

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 Governmental Oversight and Accountability

BILL: SB 1206
INTRODUCER: Senator Abruzzo
SUBJECT: Auditor General
DATE: January 29, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 1206 amends s. 11.45, F.S., to require the Auditor General to conduct annually a performance audit of a randomly selected state agency.

The bill provides for an effective date of July 1, 2016.

II. Present Situation:

Background

Auditor General

The position of Auditor General is established by s. 2, Art. III 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.¹ The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the Legislature.²

The Auditor General, before entering upon the duties of the office, must take the oath of office required of state officers by the State Constitution.³ 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 must have no less than 10 years' experience in an accounting or auditing related field.⁴

¹ Section 11.42(2), F.S.

² Section 11.42(5), F.S.

³ Section 11.42(4), F.S.

⁴ Section 11.42(2), F.S.

To carry out his or her duties, the Auditor General must make all spending decisions within the annual operating budget approved by the President of the Senate and the Speaker of the House of Representatives.⁵ The Auditor General must employ qualified persons necessary for the efficient operation of the Auditor General's office and must fix their duties and compensation and, with the approval of the President of the Senate and Speaker of the House of Representatives, must adopt and administer a uniform personnel, job classification, and pay plan for employees.⁶

The headquarters of the Auditor General are at the state capital, but to facilitate auditing and to eliminate unnecessary traveling, the Auditor General may establish field offices located outside the state capital. The Auditor General must be provided with adequate quarters to carry out the position's functions in the state capital and in other areas of the state.⁷

All payrolls and vouchers for the operations of the Auditor General's office must be submitted to the Chief Financial Officer for payment.⁸ The Auditor General may make and enforce reasonable rules and regulations necessary to facilitate authorized audits.⁹

The Auditor General must:¹⁰

- Conduct audits of records and perform related duties as prescribed by law, concurrent resolution of the Legislature, or as directed by the Legislative Auditing Committee;
- Annually conduct a financial audit of state government;
- Annually conduct financial audits of all state universities and state colleges;
- Annually conduct financial audits of all accounts and records of all district school boards in counties with populations of fewer than 150,000, according to the most recent federal decennial statewide census;
- Once every three years, conduct financial audits of the accounts and records of all district school boards in counties that have populations of 150,000 or more, according to the most recent federal decennial statewide census;
- At least every three years, conduct operational audits of the accounts and records of state agencies, state universities, state colleges, district school boards, and Florida Clerks of Court Operations, water management districts, and the Florida School of Deaf and the Blind;
- At least every three years, conduct a performance audit of the local government financial reporting system, which means any statutory provision related to local government financial reporting;
- At least every three years, conduct a performance audit of the Department of Revenue's administration of the ad valorem tax laws;
- Once every three years, review a sample of internal audit reports at each state agency¹¹ to determine compliance with the current Standards for Professional Practice of Internal Auditing or, if appropriate, government auditing standards;

⁵ Section 11.42(3)(a), F.S.

⁶ *Id.*

⁷ Section 11.42(6)(a), F.S.

⁸ Section 11.42(6)(b), F.S.

⁹ Section 11.42(7), F.S.

¹⁰ Section 11.45(2), F.S.

¹¹ Section 20.055(1), F.S., defines "state agency" as each department created pursuant to chapter 20, F.S., and also includes the Executive Office of the Governor, the Department of Military Affairs, the Fish and Wildlife Conservation Commission, the Office of Insurance Regulation of the Financial Services Commission, the Office of Financial Regulation of the Financial

- Conduct audits of local governmental entities when determined to be necessary by the Auditor General, when directed by the Legislative Auditing Committee, or when otherwise required by law; and
- Annually conduct operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations receiving eligible contributions under the Florida Tax Credit Scholarship Program,¹² including any contracts for services with related entities, to determine compliance with the provisions of that program.

The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:¹³

- The accounts and records of any governmental entity created or established by law;
- The information technology programs, activities, functions, or systems of any governmental entity created or established by law;
- The accounts and records of any charter school created or established by law;
- The accounts and records of any direct-support organization or citizen support organization created or established by law;
- The public records associated with any appropriation made by the Legislature to a nongovernmental agency, corporation, or person;
- State financial assistance provided to any nonstate entity;¹⁴
- The Tobacco Settlement Financing Corporation;
- Any purchases of federal surplus lands for use as sites for correctional facilities;
- Enterprise Florida, Inc., including any of its boards, advisory committees, or similar groups created by Enterprise Florida, Inc., and programs;
- The Florida Development Finance Corporation or the capital development board or the programs or entities created by the board;
- The records pertaining to the use of funds from voluntary contributions on a motor vehicle registration application or on a driver's license application;
- The records pertaining to the use of funds from the sale of specialty license plates;
- The acquisition and divestitures related to the Florida Communities Trust Program;
- The Florida Water Pollution Control Financing Corporation;
- The school readiness program, including the early learning coalitions;
- CareerSource Florida, Inc., or other programs or entities created by Career Source Florida, Inc.;
- The corporation under contract with the Department of Business and Professional Regulation to provide administrative, investigative, examination, licensing, and prosecutorial support services;
- The Florida Engineers Management Corporation;
- The books and records of any permit holder that conducts race meetings or jai alai exhibitions;

Services Commission, the Public Service Commission, the Board of Governors of the State University System, the Florida Housing Finance Corporation, The Agency for State Technology, the Office of Early Learning, and the state courts system.

¹² Section 1002.395, F.S.

¹³ Section 11.45(3), F.S.

¹⁴ Section 215.97, F.S., defines "nonstate entity" as a local government entity, nonprofit organization, or for-profit organization that receives state financial assistance.

- The corporation known as the Prison Rehabilitative Industries and Diversified Enterprise, Inc., or PRIDE Enterprises;
- The Florida Virtual School;
- Virtual education providers receiving state funds or funds from local ad valorem taxes; and
- The accounts and records of a nonprofit scholarship-funding organization participating in a state sponsored scholarship program authorized by ch. 1002, F.S.

Auditor General Reports

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, Speaker of the House of Representatives, and Legislative Auditing Committee a summary of significant findings and financial trends identified in audit reports.¹⁵ 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; such report must include a two-year work plan identifying the audit and other accountability activities to be undertaken and a list of statutory and fiscal changes recommended by the Auditor General.¹⁶ 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.¹⁷

Florida Tax Credit Scholarship Program

The Florida Tax Credit Scholarship Program (FTC Program) provides scholarships to eligible low-income students for private school tuition and fees or transportation expenses to a Florida public school located outside of the school district in which the student resides or developmental research laboratory school.¹⁸ The FTC Program is funded with contributions to private nonprofit scholarship-funding organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax; severance taxes on oil and gas production; self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine, and spirits.¹⁹ The tax credit is equal to 100 percent of the eligible contributions made.²⁰

The Department of Education (DOE) must annually verify the eligibility of expenditures for scholarships under the FTC Program using specified audit requirements.²¹

III. Effect of Proposed Changes:

Section 1 amends s. 11.45, F.S., to require the Auditor General to annually conduct a performance audit of a randomly selected state agency.

¹⁵ Section 11.45(7)(f), F.S.

¹⁶ Section 11.45(7)(h), F.S.

¹⁷ *Id.*

¹⁸ Section 1002.395(3), (5), and (6)(d), F.S.

¹⁹ Section 1002.395(1) and (5), F.S.

²⁰ Sections 220.1875 and 1002.395(5), F.S.

²¹ Section 1002.395(9)(d), F.S.

Section 2 amends s. 1002.395, F.S., to conform a cross-reference regarding the DOE's obligation to verify eligibility of expenditures for scholarships under the Florida Tax Credit Scholarship Program using specified audit requirements.

Section 3 provides and effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

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:

Minimal. The Auditor General has indicated that the bill will have no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends sections 11.45 and 1002.395 of the Florida Statutes.

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.

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