

**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 Committee on Community Affairs

BILL: SB 354

INTRODUCER: Senator Stargel

SUBJECT: Government Accountability

DATE: November 6, 2017      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	<b>Pre-meeting</b>
2.			AP	
3.			RC	

**I. Summary:**

SB 354 amends statutes to enhance government accountability and auditing, based on recommendations noted in recent reports by the Auditor General. 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;”
- Adds tourist development council and county tourism promotion agency to the definition of “local government entity;”
- States that local government entities do not include water management districts for the purposes of s. 11.45(2), F.S.;
- Includes tourist development councils and county tourism promotion agencies in the list of entities that the Auditor General may audit;
- Requires the Florida Clerks of Court Operations Corporation to notify quarterly the Legislature of any clerk not meeting workload performance standards;
- Requires each agency, the judicial branch, the Justice Administrative Commission, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral 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 designed to prevent and detect fraud, waste, and abuse;
- Limits the amount that may be reimbursed per day for state agency and judicial branch employee lodging expenses for travel under certain circumstances to \$150;
- Requires all governmental entities to use the statewide travel management system;
- Requires counties, municipalities, and water management districts to maintain certain budget documents on their websites for specified timeframes;
- Revises the monthly financial statement requirements for water management districts;

- Provides that the Department of Financial Services may request additional information from local government entities when preparing its annual verified report;
- Requires a local governmental entity, district school board, charter school, or 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;
- Revises the composition of auditor selection committees;
- Requires completion of an annual financial audit of the Florida Virtual School; 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 is expected to have an indeterminate impact on state and local government expenditures.

## II. Present Situation:

Various statutes ensure government accountability of state and local governments. For example, the Auditor General conducts audits of accounts and records of state agencies, state universities, state colleges, district school boards, and others as directed by the Legislative Auditing Committee. The Auditor General conducts operational and performance audits on public records and information technology systems. The Auditor General also reviews all audit reports of local governmental entities, charter schools, and charter technical career centers. Other statutes require publishing of government budgets and other information online and require government entities to follow certain practices to promote efficiency and compliance within the entity.

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

## III. Effect of Proposed Changes:

### Auditing

#### *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>

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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.

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 2-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 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

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<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: [https://flauditor.gov/pages/pdf\\_files/annual%20report%202016.pdf](https://flauditor.gov/pages/pdf_files/annual%20report%202016.pdf) (last visited November 1, 2017).

comply with applicable auditing, financial reporting, bond issuance notification, or bond verification provisions or the failure to disclose a financial emergency or provide information required during a financial emergency,<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*

**Section 1** amends s. 11.40, F.S., to authorize 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.

**Section 2** amends s. 11.45, F.S., to define the terms abuse, fraud, and waste. These terms are related to the internal controls various government agencies must establish and maintain to prevent and detect fraud, waste, and abuse.

This section expands the definition of “local governmental entity” to include tourist development council and county tourism promotion agency. With this expanded definition, the Auditor General is authorized to conduct audits or other engagements of tourist development councils and county tourism promotion agencies.

This section exempts WMDs from being subject to audits of local governmental entities conducted pursuant to s. 11.45(2)(j), F.S. With this change, the WMDs will be subject only to the periodic audits authorized by s. 11.45(2)(f), F.S.,<sup>13</sup> rather than audits requested by the Legislative Auditing Committee or when deemed necessary by the Auditor General.

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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.

<sup>13</sup> Section 11.45(2)(f), F.S., states in part that at least every 3 years, the Auditor General shall conduct operational audits of the accounts and records of water management districts.

This section expands 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 include all local governmental entities rather than just the WMDs.

### **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***

**Section 3** amends s. 28.35, F.S., to require 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 2017-18 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, 2018.

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 2718A of ch. 2017-70, L.O.F., provided \$1,800,000 in recurring General Revenue Funding to the Department of Management Services to operate and maintain a statewide travel management system (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*

**Section 5** amends s. 112.061, F.S., to limit the reimbursement of lodging expenses associated with the attendance at a meeting, conference, or convention organized or sponsored by a state agency or judicial branch. Such reimbursement cannot exceed \$150 per day for executive and judicial branch employees. The section clarifies that a “meeting” does not include the travel activities associated with an audit, examination, or inspection or the travel activities relating to litigation or an emergency response.

The section also codifies the definitions and requirements pertaining to the statewide travel management system. By referring to “agency,” this section will require all agencies, including local governments, to report public officer and employee travel information in the system.

### **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 2 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>14</sup>

### *Effect of the Bill*

**Section 10** amends s. 215.97, F.S., to change the requirement that the Auditor General review the threshold amount for requiring audits from every 2 years to “periodically;” however, the term “periodically” is not defined. This section 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 9 months after the end of its fiscal year by an independent certified public accountant.<sup>15</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>16</sup>

### *Effect of the Bill*

**Section 14** amends s. 218.39, F.S., to provide 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.

## **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

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<sup>14</sup> Section 215.97(2)(a), F.S.

<sup>15</sup> Section 218.39(1), F.S.

<sup>16</sup> Section 11.40(2), F.S.

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 committees 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.

### *Effect of the Bill*

**Section 15** amends s. 218.391, F.S., to require 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 board of county commissioners or its designee. The section 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 of the annual financial audits, certain information relating to the selection of the auditor and the contract for such services must be included in the management letter. If an entity fails to select an auditor in compliance with the new process, the Legislative Auditing Committee must determine whether the entity should be subject to state action pursuant to 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;
- 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

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<sup>17</sup> Section 1002.37(1)(a), F.S.



- 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*

**Section 20** amends s. 1002.37, F.S., to require 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 9 months after the end of the preceding fiscal year.

### **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 9 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, the Legislature, the Auditor General, and the 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>21</sup>

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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 218.32(2), F.S.

***Effect of the Bill***

**Section 12** amends s. 218.32, F.S., to require 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 section requires the accountant to specify in the audit report the significant differences that exist between the audited financial statements and the annual financial report.

This section 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.

**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>22</sup>

***Effect of the Bill***

**Section 22** amends s. 1010.30, F.S., to provide 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 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

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<sup>22</sup> Section 1010.30(2), F.S.

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>23</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>24</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 criminal conflict and civil regional counsel, and the Guardian Ad Litem

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<sup>23</sup> Section 1002.33(9)(j), F.S.

<sup>24</sup> Section 1010.01, F.S.

Program.<sup>25</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>26</sup>

### *Effect of the Bill*

**Sections 4, 9, 13, 19, and 21** amend ss. 43.16, 215.98, 218.33, 1002.33, and 1010.01, F.S., respectively, to require 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.

**Section 18** amends s. 1001.42, F.S., to authorize a district school board to retain an internal auditor to determine:

- The adequacy of internal controls designed to prevent and detect fraud, waste, and abuse.
- Compliance with applicable laws, rules, contracts, grant agreements, district school board-approved policies, and best practices.
- The efficiency of operations.
- The reliability of financial records and reports.
- The safeguarding of assets.

### **Online Posting of Governmental Budgets**

#### *Counties and Municipalities*

##### Present Situation

Counties<sup>27</sup> and municipalities<sup>28</sup> are required to post their tentative budgets on their websites 2 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 5 days of adoption.<sup>29</sup> Current law does not specify how long these documents must remain available on the website.

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

<sup>26</sup> Section 43.16(5)(b), F.S.

<sup>27</sup> Section 129.03, F.S.

<sup>28</sup> Section 166.241, F.S.

<sup>29</sup> Sections 129.06(2)(f)2., 166.241(5), and 189.016(7), F.S.

### Effect of the Bill

**Sections 6, 7, and 8** amend ss. 129.03, 129.06, and 166.241, F.S., respectively, to require a tentative budget to remain on a county or municipality's website for at least 45 days. The sections also requires a final budget to remain on the entity's website for at least 2 years. Finally, the sections requires an adopted amendment to a budget to remain on the website for at least 2 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 ch. 373, F.S.<sup>30</sup> There are five WMDs in Florida: Northwest Florida, Suwanee River, St. Johns River, Southwest Florida, and South Florida.<sup>31</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 2 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

**Section 17** amends s. 373.536, F.S., to require 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 2 years.

### **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***

**Section 11** amends s. 215.985, F.S., to require 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.

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<sup>30</sup> Section 373.019(23), F.S.

<sup>31</sup> Section 373.069(1), F.S.

## **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***

**Section 16** 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.

### **Statement of Legislative Findings**

**Section 24** 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.

**Section 23** amends s. 218.503, F.S., to correct cross-references.

**Section 25** provides an effective date of July 1, 2018.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the Florida Constitution provides, in pertinent part, that no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless:

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or
- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.

Article VII, s. 18(d) of the Florida Constitution provides, in pertinent part, that laws having insignificant fiscal impact are exempt from the mandates requirements.

This bill requires county and municipal governments to establish and maintain specified internal controls, to post government budgets online, and to use the statewide travel management system. Section 24 of the bill specifies that the bill serves an important state interest. An exception may apply because the bill applies to similarly situated persons (municipalities, counties, water management districts, school districts, state agencies and other governmental entities).

In addition, the bill may be exempt from the mandates requirements if the costs incurred by the municipalities and counties to comply are less than \$2 million (the threshold for “insignificant” fiscal impact).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

State agencies, the court system, court-related entities, local governments, district school boards, charter schools, and state colleges and universities may incur minimal costs associated with establishing and maintaining the specified internal controls. State and local governments may incur additional costs associated with using the statewide travel management system.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill requires municipalities and counties to establish and maintain internal controls, post budget information to websites, and use the statewide travel management system. These requirements may mean that the constitutional mandate provisions are applicable. Section 24 attempts to address the mandates requirement by making a finding that the bill fulfills an important state interest. However, section 24 only mentions the requirements relating to establishing and maintaining the internal controls. This section should be clarified to ensure that the statement relates to all three issues relating to new responsibilities for municipalities and counties.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 11.40, 11.45, 28.35, 43.16, 112.061, 129.03, 129.06, 166.241, 215.86, 215.97, 215.985, 218.32, 218.33, 218.39, 218.391, 218.503, 286.0114, 373.536, 1001.42, 1002.33, 1002.37, 1010.01, and 1010.30.

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

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

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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