

By the Committee on Governmental Oversight and Accountability;
and Senator Bean

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1 A bill to be entitled
2 An act relating to government accountability; amending
3 s. 11.45, F.S.; excluding water management districts
4 from certain audit requirements; expanding certain
5 audit provisions to include district school boards;
6 amending ss. 20.05, 25.382, 28.35, 43.16, 218.33, and
7 1002.33, F.S.; revising the responsibilities of a
8 department head, the Justice Administrative
9 Commission, a state attorney, a public defender, a
10 criminal conflict and civil regional counsel, a
11 capital collateral counsel, the guardian ad litem
12 program, the State Supreme Court as it relates to the
13 state courts system, the Florida Clerks of Court
14 Operations Corporation, a local governmental entity,
15 and the governing body of a charter school to include
16 the responsibility of establishing certain internal
17 controls; amending s. 20.055, F.S.; revising the
18 definition of the term "agency head"; amending s.
19 215.985, F.S.; specifying requirements for a monthly
20 financial statement provided by a water management
21 district; amending s. 373.536, F.S.; removing an
22 obsolete provision; amending s. 1001.42, F.S.;
23 revising the responsibilities of a district school
24 board's internal auditor to perform certain audits and
25 reviews; amending s. 1010.01, F.S.; requiring each
26 Florida College System institution to file certain
27 annual financial statements with the State Board of
28 Education; requiring each school district, Florida
29 College System institution, and state university to

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30 establish certain internal controls; providing that
31 the act fulfills an important state interest;
32 providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Paragraph (j) of subsection (2) and paragraph
37 (j) of subsection (7) of section 11.45, Florida Statutes, are
38 amended to read:

39 11.45 Definitions; duties; authorities; reports; rules.—

40 (2) DUTIES.—The Auditor General shall:

41 (j) Conduct audits of local governmental entities when
42 determined to be necessary by the Auditor General, when directed
43 by the Legislative Auditing Committee, or when otherwise
44 required by law. No later than 18 months after the release of
45 the audit report, the Auditor General shall perform such
46 appropriate followup procedures as he or she deems necessary to
47 determine the audited entity's progress in addressing the
48 findings and recommendations contained within the Auditor
49 General's previous report. The Auditor General shall notify each
50 member of the audited entity's governing body and the
51 Legislative Auditing Committee of the results of his or her
52 determination. For purposes of this paragraph, local
53 governmental entities do not include water management districts.
54

55 The Auditor General shall perform his or her duties
56 independently but under the general policies established by the
57 Legislative Auditing Committee. This subsection does not limit
58 the Auditor General's discretionary authority to conduct other

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59 audits or engagements of governmental entities as authorized in
60 subsection (3).

61 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

62 (j) The Auditor General shall notify the Legislative
63 Auditing Committee of any financial or operational audit report
64 prepared pursuant to this section which indicates that a
65 district school board, state university, or Florida College
66 System institution has failed to take full corrective action in
67 response to a recommendation that was included in the two
68 preceding financial or operational audit reports.

69 1. The committee may direct the governing body of the
70 district school board, state university, or Florida College
71 System institution to provide a written statement to the
72 committee explaining why full corrective action has not been
73 taken or, if the governing body intends to take full corrective
74 action, describing the corrective action to be taken and when it
75 will occur.

76 2. If the committee determines that the written statement
77 is not sufficient, the committee may require the chair of the
78 governing body of the district school board, state university,
79 or Florida College System institution, or the chair's designee,
80 to appear before the committee.

81 3. If the committee determines that the district school
82 board, state university, or Florida College System institution
83 has failed to take full corrective action for which there is no
84 justifiable reason or has failed to comply with committee
85 requests made pursuant to this section, the committee shall
86 refer the matter to the State Board of Education or the Board of
87 Governors, as appropriate, to proceed in accordance with s.

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88 1008.32 or s. 1008.322, respectively.

89 Section 2. Subsection (1) of section 20.05, Florida
90 Statutes, is amended to read:

91 20.05 Heads of departments; powers and duties.—

92 (1) Each head of a department, subject to the allotment of
93 executive power under Article IV of the State Constitution, and
94 except as otherwise provided by law, must:

95 (a) Plan, direct, coordinate, and execute the powers,
96 duties, and functions vested in that department or vested in a
97 division, bureau, or section of that department; powers and
98 duties assigned or transferred to a division, bureau, or section
99 of the department must not be construed to limit this authority
100 and this responsibility;

101 (b) Have authority, without being relieved of
102 responsibility, to execute any of the powers, duties, and
103 functions vested in the department or in any administrative unit
104 thereof through administrative units and through assistants and
105 deputies designated by the head of the department from time to
106 time, unless the head of the department is explicitly required
107 by law to perform the same without delegation;

108 (c) Compile annually a comprehensive program budget
109 reporting all program and fiscal matters related to the
110 operation of his or her department, including each program,
111 subprogram, and activity, and other matters as required by law;

112 (d) Reimburse the members of advisory bodies, commissions,
113 and boards of trustees for their actual and necessary expenses
114 incurred in the performance of their duties in accordance with
115 s. 112.061;

116 (e) Subject to the requirements of chapter 120, exercise

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117 existing authority to adopt rules pursuant and limited to the
118 powers, duties, and functions transferred to the department;

119 (f) Exercise authority on behalf of the department to
120 accept gifts, grants, bequests, loans, and endowments for
121 purposes consistent with the powers, duties, and functions of
122 the department. All such funds must be deposited in the State
123 Treasury and appropriated by the Legislature for the purposes
124 for which they were received by the department;

125 (g) If a department is under the direct supervision of a
126 board, including a board consisting of the Governor and Cabinet,
127 however designated, employ an executive director to serve at its
128 pleasure; ~~and~~

129 (h) Make recommendations concerning more effective internal
130 structuring of the department to the Legislature. Unless
131 otherwise required by law, such recommendations must be provided
132 to the Legislature at least 30 days before the first day of the
133 regular session at which they are to be considered, when
134 practicable; and

135 (i) Establish and maintain internal controls designed to
136 prevent and detect fraud, waste, and abuse; to ensure the
137 administration of assigned public duties and responsibilities in
138 accordance with applicable laws, rules, contracts, grant
139 agreements, and best practices; to promote and encourage
140 economic and efficient operations; to ensure the reliability of
141 financial records and reports; and to safeguard assets.

142 Section 3. Paragraph (b) of subsection (1) of section
143 20.055, Florida Statutes, is amended to read:

144 20.055 Agency inspectors general.—

145 (1) For the purposes of this section:

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146 (b) "Agency head" means the Governor, a Cabinet officer, a
147 secretary as defined in s. 20.03(5), or an executive director as
148 defined in s. 20.03(6). It also includes the chair of the Public
149 Service Commission, the Director of the Office of Insurance
150 Regulation of the Financial Services Commission, the Director of
151 the Office of Financial Regulation of the Financial Services
152 Commission, the chair of the board of directors of the Florida
153 Housing Finance Corporation, and the Chief Justice of the ~~State~~
154 Supreme Court.

155 Section 4. Subsection (5) is added to section 25.382,
156 Florida Statutes, to read:

157 25.382 State courts system.—

158 (5) The Supreme Court shall ensure that the state courts
159 system establishes and maintains internal controls designed to
160 prevent and detect fraud, waste, and abuse; to ensure the
161 administration of assigned public duties and responsibilities in
162 accordance with applicable laws, rules, contracts, grant
163 agreements, and best practices; to promote and encourage
164 economic and efficient operations; to ensure the reliability of
165 financial records and reports; and to safeguard assets.

166 Section 5. Paragraph (i) is added to subsection (2) of
167 section 28.35, Florida Statutes, to read:

168 28.35 Florida Clerks of Court Operations Corporation.—

169 (2) The duties of the corporation shall include the
170 following:

171 (i) Establishing and maintaining internal controls designed
172 to prevent and detect fraud, waste, and abuse; to ensure the
173 administration of assigned public duties and responsibilities in
174 accordance with applicable laws, rules, contracts, grant

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175 agreements, and best practices; to promote and encourage
176 economic and efficient operations; to ensure the reliability of
177 records and reports; and to safeguard assets.

178 Section 6. Present subsections (6) and (7) of section
179 43.16, Florida Statutes, are renumbered as subsections (7) and
180 (8), respectively, and a new subsection (6) is added to that
181 section, to read:

182 43.16 Justice Administrative Commission; membership, powers
183 and duties.—

184 (6) The commission, each state attorney, each public
185 defender, each criminal conflict and civil regional counsel,
186 each capital collateral regional counsel, and the guardian ad
187 litem program must establish and maintain internal controls
188 designed to prevent and detect fraud, waste, and abuse; to
189 ensure the administration of assigned public duties and
190 responsibilities in accordance with applicable laws, rules,
191 contracts, grant agreements, and best practices; to promote and
192 encourage economic and efficient operations; to ensure the
193 reliability of financial records and reports; and to safeguard
194 assets.

195 Section 7. Subsection (11) of section 215.985, Florida
196 Statutes, is amended to read:

197 215.985 Transparency in government spending.—

198 (11) Each water management district shall provide a monthly
199 financial statement in the form and manner prescribed by the
200 Department of Financial Services to the district's ~~its~~ governing
201 board and make such monthly financial statement available for
202 public access on its website.

203 Section 8. Present subsection (3) of section 218.33,

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204 Florida Statutes, is renumbered as subsection (4), and a new
205 subsection (3) is added to that section, to read:

206 218.33 Local governmental entities; establishment of
207 uniform fiscal years and accounting practices and procedures.—

208 (3) Each local governmental entity must establish and
209 maintain internal controls designed to prevent and detect fraud,
210 waste, and abuse; to ensure the administration of assigned
211 public duties and responsibilities in accordance with applicable
212 laws, rules, contracts, grant agreements, and best practices; to
213 promote and encourage economic and efficient operations; to
214 ensure the reliability of financial records and reports; and to
215 safeguard assets.

216 Section 9. Paragraph (e) of subsection (4) of section
217 373.536, Florida Statutes, is amended to read:

218 373.536 District budget and hearing thereon.—

219 (4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

220 (e) ~~By September 1, 2012,~~ Each district shall provide a
221 monthly financial statement in the form and manner prescribed by
222 the Department of Financial Services to the district's governing
223 board and make such monthly financial statement available for
224 public access on its website.

225 Section 10. Paragraph (1) of subsection (12) of section
226 1001.42, Florida Statutes, is amended to read:

227 1001.42 Powers and duties of district school board.—The
228 district school board, acting as a board, shall exercise all
229 powers and perform all duties listed below:

230 (12) FINANCE.—Take steps to assure students adequate
231 educational facilities through the financial procedure
232 authorized in chapters 1010 and 1011 and as prescribed below:

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233 (1) *Internal auditor.*—May employ an internal auditor to
234 perform ongoing financial verification of the financial records
235 of the school district and such other audits and reviews as the
236 district school board directs for the purpose of establishing
237 and maintaining internal controls designed to prevent and detect
238 fraud, waste, and abuse; to ensure the administration of
239 assigned public duties and responsibilities in accordance with
240 applicable laws, rules, contracts, grant agreements, school
241 board-approved policies, and best practices; to promote and
242 encourage economic and efficient operations; to ensure the
243 reliability of financial records and reports; and to safeguard
244 assets. The internal auditor shall report directly to the
245 district school board or its designee.

246 Section 11. Paragraph (j) of subsection (9) of section
247 1002.33, Florida Statutes, is amended to read:

248 1002.33 Charter schools.—

249 (9) CHARTER SCHOOL REQUIREMENTS.—

250 (j) The governing body of the charter school shall be
251 responsible for:

252 1. Establishing and maintaining internal controls designed
253 to prevent and detect fraud, waste, and abuse; to ensure the
254 administration of assigned public duties and responsibilities in
255 accordance with applicable laws, rules, contracts, grant
256 agreements, and best practices; to promote and encourage
257 economic and efficient operations; to ensure the reliability of
258 financial records and reports; and to safeguard assets.

259 ~~2.1.~~ Ensuring that the charter school has retained the
260 services of a certified public accountant or auditor for the
261 annual financial audit, pursuant to s. 1002.345(2), who shall

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262 submit the report to the governing body.

263 ~~3.2.~~ Reviewing and approving the audit report, including
264 audit findings and recommendations for the financial recovery
265 plan.

266 ~~4.a.3.a.~~ Performing the duties in s. 1002.345, including
267 monitoring a corrective action plan.

268 b. Monitoring a financial recovery plan in order to ensure
269 compliance.

270 ~~5.4.~~ Participating in governance training approved by the
271 department which must include government in the sunshine,
272 conflicts of interest, ethics, and financial responsibility.

273 Section 12. Present subsections (3) and (4) of section
274 1010.01, Florida Statutes, are renumbered as subsections (4) and
275 (5), respectively, and a new subsection (3) and subsection (6)
276 are added to that section, to read:

277 1010.01 Uniform records and accounts.-

278 (3) Each Florida College System institution shall annually
279 file with the State Board of Education financial statements
280 prepared in conformity with accounting principles generally
281 accepted in the United States and the uniform classification of
282 accounts prescribed by the State Board of Education. The State
283 Board of Education's rules shall prescribe the filing deadline
284 for the financial statements.

285 (6) Each school district, Florida College System
286 institution, and state university shall establish and maintain
287 internal controls designed to prevent and detect fraud, waste,
288 and abuse; to ensure the administration of assigned public
289 duties and responsibilities in accordance with applicable laws,
290 rules, contracts, grant agreements, and best practices; to

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291 promote and encourage economic and efficient operations; to
292 ensure the reliability of financial records and reports; and to
293 safeguard assets.

294 Section 13. The Legislature finds that a proper and
295 legitimate state purpose is served when internal controls are
296 established to prevent and detect fraud, waste, and abuse, and
297 to safeguard and account for government funds and property.
298 Therefore, the Legislature determines and declares that this act
299 fulfills an important state interest.

300 Section 14. This act shall take effect July 1, 2014.