

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/CS/HB 479 Government Accountability

**SPONSOR(S):** Government Accountability Committee; Appropriations Committee; Oversight, Transparency & Administration Subcommittee; Metz

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 880

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	14 Y, 0 N, As CS	Moore	Harrington
2) Appropriations Committee	23 Y, 2 N, As CS	Keith	Leznoff
3) Government Accountability Committee	14 Y, 7 N, As CS	Moore	Williamson

### SUMMARY ANALYSIS

Various statutes ensure government accountability of state and local governments. The bill makes changes to some of these statutes. Specifically, the bill:

- Specifies that the Governor or Commissioner of Education, or designee, may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements;
- Provides definitions for the terms "abuse," "fraud," and "waste;"
- Requires each agency, the judicial branch, the Justice Administrative Commission, state attorneys, public defenders, criminal conflict and civil regional counsel, the Guardian Ad Litem program, local governmental entities, charter schools, school districts, Florida College System institutions, and state universities to establish and maintain internal controls;
- Requires counties, municipalities, and water management districts to maintain certain budget documents on their websites for specified timeframes;
- Requires the Florida Clerks of Court Operations Corporation to notify the Legislature of any clerk not meeting workload performance standards;
- Revises the monthly financial statement requirements for water management districts;
- Revises the composition of auditor selection committees;
- Requires completion of an annual financial audit of the Florida Virtual School;
- Requires a local governmental entity, district school board, charter school, charter technical career center, Florida College System board of trustees, or university board of trustees to respond to audit recommendations under certain circumstances;
- Requires an independent certified public accountant conducting an audit of a local governmental entity to determine, as part of the audit, whether the entity's annual financial report is in agreement with the entity's audited financial statements;
- Limits to \$150 the amount that may be reimbursed per day for travel lodging expenses for certain employees under certain circumstances;
- Codifies the statewide travel management system in law and requires certain public entities to report public officer and employee travel information in the system; and
- Prohibits a board or commission from requiring a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard.

The bill may have an indeterminate but likely insignificant negative fiscal impact on state and local governments. See Fiscal Comments section.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Auditing**

##### Auditor General

##### *Present Situation*

The position of Auditor General is established by Art. III, s. 2 of the State Constitution. The Auditor General is appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Legislative Auditing Committee, subject to confirmation by both houses of the Legislature.<sup>1</sup> The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the Legislature.<sup>2</sup> At the time of appointment, the Auditor General must have been certified under the Public Accountancy Law in Florida for a period of at least 10 years and may not have less than 10 years' experience in an accounting or auditing related field.<sup>3</sup>

The Auditor General must conduct audits, examinations, or reviews of government programs<sup>4</sup> as well as audit the accounts and records of state agencies, state universities, state colleges, district school boards, and others as directed by the Legislative Auditing Committee.<sup>5</sup> The Auditor General conducts operational and performance audits on public records and information technology systems and also reviews all audit reports of local governmental entities, charter schools, and charter technical career centers.<sup>6</sup>

Various provisions require the Auditor General to compile and submit reports. For example, the Auditor General must annually compile and transmit to the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee a summary of significant findings and financial trends identified in audit reports.<sup>7</sup> The Auditor General also must compile and transmit to the President of the Senate, Speaker of the House of Representatives, and Legislative Auditing Committee an annual report by December 1. The report must include a two-year work plan identifying the audit and other accountability activities to be undertaken and a list of statutory and fiscal changes recommended by the Auditor General.<sup>8</sup> In addition, the Auditor General must transmit recommendations at other times during the year when the information would be timely and useful to the Legislature.<sup>9</sup>

The annual report for the Auditor General for November 1, 2015, through October 31, 2016, contained the following recommendation:<sup>10</sup>

The Legislature should consider amending applicable Florida Statutes to establish in law the responsibility of each State and local government for the establishment and maintenance of management systems and internal controls designed to prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best

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<sup>1</sup> Section 11.42(2), F.S.

<sup>2</sup> Section 11.42(5), F.S.

<sup>3</sup> Section 11.42(2), F.S.

<sup>4</sup> Section 11.45(7), F.S.

<sup>5</sup> Section 11.45(2)(d)-(f), F.S.

<sup>6</sup> Section 11.45(7)(b), F.S.

<sup>7</sup> Section 11.45(7)(f), F.S.

<sup>8</sup> Section 11.45(7)(h), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> A copy of the report can be found online at: <http://www.myflorida.com/audgen/pages/annualrpt.htm> (last visited February 10, 2017).

practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets.

Section 11.45, F.S., defines the types of audits the Auditor General may conduct. That section requires certain state and local governmental audits to be conducted and specifies the frequency with which the audits must occur. The Auditor General also may conduct other audits he or she determines to be appropriate.

Following notification by the Auditor General, the Department of Financial Services (DFS), or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with applicable auditing and financial requirements,<sup>11</sup> the Legislative Auditing Committee may schedule a hearing to determine whether the entity should be subject to further state action. For purposes of s. 11.45, F.S., the term “local governmental entity” means a county agency, municipality, or special district as defined in s. 189.012, F.S.,<sup>12</sup> but does not include any housing authority established under ch. 421, F.S.

The Auditor General is also required to annually transmit, by July 15, to the President of the Senate, the Speaker of the House of Representatives, and DFS a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and water management districts (WMDs) that have failed to comply with certain transparency requirements.

#### *Effect of the Bill*

The bill authorizes the Governor or his or her designee, and the Commissioner of Education or his or her designee, to notify the Legislative Auditing Committee that a local governmental entity, district school board, charter school, or charter technical career center has failed to comply with applicable auditing, financial reporting, bond issuance notification, or bond verification provisions or failed to disclose a financial emergency or provide information required during a financial emergency.

The bill creates the following definitions:

- “Abuse” means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.
- “Fraud” means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or intentional omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity’s assets, bribery, or the use of one’s position for personal enrichment through the deliberate misuse or misapplication of an organization’s resources.
- “Waste” means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

The bill amends the definition for “local governmental entity” for purposes of s. 11.45, F.S., to include tourist development council and county tourism promotion agency.

The bill exempts WMDs from being subject to audits of local governmental entities conducted pursuant to s. 11.45(2)(j), F.S. The bill authorizes the Auditor General to conduct audits or other engagements of

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<sup>11</sup> Section 11.45, F.S., governs certain audits to be conducted by the Auditor General. Section 218.32(1), F.S., requires annual financial reports from local governmental entities. Section 218.38, F.S., requires notice of bond issuance and contains verification requirements. Section 218.503(3), F.S., requires certain entities to disclose a financial emergency and provide certain information concerning a financial emergency.

<sup>12</sup> Section 189.012(6), F.S., defines a “special district” to mean a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

tourist development councils and county tourism promotion agencies. The bill also makes conforming changes to the Auditor General's reporting requirement.

The bill amends the list of entities that must be included in the Auditor General report concerning entities that fail to comply with transparency requirements in s. 11.45, F.S., to add local governmental entities and remove WMDs.

## Florida Single Audit Act

### *Present Situation*

The Florida Single Audit Act, codified in s. 215.97, F.S., is designed to

- Establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects;
- Promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities;
- Promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities;
- Provide for identification of state financial assistance transactions in the state accounting records and recipient organization records;
- Promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance; and
- Ensure, to the maximum extent possible, that state agencies monitor, use, and follow-up on audits of state financial assistance provided to nonstate entities.

Pursuant to the Florida Single Audit Act, certain entities that meet the "audit threshold" requirements are subject to a state single audit or a project-specific audit. Currently, the "audit threshold" requires each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such nonstate entity to have a state single audit, or a project-specific audit, for such fiscal year. Every two years, the Auditor General, after consulting with the Executive Office of the Governor, DFS, and all state awarding agencies, is required to review the threshold amount for requiring audits and may adjust the threshold amount.<sup>13</sup>

### *Effect of the Bill*

The bill changes the requirement that the Auditor General review the threshold amount for requiring audits from every two years to "periodically;" however, the term "periodically" is not defined. The bill also authorizes the Auditor General to recommend to the Legislature a statutory change to revise the threshold amount in its annual report.

## Annual Financial Audit Reports

### *Present Situation*

If, by the first day in any fiscal year, a local governmental 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, an entity meeting certain requirements must have an annual financial audit of its accounts and records completed within nine months after the end of its fiscal year by an independent certified public accountant.<sup>14</sup> Section 218.39, F.S., specifies the minimum required information for the independent audits and provides for discussion between the governing body and the independent certified public accountant regarding certain specified conditions. If corrective action is required and has not been taken, the Legislative Auditing Committee can request a statement explaining why the corrective action has not been taken and take certain steps to determine whether the entity should be subject to further state action.<sup>15</sup>

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<sup>13</sup> Section 215.97(2)(a), F.S.

<sup>14</sup> Section 218.39(1), F.S.

<sup>15</sup> Section 11.40(2), F.S.

### *Effect of the Bill*

The bill provides that if an audit report contains a recommendation that was included in the preceding financial audit report but remains unaddressed, the governing body of the audited entity, within 60 days after delivery of the audit report to the governing body, must indicate during a regularly scheduled public meeting whether it intends to take a corrective action, the corrective action to be taken, and when the corrective action will occur. If the governing body does not intend to take any corrective action, it must explain its decision at the public meeting.

## Local Governmental Entity Annual Financial Reports

### *Present Situation*

Section 218.32, F.S., requires local governmental entities that are required to provide for an audit under s. 218.39, F.S., to submit an audit report and annual financial report to DFS within 45 days after completion of the audit report, but no later than nine months after the end of the fiscal year. The annual financial report must be signed by the chair of the governing body and the chief financial officer of the local governmental entity. The law also specifies the information that must be included in the report.

In addition, DFS is required to file a verified report with the Governor, Legislature, Auditor General, and Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report.<sup>16</sup>

### *Effect of the Bill*

The bill requires an independent certified public accountant conducting an audit of a local governmental entity pursuant to s. 218.39, F.S., to determine, as part of the audit, whether the entity's annual financial report is in agreement with the entity's audited financial statements. If the audited financial statements are not in agreement with the annual financial report, the bill requires the accountant to specify in the audit report the significant differences that exist between the audited financial statements and the annual financial report.

The bill also authorizes DFS, in preparing the verified report, to request additional information from the local governmental entity. Any additional information requested must be provided to DFS within 45 days after the request. If the local governmental entity does not comply with the request, DFS must notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2), F.S.

## Auditor Selection Procedures

### *Present Situation*

Section 218.391, F.S., outlines the process that each local governmental entity, district school board, charter school, or charter technical career center must follow in selecting an auditor to conduct the annual financial audit of the entity required by s. 218.39, F.S. Each entity is required to establish an audit committee to assist the governing body in selecting the auditor. Each noncharter county's audit committee must consist of each of its officers elected pursuant to the State Constitution and one member of the board of county commissioners or its designee. The audit committee must publicly announce requests for proposals for the audit services. The law specifies the factors that must be considered in selecting the auditor and the procedures for negotiating for compensation. Every procurement of audit services must be evidenced by a written contract embodying all provisions and conditions of the procurement.

### *Effect of the Bill*

The bill requires every county's audit committee to consist of each county officer elected pursuant to the State Constitution or the county charter, or their respective designees, and one member of the

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<sup>16</sup> Section 218.32(2), F.S.

board of county commissioners or its designee. The bill requires the audit committee for a municipality, special district, district school board, charter school, or charter technical career center to consist of at least three members, one of whom must be a member of the governing body of the entity. That member must serve as the audit committee's chair. An employee, chief executive officer, or chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not serve as a member of an audit committee.

For each annual financial audit, the bill requires the auditor to submit the following information with the audit report:

- The date the entity's governing body approved the selection of the auditor and the date the entity and the auditor executed the most recent procurement contract;
- The first fiscal year for which the auditor conducted the audit under the most recently executed procurement contract; and
- The contract period, including renewals, and conditions under which the contract may be terminated or renewed.

On each occasion that an entity contracts with an auditor to conduct an annual financial audit, the bill requires the chair of the entity's governing body to execute an affidavit affirming that the auditor was selected in compliance with the auditor selection procedures. The affidavit must accompany the entity's first audit report prepared by the auditor under the most recently executed contract and include the following information:

- The date the entity's governing body approved the selection of the auditor;
- The first fiscal year for which the auditor conducted the audit; and
- The contract period, including renewals, and conditions under which the contract may be terminated or renewed.

If an entity fails to provide the Auditor General with the affidavit, the Auditor General must request the affidavit. If the affidavit is not provided within 45 days after the date of the request, the Legislative Auditing Committee must determine whether the entity should be subject to state action pursuant to s. 11.40(2), F.S.

If an entity fails to select an auditor in accordance with the auditor selection procedures, the bill requires the entity to again perform the auditor selection process to select an auditor to conduct audits for subsequent fiscal years if the original audit was performed under a multiyear contract. If performing the process again would preclude the entity from timely completing the annual financial audit, the entity must again perform the process for the subsequent annual financial audit. The bill prohibits a multiyear contract entered into between an entity and an auditor from prohibiting or restricting an entity from complying with the auditor selection requirements. If an entity fails to perform the auditor selection process again in accordance with these requirements, the bill requires the Legislative Auditing Committee to determine whether the entity should be subject to state action pursuant to s. 11.40(2), F.S.

### The Florida Virtual School

#### *Present Situation*

The Florida Virtual School was created to develop and deliver online and distance learning education.<sup>17</sup> The Commissioner of Education is charged with monitoring the Florida Virtual School. In pertinent part, the law requires the board of trustees to submit an annual report to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education (SBE) that must address:

- The operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global;

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<sup>17</sup> Section 1002.37(1)(a), F.S.  
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- The marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology;
- The assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year;
- A copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General;
- Recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global; and
- Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.<sup>18</sup>

The Auditor General must conduct an operational audit of the Florida Virtual School, including Florida Virtual School Global.<sup>19</sup> The scope of the audit must include, but is not limited to, the administration of responsibilities relating to personnel; procurement and contracting; revenue production; school funds, including internal funds; student enrollment records; franchise agreements; information technology utilization, assets, and security; performance measures and standards; and accountability. The law specifies that the final report on the audit must be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2014.<sup>20</sup>

#### *Effect of the Bill*

The bill eliminates the requirement for the Auditor General to conduct an operational audit and submit a report to the presiding officers by January 31, 2014.

The bill creates a new requirement for the Florida Virtual School to have an annual financial audit of its accounts and records conducted by an independent auditor who is a licensed certified public accountant. The independent auditor must conduct the audit in accordance with rules adopted by the Auditor General and must prepare an audit report in accordance with such rules. The audit report must include a written statement by the board of trustees describing corrective action to be taken in response to each of the independent auditor's recommendations. The independent auditor must submit the audit report to the board of trustees and the Auditor General no later than nine months after the end of the preceding fiscal year. The bill also makes conforming changes to the annual report provided to the Governor, the Legislature, the Commissioner of Education, and the SBE by requiring a copy of the audit report to be submitted with the board of trustees' annual statement.

#### Required Audits of Certain Educational Institutions

##### *Present Situation*

School districts, Florida College System institutions, and other institutions and agencies under the supervision of the State Board of Education (SBE) and state universities under the supervision of the Board of Governors (BOG) are subject to the audit provisions of ss. 11.45 and 218.39, F.S. If an audit contains a significant finding, the district school board, the Florida College System institution board of trustees, or the university board of trustees is required to conduct an audit overview during a public meeting.<sup>21</sup>

##### *Effect of the Bill*

The bill provides that if an audit report includes a recommendation that was included in the preceding financial audit report but remains unaddressed, the district school board, the Florida College System institution board of trustees, or the university board of trustees must indicate during a regularly

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<sup>18</sup> Section 1002.37(6), F.S.

<sup>19</sup> Section 1002.37(11), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> Section 1010.30(2), F.S.

scheduled public meeting whether it intends to take corrective action, the corrective action to be taken, and when the corrective action will occur within 60 days after the delivery of the audit report. If the district school board, Florida College System institution board of trustees, or university board of trustees does not intend to take corrective action, it must explain its decision at the public meeting.

## **Internal Controls to Prevent and Detect Fraud, Waste, and Abuse**

### Present Situation

#### *State Agencies and the Judicial Branch*

Section 215.86, F.S., requires each state agency and the judicial branch as defined in s. 216.011, F.S., to establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; reliability of records and reports; and safeguarding of assets. It requires accounting systems and procedures to be designed to fulfill the requirements of generally accepted accounting principles.

#### *Local Governmental Entities*

Section 218.33, F.S., requires each local governmental entity to begin its fiscal year on October 1 and end it on September 30. Section 218.33(2), F.S., requires each local governmental entity to follow uniform accounting practices and procedures as provided by rule of DFS to assure the use of proper accounting and fiscal management by such units. Such rules must include a uniform classification of accounts.

#### *Charter Schools*

Section 1002.33, F.S., authorizes charter schools as part of Florida's state program of education. In addition to creating charter schools, that section also imposes certain requirements on charter schools. In pertinent part, the law provides that the governing body of a charter school is responsible for:

- Ensuring that the charter school has retained a certified public accountant or auditor to perform its annual audit;
- Reviewing and approving the audit report;
- Establishing a corrective plan, if necessary;
- Monitoring a financial recovery plan to ensure compliance; and
- Participating in governance training approved by the Department of Education, which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.<sup>22</sup>

#### *School Districts, Florida College System Institutions, and State Universities*

Current law requires the financial records and accounts of each school district, Florida College System institution, and other institution or agency under the supervision of the SBE to be prepared and maintained as prescribed by law and rules of the SBE. The financial records and accounts of each state university under the supervision of the BOG must be prepared and maintained as prescribed by law and rules of the BOG. Rules of the SBE and rules of the BOG must incorporate the requirements of law and accounting principles generally accepted in the United States and must include a uniform classification of accounts. Each state university must annually file with the BOG financial statements prepared in conformity with these requirements. The BOG's rules must prescribe the filing deadline for the financial statements. The required financial accounts and reports must include provisions that are unique to K-12 school districts, Florida College System institutions, and state universities.<sup>23</sup>

#### *Justice Administrative Commission*

The Justice Administrative Commission (Commission) is created in s. 43.16, F.S. As one of its duties, the Commission is charged with maintaining a central state office for administrative services and assistance on behalf of state attorneys and public defenders, the capital collateral regional counsel, the

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<sup>22</sup> Section 1002.33(9)(j), F.S.

<sup>23</sup> Section 1010.01, F.S.



criminal conflict and civil regional counsel, and the Guardian Ad Litem Program.<sup>24</sup> Additionally, the Commission records and submits certain documents prepared by a state attorney, public defender, or criminal conflict and civil regional counsel or the Guardian Ad Litem Program, including necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans.<sup>25</sup>

### Effect of the Bill

The bill requires state agencies, the judicial branch, local governmental entities, charter schools, school districts, Florida College System institutions, state universities, the Commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program to establish and maintain internal controls designed to:

- Prevent and detect fraud, waste, and abuse, as defined in s. 11.45(1), F.S.;
- Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices;
- Support economical and efficient operations;
- Ensure reliability of financial records and reports; and
- Safeguard assets.

The bill also authorizes a district school board to retain an internal auditor to determine the adequacy of internal controls described above.

## **Online Posting of Governmental Budgets**

### Counties and Municipalities

#### *Present Situation*

Counties<sup>26</sup> and municipalities<sup>27</sup> are required to post their tentative budgets on their websites two days prior to consideration of the budget at a public hearing. The final budget of a county or municipality must be posted on its website within 30 days after adoption. An amendment to a budget must be posted to the website within five days of adoption.<sup>28</sup> Current law does not specify how long these documents must remain available on the website.

#### *Effect of the Bill*

The bill requires a tentative budget to remain on a county's or municipality's website for at least 45 days. The bill also requires a final budget to remain on the entity's website for at least two years. Finally, the bill requires an adopted amendment to a budget to remain on the website for at least two years.

### Water Management Districts

#### *Present Situation*

Chapter 373, F.S., governs Florida's water resource management and authorizes the creation of WMDs, which are given taxing authority. A WMD is defined as "any flood control, resource management, or water management district" operating under the authority of chapter 373, F.S.<sup>29</sup> There are five WMDs in Florida: Northwest Florida, Suwanee River, St. Johns River, Southwest Florida, and

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<sup>24</sup> Section 43.16(5)(a), F.S.

<sup>25</sup> Section 43.16(5)(b), F.S.

<sup>26</sup> Section 129.03, F.S.

<sup>27</sup> Section 166.241, F.S.

<sup>28</sup> Sections 129.06(2)(f)2., 166.241(5), and 189.016(7), F.S.

<sup>29</sup> Section 373.019(23), F.S.

South Florida.<sup>30</sup> Section 373.536, F.S., governs the budget process for WMDs and requires a WMD's tentative budget to be posted on the WMD's website at least two days before budget hearings are conducted. The law requires a WMD's final adopted budget to be posted on the WMD's official website within 30 days after adoption.

#### *Effect of the Bill*

The bill requires a WMD's tentative budget to remain on the WMD's website for at least 45 days and requires the final adopted budget to remain on the website for at least two years.

### **Other Provisions**

#### Florida Clerks of Court Operations Corporation

##### *Present Situation*

Currently, s. 28.35, F.S., requires the Florida Clerks of Court Operations Corporation (corporation) to develop and certify a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the workload performance standards. These workload measures and workload performance standards must be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation must develop the workload measures and workload performance standards in consultation with the Legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation must identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. The corporation must notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans.

##### *Effect of the Bill*

The bill requires the corporation to notify the Legislature of any clerk not meeting the workload performance standards and provide a copy of any corrective action plans within 45 days after the end of each quarter. For purposes of s. 28.35, F.S., the quarters end on the last day of March, June, September, and December of each year.

#### Public Employee Travel Expenses

##### *Present Situation*

Section 112.061, F.S., establishes the rates of per diem and subsistence allowance for travel by public officers and employees. When traveling to a convention or conference or to conduct bona fide state business, a traveler is authorized to receive \$80 per diem. However, if actual expenses exceed \$80, the traveler may receive \$6 for breakfast, \$11 for lunch, \$19 for dinner, and the actual expenses for lodging at a single-occupancy rate.

The 2016-17 implementing bill created a limit on the amount of actual expenses for lodging that may be reimbursed under certain circumstances. The bill provided that when an employee of a state agency or the judicial branch is attending a meeting, conference, or convention organized or sponsored in whole or in part by a state agency or the judicial branch, the reimbursement for lodging expenses may not exceed \$150 per day. However, an employee may expend his or her own funds for any lodging expenses in excess of the limit. This limit is in effect until July 1, 2017.

##### *Effect of the Bill*

The bill codifies the implementing bill's \$150 per day limit on lodging expenses in s. 112.061, F.S.

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<sup>30</sup> Section 373.069(1), F.S.  
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## Statewide Travel Management System

### *Present Situation*

Section 112.061(2)(a), F.S., defines the term “agency or public agency” to mean any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government created pursuant to law.

Proviso in specific appropriation 1965A of ch. 2016-66, L.O.F., provided \$1,800,000 in recurring General Revenue Funding to the Executive Office of the Governor (EOG) to acquire a statewide travel management system (system). EOG was required to undertake a competitive procurement for the system pursuant to s. 287.057, F.S. Additionally, \$2,800,000 in nonrecurring General Revenue Funding was provided to executive branch state agencies and the judicial branch for the implementation of the system.

The system was required to be able to electronically: interface with the Florida Accounting Information Resource Subsystem (FLAIR) and the Personnel Information System; generate uniform travel authorization request and travel voucher forms pursuant to s. 112.061, F.S.; and receive approvals for travel. The system was also required to include search features that query travel information by specific criteria. Proviso also required EOG and the Legislature to have access to the system for purposes of generating reports on all travel completed by executive branch state agencies and the judicial branch.

### *Effect of the Bill*

The bill codifies the definitions and requirements pertaining to the system in s. 112.061, F.S. Additionally, the bill will now require all agencies, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government to report public officer and employee travel information in the system.

## Transparency in Government Spending

### *Present Situation*

The Transparency Florida Act (Act), codified in s. 215.985, F.S., requires the Governor, in consultation with the appropriations committees of the House and Senate, to maintain a central website providing access to all other websites required to be linked under the Act. It also requires certain budget information, certain contract information, and minimum functionality standards to be readily available online. In pertinent part, s. 215.985(11), F.S., requires each WMD to provide a monthly financial statement to its governing board and make the statement available for public access on its website.

### *Effect of the Bill*

The bill requires a WMD’s monthly financial statement to be in the form and manner prescribed by DFS and requires each WMD to make the monthly financial statement available to the public on its website.

## Reasonable Opportunity to be Heard at Public Meetings

### *Present Situation*

Section 286.0114, F.S., requires, with certain exceptions, that members of the public be provided a reasonable opportunity to be heard before a board or commission. The law describes a general public comment process and allows entities to prescribe how public comment is made and create certain reasonable limitations.

### *Effect of the Bill*

The bill specifies that a board or commission may not require a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard at a meeting.

## Statement of Legislative Findings

The bill specifies that a proper and legitimate state purpose is served when internal controls are established to prevent and detect fraud, waste, and abuse and to safeguard and account for government funds and property.

### B. SECTION DIRECTORY:

Section 1 amends s. 11.40, F.S., relating to the Legislative Auditing Committee.

Section 2 amends s. 11.45, F.S., relating to definitions; duties; authorities; reports; and rules of the Auditor General.

Section 3 amends s. 28.35, F.S., relating to the Florida Clerks of Court Operations Corporation.

Section 4 amends s. 43.16, F.S., relating to the Justice Administrative Commission.

Section 5 amends s. 112.061, F.S., relating to per diem and travel expenses of public officers, employees, and authorized persons; codifying the Statewide Travel Management System and requirements for its use.

Section 6 amends s. 129.03, F.S., relating to preparation and adoption of county budgets.

Section 7 amends s. 129.06, F.S., relating to execution and amendment of county budgets.

Section 8 amends s. 166.241, F.S., relating to fiscal years, budgets, and budget amendments for municipalities.

Section 9 amends s. 215.86, F.S., relating to management systems and controls for state agencies and the judicial branch.

Section 10 amends s. 215.97, F.S., relating to the Florida Single Audit Act.

Section 11 amends s. 215.985, F.S., relating to transparency in government spending.

Section 12 amends s. 218.32, F.S., relating to annual financial reports for local governmental entities.

Section 13 amends s. 218.33, F.S., relating to local governmental entities; establishment of uniform fiscal years and accounting practices and procedures.

Section 14 amends s. 218.39, F.S., relating to annual financial audit reports.

Section 15 amends s. 218.391, F.S., relating to auditor selection procedures.

Section 16 amends s. 286.0114, F.S., relating to public meetings; reasonable opportunity to be heard; attorney fees.

Section 17 amends s. 373.536, F.S., relating to water management district budgets.

Section 18 amends s. 1001.42, F.S., relating to powers and duties of district school boards.

Section 19 amends s. 1002.33, F.S., relating to charter schools.

Section 20 amends s. 1002.37, F.S., relating to the Florida Virtual School.

Section 21 amends s. 1010.01, F.S., relating to uniform records and accounts.

Section 22 amends s. 1010.30, F.S., relating to audits required.

Section 23 amends s. 218.503, F.S., relating to determination of financial emergency.

Section 24 amends s. 1002.455, F.S., conforming a cross-reference.

Section 25 specifies that the act fulfills an important state interest.

Section 26 provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have an impact on state government revenues.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill does not appear to have an impact on local government revenues.

#### 2. Expenditures:

See Fiscal Comments.

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

None.

### D. FISCAL COMMENTS:

The bill may have an indeterminate but likely insignificant negative fiscal impact on state agencies, the court system, court-related entities, local governments, district school boards, charter schools, and state colleges and universities because it requires them to establish specified internal controls. This requirement may require additional time and expense to create the internal controls.

The bill may have an indeterminate but likely insignificant negative fiscal impact on any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government created pursuant to law, related to any additional workload of reporting public officer and employee travel information in the Statewide Travel Management System.

The bill may have an indeterminate positive fiscal impact on state agencies and the judicial branch because it limits to \$150 the amount that may be reimbursed per day for employee travel lodging expenses under certain circumstances.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the State Constitution may apply because the bill requires county and municipal governments to establish and maintain specified internal controls and requires the reporting of certain travel information in the statewide travel management system. An exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. An exception also may apply because similarly situated persons are all required to comply and the bill specifies that it serves an important state interest.

##### 2. Other:

###### Other Comments: Single-Subject Requirement

Article III, s. 6 of the State Constitution provides, in relevant part, that “[e]very law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.” In interpreting this provision, the Florida Supreme Court has stated, “[a]n act may be as broad as the Legislature chooses, provided the matters included in the act have a natural or logical connection.”<sup>31</sup>

The title of the bill is “Government Accountability” and it contains many provisions related to governmental auditing and reporting requirements. Section 13 of the bill amends s. 286.0114, F.S., to prohibit a board or commission from requiring a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard at a meeting. It is unclear whether a reviewing court would conclude that this provision has a “natural or logical connection” with government accountability.

#### B. RULE-MAKING AUTHORITY:

The bill requires DFS to specify the form and manner for the submission of WMD monthly financial statements.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 23, 2017, the Oversight, Transparency & Administration Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Requires the Florida Clerks of Court Operations Corporation to notify the Legislature of any clerk not meeting workload performance standards;
- Revises the composition of auditor selection committees;
- Requires completion of an annual financial audit of the Florida Virtual School; and
- Limits to \$150 the amount that may be reimbursed per day for state agency and judicial branch employee lodging expenses for travel under certain circumstances.

On March 15, 2017, the Appropriations Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Clarify the definition of “fraud” to include “intentional” omissions;
- Codify the definitions and requirements pertaining to the statewide travel management system in s. 112.061, F.S. Additionally, the bill will now require any office, department, agency, division,

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<sup>31</sup> *Chenoweth v. Kemp*, 396 So. 2d 1122 (Fla. 1981).

subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government created pursuant to law to report public officer and employee travel information in the system.

On March 22, 2017, the Government Accountability Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Required local governmental entity auditors to submit certain information regarding selection of the auditor with the entity's annual financial report;
- Required the chair of a local governmental entity's governing body to execute an affidavit affirming that the entity's auditor was selected in compliance with the auditor selection procedures;
- Required a local governmental entity to again perform the auditor selection process under certain circumstances; and
- Required the Legislative Auditing Committee to determine whether an entity should be subject to state action under certain circumstances.

This analysis is drafted to the committee substitute as approved by the Government Accountability Committee.