Senate Committee on Community Affairs.

B. Private Sector Impact:

This bill will provide easier access to local government annual financial reporting information for individuals, due to amendments to the reporting process and by providing such information through the government entity's official website.

C. Government Sector Impact:

This bill requires certain government entities to post annual financial reporting information on the entity's official website. It may also require programming changes to some local government accounting systems. The fiscal impact on local governments as a result of these requirements is unknown at this time.

The Department of Financial Services indicates in their analysis dated January 31, 2011, that programming changes to the department's Local Government Electronic Reporting system as a result of this bill will cost approximately \$3,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on April 14, 2011:

The committee substitute clarifies how a special district may amend its budget.

B. Amendments:

None.