

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1879 (PCB SA 03-27)                      Moving OPPAGA under Auditor General  
**SPONSOR(S):** State Administration; Mack  
**TIED BILLS:** none                                      **IDEN./SIM. BILLS:** CS/SB 1894

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| REFERENCE                      | ACTION          | ANALYST     | STAFF DIRECTOR  |
|--------------------------------|-----------------|-------------|-----------------|
| 1) <u>State Administration</u> | <u>5 Y, 1 N</u> | <u>Bond</u> | <u>Everhart</u> |
| 2) _____                       | _____           | _____       | _____           |
| 3) _____                       | _____           | _____       | _____           |
| 4) _____                       | _____           | _____       | _____           |
| 5) _____                       | _____           | _____       | _____           |

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### SUMMARY ANALYSIS

This bill merges the Office of the Auditor General and OPPAGA into the "Office of Government Accountability". The combined office will be responsible for all of the duties of both offices.

The legislature has a vital constitutional role under our republican form of government of oversight over the monies appropriated to the executive and judicial branches of state government, and the policies that the legislature has directed the executive and judicial branches to implement. The state also has the right and duty to protect the public through oversight over local government. To assist the legislature with these roles, the Constitution requires the legislature to "appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution." Current law designates that auditor as the Auditor General. The office of the Auditor General has primary responsibility for fiscal audits of state and local government. Current law also creates the Office of Program Policy Analysis and Government Accountability (known as OPPAGA), which has primary responsibility for policy review and audit of state and local government. Both offices are considered part of the legislature, and are supervised by the Legislative Auditing Committee.

The current House Appropriations Bill reflects a \$5.6 million recurring fiscal savings commencing in FY 2003-2004 related to this bill. This bill does not appear to have a fiscal impact on local governments.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h1879.sa.doc  
**DATE:** April 16, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain: Not applicable.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

The legislature has a vital constitutional role under our republican form of government of oversight over the monies appropriated to the executive and judicial branches of state government, and the policies that the legislature has directed the executive and judicial branches to implement. This is part of what is commonly referred to as the “checks and balances” built into our state and federal governmental structures. The state also has the right and duty to protect the public through oversight over local government.

Article III, s. 2, Fla.Const., requires the Legislature to “appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.” Section 11.42(1), F.S., names this constitutional officer as the “Auditor General”. Section 11.40, F.S., creates the Legislative Auditing Committee as a standing joint committee of the Legislature responsible for oversight of the Office of the Auditor General. The Auditor General is appointed by majority vote of the Legislative Auditing Committee, and serves at the pleasure of the legislature. The Auditor General is charged with various responsibilities for financial auditing of state and local government, including:

- Conducting the Statewide Financial Statement Audit and the Statewide Federal Awards Program Audit;
- Conducting financial audits of state agencies, universities, community colleges, district school boards;
- Reviewing state agency internal audit functions;
- Reviewing county, city and special district audit reports issued by independent certified public accountants;
- Reviewing the Department of Revenue’s monitoring of county ad valorem assessment procedures;
- Monitoring the state’s automated management accounting system (FLAIR);
- Auditing electronic data processing systems and data centers as assigned by the Auditor General; and,
- Monitoring statewide electronic data processing and information systems.

Section 11.51, F.S., creates the Office of Program Policy Analysis and Government Accountability, (known as OPPAGA), which is deemed both a unit of the Office of the Auditor General, yet independent from the Office of the Auditor General. OPPAGA was created by the Government Performance Accountability Act of 1994. Like the Office of the Auditor General, oversight of OPPAGA is by the Legislative Auditing Committee. The director of OPPAGA is appointed by the Legislative Auditing

Committee, subject to confirmation by the full House and Senate, and serves at the pleasure of the legislature.

Where the Auditor General concentrates on financial auditing functions, OPPAGA concentrates on policy and program analysis and auditing. A part of that program analysis function is to review the performance-based program budgeting process (commonly known as PB<sup>2</sup>). OPPAGA provides technical assistance to state agencies and to the Legislature in developing PB<sup>2</sup> measures and proposals. OPPAGA is also commonly called upon by the legislature to review state and local programs, and to issue special investigative reports of those programs. OPPAGA also manages the Best Financial Management Practices Reviews of school districts, a process for comprehensive examination of a school district's financial management practices.

Together, the Auditor General and OPPAGA assist the legislature in its oversight role.

### **Effect of Bill**

This bill reorganizes the Office of the Auditor General and the Office of Program Policy and Government Accountability into a single office entitled the "Office of Government Accountability". The combined office will be responsible for all of the duties of both offices.

In the combined office, the Auditor General as agency head of the Office of Government Accountability will still be appointed by majority vote of the Legislative Auditing Committee, and will continue to serve at the pleasure of the legislature. The Auditor General will be required to appoint a Deputy Auditor General to direct the "Division of Policy Analysis and Agency Review", which appointment will be subject to confirmation by the Legislative Auditing Committee and who shall serve at the pleasure of the Auditor General. Unlike the current director of OPPAGA, this deputy director will not be restrained by the 2 year post-employment lobbying ban contained within s. 112.313, F.S. The duties of the Division of Policy Analysis and Agency Review are not specified, but appear likely to be those currently performed by OPPAGA.

Current law gives an audited agency 30 days to reply to a draft financial audit report, this bill amends s. 11.45(4)(d), F.S., to allow the Auditor General to request a reply within 15 days.<sup>1</sup>

Current law provides for 20% of the electors of a municipality may petition the Auditor General for a financial audit of the municipality, this bill amends s. 11.45(5), F.S., to provide the form of such petitions.

Current law requires each state agency to be subject to a periodic program evaluation and justification review process; this bill amends s. 11.513, F.S., to provide that such reviews are to be at the discretion of the Auditor General.

Where the Auditor General finds a problem during a financial audit that requires a corrective plan by the agency, s. 20.055(5)(g), F.S., requires the audited agency to provide a corrective plan within 6 months. This bill creates s. 11.45(2)(o), in which the requirement for a corrective plan is shortened to 2 months, and specific requirements for what must be included in such a plan is provided.

Section 1004.58(2)(e), F.S., names the director of OPPAGA as one of the members of the Leadership Board for Applied Research and Public Service; this bill does not transfer the duty to the Auditor General, lowering the membership of the board by one person.<sup>2</sup>

This bill also makes numerous conforming changes, eliminates duplicative sections, and removes obsolete reporting requirements.

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<sup>1</sup> Note that a reply to a draft program audit is due within 15 days.

<sup>2</sup> It is generally deemed inappropriate for an auditor to be on the board of an entity that the auditor audits.

C. SECTION DIRECTORY:

Section 1 amends s. 11.40, to rename the combined offices of the Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA) as the Office of Government Accountability.

Section 2 amends s. 11.42, F.S., to remove language transferred to new s. 11.421, created by this bill.

Section 3 creates s. 11.421, F.S. creating the Office of Government Accountability.

Section 4 amends s. 11.45, F.S., renaming the Office of the Auditor General as the Office of Government Accountability, and assigning the duties of the Office of Program Policy Analysis and Government Accountability to the Office of Government Accountability. This section also expands and clarifies auditing of a municipality upon petition by the electors; corrects an audit threshold for local school board audits,<sup>3</sup> and includes other duties of the office that are currently placed in other sections of the Florida Statutes.

Sections 6 and 7 repeal ss. 11.51 and 11.511, F.S., which sections created the Office of Program Policy Analysis and Government Accountability (OPPAGA).

Section 8 amends s. 11.513, F.S., moving responsibility for the program evaluation and justification review of state agencies process from OPPAGA to the newly created Office of Government Accountability, and changes such reviews from mandatory to being at the discretion of the Auditor General upon consultation with the Legislative Auditing Committee or the Legislative Budget Commission.

Section 25 repeals s. 112.658, F.S., and Section 45 repeals s. 215.44(6), F.S. Together, these sections require OPPAGA is to audit the Florida Retirement System and the State Board of Administration. The duties are transferred to the new Office of Government Accountability on the same schedules and terms.<sup>4</sup>

Section 152 amends s. 1004.58, F.S., to alter the membership of the Leadership Board for Applied Research and Public Service.

The remaining sections of the bill make conforming changes, clarify language, make technical changes, or delete obsolete provisions.

Section 170 provides an effective date of July 1, 2003.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures:

By itself, this bill rearranges some duties and positions, but does not specifically result in any fiscal cost or savings. The current House budget reflects a \$5.6 million recurring fiscal savings

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<sup>3</sup> Current s. 11.45(2)(d), F.S., requires an annual financial audit of a district school board in all counties of fewer than 150,000 citizens. Current s. 11.45(2)(i), F.S., requires a financial audit of a district school board in all counties of more than 125,000 citizens to be conducted only once every three years. This PCB eliminates the overlap for counties between 125,000 and 150,000 by moving the threshold for both sections to 150,000 citizens.

<sup>4</sup> See new s. 11.45(2)(h) and s. 11.45(2)(i).

commencing in FY 2003-2004, which is believed to be related to this bill. This sum is calculated as one-half of the budget for OPPAGA, which has 95 FTE's. The Office of the Auditor General and OPPAGA are both funded on a lump sum basis; that is, they are given a single line appropriation and are given broad discretion in how to utilize that appropriation. Because the new Office of Government Accountability will be similarly funded, it is unknown whether and to what extent this bill, and the related changes in the General Appropriations Act, will have on specific budget expenditures or FTE's associated with the respective offices.

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

1. Revenues: None.
2. Expenditures: None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.**

**D. FISCAL COMMENTS: None.**

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision: Not applicable.

2. Other:

Several sections of this bill amend public records exemptions, or exceptions to exemptions.<sup>5</sup> In all cases, it appears that the changes merely reflect the reorganization of the offices and the change in name to the Office of Government Accountability. In that no such change appears to modify or expand any such exemption, it does not appear that this bill is subject to the special requirements for bills pursuant to art. I, s. 24, Fla.Const., or the Open Government Sunset Review Act of 1995 (s. 119.15, F.S.).

**B. RULE-MAKING AUTHORITY: None.**

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

This bill intentionally does not change portions contained within it that refer to the Comptroller or to the Treasurer,<sup>6</sup> former cabinet positions that have now been merged into the cabinet office of Chief Financial Officer pursuant to the recent constitutional amendment on cabinet reorganization. Corrections to these references are being made by separate bills before the legislature.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On April 8, 2003, the Committee on State Administration adopted one amendment to PCB SA 03-27. The amendment removed the change that would have removed the Director of OPPAGA from the list of persons to whom a 2-year post-employment lobbying ban applies, thereby maintaining current law at s. 112.313, F.S. The PCB was then reported favorably.

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<sup>5</sup> See, for example, sections 14, 38, 42, 69, 74, 143, 145, 148, 149 and 150 of the PCB.

<sup>6</sup> See, for example, sections 20, 43, 50, and 79 of the PCB