

**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 Community Affairs Committee

BILL: CS/SB 2648

INTRODUCER: Community Affairs Committee and Senator Dean

SUBJECT: Government Accountability and Efficiency

DATE: April 22, 2008                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Fav/CS
2.			ED	
3.			FT	
4.			TA	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The committee substitute (bill) revises provisions relating to the reimbursement of per diem and travel expenses of public officers, employees, and authorized persons; and extends the application of the revised provisions to designated special districts. The bill requires counties, cities with a budget in excess of \$1 million, and special districts with a budget in excess of \$250,000 (local governments) to provide the same level of budget detail and disclosure to residents, and provides for certain budget summaries to be posted on a website, if available, or to otherwise be filed with the Clerk of the Circuit Court or in a designated public office.

The bill provides a cap on the annual unreserved, undesignated fund balances of local governments and provides that fund balances generated in a single fiscal year must be carried forward and not be used to increase recurring expenditures within the budgets. Tentative and final budgets approved by the local governments' governing bodies must be posted on a specified website, if available, or otherwise be filed at a designated public office. The bill also provides for transparency in state and local government contracts by requiring the electronic reporting of specified information on contracts of \$5,000 or more.

The bill substantially amends ss. 112.061, 129.01, 129.02, 129.021, 129.03, 166.241, 189.418, 189.429, 190.006, 191.015, and 373.356, Florida Statutes.

The bill creates s. 218.315, Florida Statutes, and creates one undesignated section of law.

## II. Present Situation:

**County Budget Process** - There are several key participants in the county budget process: the Board of County Commissioners, Sheriff; Property Appraiser, Tax Collector, Supervisor of Elections, Clerk, Office of Management and Budget, the county operating departments, and the taxpayers. The components of a county's general fund include:

- Departments of the Board of County Commissioners;
- Elected officials;
- Article V - State Courts;
- Mandated Programs;
- Agency Funding; and
- Reserves.

Section 129.01, F.S., establishes the budget process for counties, and provides, in part, that an annual budget must be prepared, approved, adopted, and executed for each fiscal year ending September 30th. The budget must be created using sound financial practices and generally accepted accounting principals. Each budget must conform to statutory general directions and requirements, including:

- The budget must be prepared, summarized, and approved by the Board of County Commissioners.
- The budget must be balanced.
- The budget may contain a contingency reserve of not more than 10 percent of the total budget.
- The budget may contain a cash reserve of not more than 20 percent of the budget's total receipts and balances
- The budget must provide for appropriations to "outstanding indebtedness" for expenses incurred and charged against the current year, but unpaid at the beginning of the new fiscal year.

Section 129.03, F.S., provides that after receipt of the tentative budgets and completion of revisions, the Board of County Commissioners must prepare a summary of all the adopted tentative budgets. The summary statement must show for each budget, and the total of all budgets, the proposed tax millages, the balances, the reserves, and the total of each major classification of receipts and expenditures classified by the categories established in the Uniform Chart of Accounts prepared by the Department of Financial Services. The summary must be advertised one time in a newspaper of general circulation published in the county, or by posting on the courthouse door if no such newspaper exists. The tentative, adopted, and final budgets must all be filed in the office of the county auditor as a public record.

By June 1 of each year, the county property appraiser must certify to the county budget officer the estimate of total valuations against which taxes may be levied in the entire county and in each district in the county in which taxes are authorized to be levied by the board of county commissioners for funds under control of the board.

**Municipal Budget Process** - Section 166.241, F.S., provides that each municipality is required to follow the same fiscal year as the counties, beginning October 1st and ending September 30th of the following year, and the governing body of each municipality is required to adopt a budget each fiscal year. The budget must be adopted by ordinance or resolution unless otherwise specified in the municipality's charter. Revenues, including carried-over funds, must equal appropriations for expenditures and reserves.

**Special District Budget Process** - Section 189.418, F.S., provides that the governing body of each special district must adopt a budget by resolution each fiscal year. Revenues, including carried-over funds, must equal appropriations for expenditures and reserves. The proposed budget of a dependent special district must be presented in accordance with generally accepted accounting principals, contained within the general budget of the local governing authority, and be clearly stated as the budget of a dependent special district.<sup>1</sup>

**Water Management District Budget Process** - Section 373.536, F.S., establishes the requirements for water management district budgets and prescribes how unanticipated funds can be used.

**Local Government Annual Financial Reports/Uniform Accounting** - Section 218.32 (1), F.S., requires that local governments submit to the Department of Financial Services an Annual Financial Report that covers their operations for the preceding fiscal year. The department makes available to local governments an electronic filing system that accumulates the financial information reported on the annual financial reports in a database and makes that information available to the public in an electronic format. The department developed a Uniform Accounting System Manual to be used by local governments as the standard for recording and reporting financial information to the state. The manual contains a uniform classification of accounts to be used by local governments in reporting revenues and expenditures.

**Travel Expenses** - Section 112.061, F.S., establishes the rates for per diem and travel subsistence reimbursement allowances for travel by public officers, employees, and other authorized personnel, including reimbursement for actual expenses for lodging and chartered vehicles or transportation by privately owned vehicles. Per diem is established at \$80 per day, or reimbursement may be made for actual expenses when actual expenses exceed \$80. When travel is in a personal vehicle, reimbursement may be paid at the rate of 44.5 cents per mile.

**Transparency and Accountability** - The Federal Funding Accountability and Transparency Act of 2006 is at the forefront of the effort to require accountability in government spending. At the national level the federal government's accountability website, [USASpending.org](http://USASpending.org), is online and

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<sup>1</sup> Section 189.403, F.S., provides that a "dependent special district" is a special district that has a governing body membership identical to that of the county or city, or all members of the governing body are appointed by the governing body of the county or city, or governing board members are subject to removal by the governing body of the county or the city, or the district budget must be approved with an affirmative vote or can be vetoed by the governing body of the county or city.

available to the public. This website provides for accountability in federal spending by allowing the general public to electronically track federal financial assistance and expenditure awards of \$25,000 or more to corporations, associations, partnerships, limited liability companies and partnerships, sole proprietorships, and any other legal business entities, states or localities.

Several states are following the federal government's lead and have passed legislation implementing "transparency in government" provisions. At a minimum, these states require that all contract and grant award information be posted on a centralized Internet website which must be available to the public at no cost. The goal of the transparency measures is to provide for increased accountability in government by allowing the public to have electronic access to expenditure information.

**Florida** - In Florida, "transparency in government" efforts have been mostly directed toward local governments. Some transparency is currently provided through the Local Government Annual Financial Reporting website of the Department of Financial Services, and most local governments in Florida maintain websites that can be searched for budget information, annual financial reporting information, and contract bids and awards information. During the 2007 Regular Session, members of the Florida Senate filed three specific bills relating to transparency in state and local government. The bills provided for open access to information relating to state and local governments' revenues and expenditures, including information on contracts and grants.

Although none of the filed bills were enacted into law, the Florida Senate passed legislation which required, in part, that local governments electronically post all revenues and expenditures on the local government's website if one is available, or if not, on the county government's website. The reporting requirements were to take effect in 2009 and were phased in over a 3-year period, beginning with larger local governments. To provide transparency in local government budgeting, each local government was required to electronically post its anticipated revenues, proposed budget, and tentative millage, and within 10 days after the adoption of the budget, the adopted budget and millage rate. Finally, local governments were required to electronically post all contracts that are public records on each local government's official website, if available, or otherwise on the county government's official website. Contract information was to be posted beginning in November 2007 on a phased-in schedule with all reporting entities to be phased-in over a 2-year period. An exemption from the posting requirements was provided for school district employment contracts.

### III. **Effect of Proposed Changes:**

**Section 1** amends s. 112.061, F.S., to provide that actual expenses for lodging may not exceed \$200 per night, excluding taxes, except when approved in writing by the agency head or a designee and when lodging is not reasonably available for less than the maximum rate.

Transportation by charter or rental vehicle is preferred in lieu of a privately owned vehicle when the use of the charter or rental vehicle is calculated to cost less than the estimated amount required to reimburse the traveler for use of a privately owned vehicle. A traveler may use a privately owned vehicle but reimbursement is limited to the lower amount of the two methods of travel.

**Section 2** amends s. 129.01, F.S., to provide the following for county budgets:

- Annual unreserved undesignated fund balances generated during a single fiscal year may not exceed 20 percent of operating revenues or 90 days of regular general fund operating expenditures, whichever is greater.
- Remaining unreserved undesignated funds may be carried forward and may not be used to increase recurring expenditures in the current fiscal year.

**Section 3** amends s. 129.02, F.S., to provide definitions relating to county budgets. County budgets that do not meet the Distinguished Budget Presentation Award criteria established by the Government Finance Officers Association must provide specific information within the budget, including all proposed expenditures summarized by object of expenditure to be undertaken or executed by any spending entity during the fiscal year, and anticipated revenues, and estimated beginning and ending fund balances.

Counties must provide a written summary of not more than 4 pages, describing the important features of the proposed budget, and including an overview of the county, a description of the previous fiscal year's performance, a review of current year revenues and expenditures, and an economic outlook.

**Section 4** amends s. 129.021, F.S., to add cross-references.

**Section 5** amends s. 129.03, F.S., to extend the time within which the county budget officer must prepare and present a budget to the Board of County Commissioners from 15 to 21 days after certification of value by the property appraiser. The county is directed to make the budget summary statement available to county residents by filing the statement with the Clerk of the Circuit Court and posting the statement prominently online if the county has a website.

Beginning in fiscal year 2018-2019, counties that have received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association must make the comprehensive annual financial report available to county residents by filing the report with the Clerk of the Circuit Court and posting the report prominently online if the county has a website. For counties with websites, the tentative and final budgets, as approved by the Board of County Commissioners, must be made available online when filed with the Clerk of the Circuit Court and must remain online until the final budget is adopted for the next fiscal year.

**Section 6** amends s. 166.241, F.S., to provide definitions relating to municipal budgets. The tentative budgets and the final budgets approved by a municipal governing body must be filed at a designated public office within the boundaries of the municipality as a public record. For municipalities with websites, the tentative and final budgets must be made available online and remain online until the final budget is adopted for the next fiscal year.

Municipal budgets of more than \$1 million that do not meet the Distinguished Budget Presentation Award criteria established by the Government Finance Officers Association must provide specific information within the budget, including all proposed expenditures summarized

by object of expenditure to be undertaken or executed by any spending entity during the fiscal year, anticipated revenues, and estimated beginning and ending fund balances.

Each municipality must provide a written summary of not more than 4 pages, describing the important features of the proposed budget, and including an overview of the municipality, a description of the previous fiscal year's performance, a review of current year revenues and expenditures, and an economic outlook. The summary must include a statement of the budgetary basis of accounting used and a description of the services to be delivered during the fiscal year. The budget summary statement must be made available to residents by posting the summary at a designated public office within municipal boundaries, and posting the summary prominently online if the municipality has a website.

Municipalities that have received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association must make the comprehensive annual financial report available to residents by posting the report at a designated public office within municipal boundaries, and by posting the report prominently online if the municipality has a website.

Municipalities with budgets of more than \$1 million that have not received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association must, after receipt of tentative budgets and necessary revisions, prepare a summary statement of all adopted tentative budgets. The statement must show for each budget and for the total of all budgets, the proposed tax millages, the balances and reserves, and the total of each major classification of receipts and expenditures classified in the categories established in the Uniform Accounting System Manual prepared by the Department of Financial Services. The summary statement must be posted at a designated public office within municipal boundaries, and must be posted prominently online if the municipality has a website.

Annual unreserved undesignated fund balances generated during a single fiscal year may not exceed 20 percent of operating revenues or 90 days of regular general fund operating expenditures, whichever is greater. Remaining unreserved undesignated funds may be carried forward and may not be used to increase recurring expenditures in the current fiscal year.

**Section 7** amends s. 189.419, F.S., to provide definitions relating to special district budgets. Special district budgets of more than \$250,000 in revenues and that do not meet the Distinguished Budget Presentation Award criteria established by the Government Finance Officers Association must, by fund and spending entity, provide specific information within the budget, including all proposed expenditures summarized by object of expenditure to be undertaken or executed by any spending entity during the fiscal year, anticipated revenues, and estimated beginning and ending fund balances.

Each special district with a budget of more than \$250,000 in revenues must provide a written summary of not more than 4 pages, describing the important features of the proposed budget, and including an overview of the special district, a description of the previous fiscal year's performance, a review of current year revenues and expenditures, and an economic outlook. The summary must include a statement of the budgetary basis of accounting used and a description of the services to be delivered during the fiscal year. The budget summary statement must be made

available to residents by posting the summary at a designated public office located either within district or close to the boundaries of the district, and by posting the summary prominently online if the district has a website.

Each special district with a budget of more than \$250,000 in revenues must file the tentative budgets and the final budgets approved by the governing body at a designated public office located either within district boundaries or close to the boundaries of the district. For special districts with websites, the tentative and final budgets must be made available online and remain online until the final budget is adopted for the next fiscal year.

Special districts that have received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association must make the comprehensive annual financial report available to residents by posting the report at a designated public office located either within district boundaries or close to the boundaries of the district, and by posting the report prominently online if the district has a website.

Special districts with budgets of more than \$250,000 that have not received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association must, after receipt of tentative budgets and necessary revisions, prepare a summary statement of all adopted tentative budgets. The statement must show for each budget and for the total of all budgets, the proposed tax millages, the balances and reserves, and the total of each major classification of receipts and expenditures classified in the categories established in the Uniform Accounting System Manual prepared by the Department of Financial Services. The summary statement must be posted at a designated public office located either within district boundaries or close to district boundaries, and must be posted prominently online if the district has a website.

Annual unreserved undesignated fund balances generated during a single fiscal year may not exceed 20 percent of operating revenues or 90 days of regular general fund operating expenditures, whichever is greater. Remaining unreserved undesignated funds may be carried forward and may not be used to increase recurring expenditures in the current fiscal year.

**Section 8** amends s. 190.006, F.S., to increase the filing fee to 3 percent of \$7,500 for candidates seeking election to the board of supervisors of certain community development districts, and to increase the election assessment to 1 percent of \$7,500. Also, the cap on the amount of remuneration each supervisor is entitled to receive annually is increased from \$4,800 to \$7,500. (The amount per meeting remains at \$200.)

**Section 9** amends s. 373.536, F.S., to provide that the water management district notice of intent to adopt a final budget must be posted online if the district has a website. Water management districts that have received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association must make the comprehensive annual financial report available to district residents by filing the report with the Clerk of the Circuit Court of each county within or partly within the district boundaries, and by posting the report prominently online if the district has a website. Each water management district must also advertise the website address of the report in one or more newspapers with a combined general circulation in each county of the district, and the advertisement must appear next to the Truth in Millage notice required under s. 200.065, F.S.

Annual unreserved undesignated fund balances generated during a single fiscal year may not exceed 20 percent of operating revenues or 90 days of regular general fund operating expenditures, whichever is greater. Remaining unreserved undesignated funds may be carried forward and may not be used to increase recurring expenditures in the current fiscal year. For water management district purposes, unanticipated undesignated funds do not include federal revenues, state special revenues, matching funds, or local government or utility project funds. When submitting other required budget documentation to the President of the Senate, the Speaker of the House of Representatives, and the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over the water management district, each district that has received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association must also submit the comprehensive annual financial report.

**Section 10** amends s. 189.429, F.S., to correct a cross-reference.

**Section 11** amends s. 191.015, F.S., to correct a cross-reference.

**Section 12** creates s. 218.315, F.S., effective July 1, 2008, to provide for transparency in local government contracts, with an exemption for contractual rights relating to retirement for local government employees, as follows:

**Definitions:**

- "Contract" means a legally binding agreement between a local government or a state agency and a corporation or a person which requires a payment of \$5,000 or more.
- "Corporation" means all corporations registered to do business in the state, whether for profit or not for profit; foreign corporations qualified to do business in the state or actually doing business in the state, whether for profit or not for profit; limited liability companies under chapter 608, F.S., partnerships under chapter 620, F.S., a sole proprietorship under s. 440.02, F.S., or any other legal business entity, whether for profit or not for profit.
- "County officer" means a sheriff, tax collector, property appraiser, supervisor of elections, and a clerk of the circuit court.
- "Expenditure" means a payment that a state agency makes to a corporation or an individual under a contract.
- "Local government" means counties, municipalities, water management districts, and special taxing districts with the authority to levy ad valorem assessments or non-ad valorem assessments. School districts are excluded from the definition.
- "Individual" means a person, but excludes an employee of a local government or a state agency, or an employee of the federal government, when such persons are acting in the capacity of employee.

**Electronic posting requirements:** Each local government with a website must electronically post specific information on contracts of \$5,000 or more which are executed between a local government or a county officer and a corporation or an individual. The information must be posted using basic categories of expenditures as provided in a uniform format to be developed by the department. To the extent possible, local governments must provide a link to an electronic



copy of the contract. Any portion of the public record that is confidential or exempt from inspection and copying must be redacted prior to posting.

Each local government must designate one central office to maintain all contract information except that contract information required to be reported by a county officer shall be maintained by the county. For local governments without a website, the contract information must be maintained in a local government office that is reasonably accessible to the public during normal business hours. The office must be able to provide contract information to a member of the general public as a public records request.

**The Department of Financial Services - Uniform format requirements:** The bill directs the department to develop and maintain a portal that links to websites maintained by local governments that post contract information. The department must develop a uniform reporting format to be used by all local governments when electronically posting contract information. The uniform format must include:

- The name of the local government or county officer that is a party to the contract;
- The name of each corporation or individual that is a party to the contract;
- The date and the amount of the contract;
- The purpose of the contract; and
- The basic expenditure categories reported by local governments in the annual financial report submitted to the department under s. 218.32, F.S.

**Implementation Schedule:** Local governments must begin posting contract information on the following schedule:

- On or before December 31, 2009, all five water management districts, any county with a population of 300,000 or more, any municipality with a population of 50,000 or more, and any special taxing district within such county or city. (18 counties and 49 cities)
- On or before December 31, 2010, any county with a population of at least 50,000 but fewer than 300,000, any municipality with a population of at least 10,000 but fewer than 50,000, and any special taxing district within such county or city. (24 counties and 112 cities)
- On or before December 31, 2011, all other counties, cities, and special taxing districts. (25 counties and 161 cities)

The population estimates used by counties and cities to meet the schedule requirements are those to be reported on April 1, 2009, by the Legislature's Office of Economic and Demographic Research to the Executive Office of the Governor.

**Rulemaking Authority:** The department is provided with rulemaking authority to implement provisions of the act relating to the development and maintenance of the state portal that links to local websites, and the development and distribution of the uniform reporting format.

**Section 13** provides for transparency in state agency contracts effective July 1, 2008. An exemption for contractual rights relating to retirement for state government employees is provided, and the following provisions apply:

**Department of Financial Services:** The department is directed to develop and maintain a contract expenditures report that provides the name of the state agency and the name of the corporation or individual that are the parties to the contract; the date, amount, and purpose of the contract; and each expenditure made under the contract. The contract expenditures report must be maintained by the department in a searchable website containing a navigation bar that allows anyone with Internet access to search for expenditure reports by governmental function, state agency, or appropriation category.

**State agencies:** State agencies must record each contract executed between the agency and a corporation or an individual, and each payment made under the contract along with the contract number in the department's FLAIR<sup>2</sup> contract subsystem. To the extent possible, the agency must provide a link to an electronic copy of the contract but all information that is confidential and exemption from inspection and copying must be redacted prior to posting.

**Executive Office of the Governor:** The Executive Office of the Governor is directed to develop and maintain a portal that links to the state agency contract expenditures report maintained by the department.<sup>3</sup>

**Section 14** provides that except as otherwise provided in the act, the act shall take effect upon becoming a law and shall apply to the 2008-2009 fiscal year.

#### **IV. Constitutional Issues:**

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

If the costs of complying with the provisions of the bill exceed \$1.9 million statewide, the mandate provisions of paragraph (a) of s. 18, Art. VII, Florida Constitution, may apply which requires the Legislature to determine that the bill fulfills an important state interest and also requires that the bill must be enacted by a two-thirds vote of the membership of each house.

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

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

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<sup>2</sup> Florida Accounting and Information Resource subsystem.

<sup>3</sup> Go to: [http://www.flgov.com/og\\_contracts](http://www.flgov.com/og_contracts) as maintained by the Governor's Office of Open Government

**B. Private Sector Impact:**

Residents will have access to local government budget information in a format that is easy to understand, and also will have access to local government and state contract information.

Residents who wish to serve on the Board of Supervisors of a community development district will pay higher filing and assessment fees, but are eligible to receive higher compensation for service.

**C. Government Sector Impact:**

**Budget Transparency:** The budget transparency provisions of the bill will have an indeterminate financial impact on counties, cities, special districts, and water management districts.

**Contract Transparency:** The Department of Financial Services estimates non-recurring expenditures of \$40,000 in Fiscal Year 2008-09, to develop and implement the uniform reporting requirements and \$65,000 in Fiscal Year 2009-10 for website development to include state agencies. According to the department, costs will be absorbed within their current program funding.

The Office of Open Government in the Executive Office of the Governor currently maintains a transparency website with a portal for contract information. A link to the contract expenditures report maintained by the Department of Financial Services will be created on this website. No additional funding is required for the office to implement the requirement of the bill.

The financial impact of the bill is indeterminate, but local governments can expect to incur costs to comply with the reporting requirements of the bill for both website maintenance and staff. In addition, local governments that choose to make electronic copies of contracts available may incur additional costs related to the technology required to do so. As noted, above, it is arguable whether that duty is considered mandatory or not.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs Committee on April 22, 2008:**

The committee substitute deletes all provisions of the original bill to add provisions relating to transparency in the local government budget process and transparency in state and local government contracts.

- 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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