

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 931

Local Government Accountability

SPONSOR(S): Schultz

TIED BILLS:

IDEN./SIM. BILLS: SB 1368

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Noriega	Hoagland
2)	Economic Development & Community Affairs Policy Council			
3)	Government Accountability Act Council			
4)				
5)				

SUMMARY ANALYSIS

Current law provides for local governments to submit an annual report to the Department of Financial Services (DFS) covering their operations for the preceding fiscal year within 45 days after the completion of the audit, but no later than 12 months after the end of the fiscal year. DFS makes an electronic filing system available to local governments that accumulates the financial information for these annual financial reports in a database, and makes that information available to the public in an electronic format.

Current law also provides that each local government that has not been notified that the Auditor General will perform an audit for that fiscal year must provide for an annual financial audit to be completed within 12 months after the end of the fiscal year.

This bill revises the audit schedule for local governmental entities required to undergo an audit. Under the provisions of this bill, these entities must submit a copy of the audit report and the annual financial statement to DFS within 9 months after the end of the local government’s fiscal year instead of the current 12-month period.

This bill provides that a local governmental entity’s annual financial report that is not required be audited must be submitted within 9 months after the end of the local government’s fiscal year, and not on the current April 30 deadline. Also, each local governmental entity’s website must provide a link to DFS’ website to view the entity’s annual financial report. If the local governmental entity does not have a website, the county government’s website must provide the link.

This bill also provides that each local governmental entity, district school board, charter school, or charter technical career center that has not been notified that the Auditor General will perform a financial audit must have an annual financial audit completed within 9 months after the end of the entity’s fiscal year, rather than within the 12-month period provided under current law.

The Revenue Estimating Conference has not met to discuss this bill. However, staff estimates that this bill would have no fiscal impact to state government and an indeterminate negative fiscal impact to local governments, which would result from the bill’s website posting requirements.

This bill has an effective date of July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Local Government Annual Financial Reports

Section 218.32 (1), F.S., provides for local governments to submit an annual report to the Department of Financial Services (DFS) covering their operations for the preceding fiscal year within 45 days after the completion of the audit, but no later than 12 months after the end of the fiscal year. DFS makes an electronic filing system available to local governments that accumulates the financial information for these annual financial reports in a database, and makes that information available to the public in an electronic format.

Submission of the annual report depends on whether or not the local governmental entity is required to have an annual audit. The general guidelines for the submission of audit annual reports are as follows:

- If no audit is required, the deadline is April 30 of each year;
- If an audit is required, the deadline is no later than 12 months after the end of the fiscal year; and
- If DFS does not receive a completed annual financial report from a local governmental entity within the required period, DFS must notify the Legislative Auditing Committee, which must schedule a hearing.

If the Legislative Auditing Committee determines that an entity should be subject to further state action, the committee must:

- In the case of a local governmental entity or a district school board, direct the Department of Revenue (DOR) and DFS to withhold any funds not pledged for bond debt service satisfaction until the local governmental entity or the district school board is in compliance. The committee must specify the date that action will begin and both departments must receive notification 30 days before the date of distribution mandated by law;<sup>1</sup>

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<sup>1</sup> Section 11.40(5), F.S.

- In the case of a special district, notify the Department of Community Affairs (DCA) that the special district has failed to comply with the law. Upon receipt of notification, DCA must offer assistance to the special district. During this process, the district may request an extension, but if it fails to comply with the filing, DCA must petition the circuit court in Leon County for a writ of certiorari, and the court must award attorney costs and court fees to the prevailing party;<sup>2</sup> and
- In the case of a charter school or charter technical career center, notify the appropriate sponsoring entity, which may terminate the charter.<sup>3</sup>

### Annual Financial Audit Reports

Section 218.39, F.S., provides that if a local governmental entity has not been notified that the Auditor General will perform an audit for that fiscal year, the entity must provide for an annual financial audit to be completed within 12 months after the end of its fiscal year.

The audit must be conducted by an independent certified public accountant retained by the entity and paid for from public funds. The local governmental entities that apply are:

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

### Proposed Changes

This bill revises the audit schedule for local governmental entities required to undergo an audit. Under the provisions of this bill, these entities must submit a copy of the audit report and the annual financial statement to DFS within 9 months after the end of the local government's fiscal year instead of the current 12-month period.

This bill provides that a local governmental entity's annual financial report that is not required be audited must be submitted within 9 months after the end of the local government's fiscal year, and not on the current April 30 deadline.

This bill also provides that each local governmental entity's website must provide a link to DFS' website to view the entity's annual financial report. If the local governmental entity does not have a website, the county government's website must provide the link.

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This bill has an effective date of July 1, 2009.

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<sup>2</sup> Section 189.421(3), F.S.

<sup>3</sup> Section 11.40(5), F.S.

**B. SECTION DIRECTORY:**

Section 1: amends s. 218.32, F.S., relating to annual financial reports for local governmental entities.

Section 2: amends s. 218.39, F.S., relating to annual financial audit reports.

Section 3: provides an effective date of July 1, 2009.

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

The website posting requirements will have an indeterminate negative fiscal impact to local governments.

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

Citizens will have access to local government annual financial reporting information in a format that is easy to understand.

**D. FISCAL COMMENTS:**

DFS and the Auditor General have indicated that this bill would not have an operational impact to their respective agencies.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

It appears that this bill will require counties or municipalities to spend funds or take an action requiring the expenditure of funds. Therefore, this bill may be subject to the mandates provisions of Article VII, section 18 of the Florida Constitution. The Revenue Estimating Conference has not reviewed this bill to determine if this impact is expected to be significant, thus requiring a two-thirds vote of the membership of each house of the Legislature for approval; or if the impact is expected to

be insignificant, which would exempt this bill from a two-thirds vote. However, staff notes that many local governments already have their own websites, so the provisions of this bill would only affect those local governments that do not have a website at this time.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**