

**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.)

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Prepared By: The Professional Staff of the Committee on Ethics and Elections

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BILL: SB 1636

INTRODUCER: Senator Gibson

SUBJECT: Duties of the Legislative Auditing Committee

DATE: February 12, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	<b>Pre-meeting</b>
2.			GO	
3.			AP	

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**I. Summary:**

The Legislative Auditing Committee (Committee) is a joint committee comprised of five members of the Florida House of Representatives and five members of the Florida Senate. Current law authorizes the Committee to investigate any matter within the scope of an audit, review, or examination either completed by or being conducted by the Auditor General or the Office of Program Policy Analysis and Government Accountability and, in connection with such investigation, to exercise subpoena powers.

The bill repeals the requirement for the Committee to conduct audits of quarterly compensation reports required for legislative and executive branch lobbying firms.

The bill repeals the requirements that the Auditor General conduct audits of local governmental entities, that the Auditor General follow up on those audit reports within 18 months, and that the Auditor General report on the 18 month follow up requirement to the entity being audited and the Joint Legislative Auditing Committee. The bill also repeals the requirement that the Auditor General notify the Joint Legislative Auditing Committee that an audited county, municipality, special district, school district, or charter school has had a finding(s) that is contained in three annual financial audit reports and the authority of the Committee to require further steps to address the findings.

The bill repeals the Committee's responsibilities with respect to the Transparency Florida Act (Act), including the requirements that the Committee make recommendations regarding the websites required under the Act and prepare an annual report.

The bill may have a positive fiscal impact on the state. The bill does not appear to have a fiscal impact on local governments.

## II. Present Situation:

### Legislative Auditing Committee

The Legislative Auditing Committee (Committee) is a joint committee comprised of five members of the Florida House of Representatives and five members of the Florida Senate. Section 11.40, F.S., authorizes the Committee to investigate any matter within the scope of an audit, review, or examination either completed by or being conducted by the Auditor General or the Office of Program Policy Analysis and Government Accountability and, in connection with such investigation, to exercise subpoena powers.

### Lobbyist Compensation Reports

Each lobbying firm<sup>1</sup> that lobbies before the Legislature is required to file a compensation report with the Office of Legislative Services for any calendar quarter during any portion of which the firm's lobbyists were registered to represent a principal.<sup>2</sup> The report must include:

- The full name, business address, and telephone number of the lobbying firm;
- The name of each of the firm's lobbyists; and
- The total compensation provided or owed to the lobbying firm from all principals for the reporting period.

For each principal represented by one or more of the firm's lobbyists, the report must also include:

- The full name, business address, and telephone number of the principal; and
- The total compensation provided or owed to the firm for the reporting period.

The same reporting requirements exist for lobbying firms that lobby before the executive branch.<sup>3</sup> Such firms must file the compensation reports with the Commission on Ethics.

### Audits of Lobbyist Compensation Reports

Current law requires the Committee to conduct audits of the quarterly compensation reports required for legislative and executive branch lobbying firms.<sup>4</sup> The Committee must select a random sample of three percent of all executive branch lobbying firms and three percent of all legislative branch lobbying firms to be audited.<sup>5</sup> The Committee is required to create and maintain a list of at least 10 independent contract auditors<sup>6</sup> to conduct the audits. Each lobbying firm selected for audit may designate one of the auditors from the approved list to conduct the firm's audit. If a selected lobbying firm fails to designate an auditor within 30 days of being

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<sup>1</sup> Section 11.045(1)(f), F.S., defines a "lobbying firm" to mean any business entity, including an individual contract lobbyist, which receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist.

<sup>2</sup> Section 11.045(3)(a)1., F.S.

<sup>3</sup> See s. 112.3215(5)(a), F.S.

<sup>4</sup> See s. 11.40(3), F.S.

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

<sup>6</sup> Section 11.40(3)(a), F.S., defines "independent contract auditor" to mean a state-licensed certified public accountant or firm with which a state-licensed certified public accountant is currently employed or associated who is actively engaged in the accounting profession.

notified by the Committee of its selection, the Committee must assign an auditor to perform that firm's audit.<sup>7</sup>

The Committee is required to establish guidelines to govern the random audits. The guidelines must ensure that the audits are conducted in a uniform manner and must be formulated to encourage compliance and detect violations of the legislative and executive lobbying compensation reporting requirements.<sup>8</sup>

An audit report must clearly identify any violations of law, deficiencies, or material misstatements discovered by the auditor.<sup>9</sup> The report must also clearly indicate whether a lobbying firm failed to give full, frank, and prompt cooperation and access to books, records, and associated backup documents as requested in writing by the auditor.<sup>10</sup> Upon completion, all audit reports of legislative lobbying firms must be delivered to the President of the Senate and the Speaker of the House of Representatives, and all audit reports of executive branch lobbying firms must be delivered to the Commission on Ethics.<sup>11</sup>

### **Auditor General**

The Auditor General is appointed by the Legislature to conduct audits of records and to perform related duties as prescribed by law.<sup>12</sup> Such duties include, but are not limited to:

- Conducting financial audits of state government, state universities, state colleges, and district school boards;
- Conducting operational and performance audits of accounts and records of state agencies, state universities, state colleges, district school boards, the Florida Clerks of Court Operations Corporation, water management districts, and the Florida School for the Deaf and the Blind;
- Conducting performance audits of local government financial reporting systems; and
- Conducting performance audits of the Department of Revenue's administration of the ad valorem tax laws.<sup>13</sup>

The Auditor General is required to conduct audits of local governmental entities when he or she determines it to be necessary, when directed to do so by the Joint Legislative Auditing Committee, or when required by law.<sup>14</sup> The Auditor General is then required to do whatever follow up he or she deems necessary within 18 months of the audit report to determine the entity's progress in addressing the findings and recommendations in the initial report.<sup>15</sup> After doing this follow up, the Auditor General must then report his or her findings to the entity's governing body and the Joint Legislative Auditing Committee.<sup>16</sup>

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<sup>7</sup> Section 11.40(3)(c), F.S.

<sup>8</sup> Section 11.40(3)(h), F.S.

<sup>9</sup> Section 11.40(3)(e), F.S.

<sup>10</sup> Section 11.40(3)(f), F.S.

<sup>11</sup> Section 11.40(3)(i), F.S.

<sup>12</sup> See art. III, s. 2, Fla. Const., and s. 11.45(2)(a), F.S.

<sup>13</sup> See s. 11.45(2)(a), F.S.

<sup>14</sup> Section 11.45(2)(j), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 11.45(2)(j), F.S.

The Auditor General is required to notify the Joint Legislative Auditing Committee of any finding in an annual financial audit report of certain entities<sup>17</sup> that was reported in the previous two audit reports.<sup>18</sup> The Joint Legislative Auditing Committee is then authorized to require the governing body to explain what steps are being taken to address the finding(s) or, if none are being taken, to explain why no steps are being taken to address the finding(s).<sup>19</sup> If the Joint Legislative Auditing Committee finds that no actions have been taken and there is no justification for not addressing these concerns, the Committee can begin proceedings to address the findings.<sup>20</sup>

### **Transparency Florida Act**

The Transparency Florida Act (Act) requires specified governmental fiscal information to be made publicly available via website or management system.<sup>21</sup> The Act requires the Governor, in consultation with the appropriations committees of the House of Representatives and the Senate, to maintain a central website providing access to all other websites required by the Act. The law requires certain budget information, certain contract information, and minimum functionality standards to be readily available online.

Pursuant to the Act, the Committee is required to annually recommend to the President of the Senate and the Speaker of the House of Representatives:

- Additional information to be added to a website, such as whether to expand the scope of the information provided to include state universities, Florida College System institutions, school districts, charter schools, charter technical career centers, local government units, and other governmental entities.
- A schedule for adding information to the website by type of information and governmental entity, including timeframes and development entity.
- A format for collecting and displaying the additional information.<sup>22</sup>

The manager of each website required under the Act must submit to the Committee information related to the cost of creating and maintaining the website and the number of times the website has been accessed.<sup>23</sup> The Committee is required to coordinate with the Financial Management Information Board in developing recommendations for including information on the website.<sup>24</sup> Each year, the Committee must prepare a report detailing progress in establishing the single website and providing recommendations for enhancement of the content and format of the website and related policies and procedures. The report must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1.<sup>25</sup>

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<sup>17</sup> Specifically, this applies to the following types of entities: counties, municipalities, special districts, school districts, and charter schools.

<sup>18</sup> Section 218.39(8), F.S.

<sup>19</sup> Section 218.39(3)(a), F.S.

<sup>20</sup> Section 218.39(c), F.S.

<sup>21</sup> Section 215.985, F.S.

<sup>22</sup> Section 11.45(7), F.S.

<sup>23</sup> Section 11.45(8), F.S.

<sup>24</sup> Section 11.45(9), F.S.

<sup>25</sup> Section 11.45(13), F.S.

**III. Effect of Proposed Changes:**

The bill repeals the requirement for the Committee to conduct audits of the quarterly compensation reports required for legislative and executive branch lobbying firms.

The bill repeals the requirements that the Auditor General conduct audits of local governmental entities, that the Auditor General follow up on those audit reports within 18 months, and that the Auditor General report on the 18 month follow up requirement to the entity being audited and the Joint Legislative Auditing Committee. The bill also repeals the requirement that the Auditor General notify the Joint Legislative Auditing Committee that an audited county, municipality, special district, school district, or charter school has had a finding(s) that is contained in three annual financial audit reports and the authority of the Committee to require further steps to address the findings.

The bill repeals the Committee's responsibilities with respect to the Transparency Florida Act (Act), including the requirements that the Committee make recommendations regarding the websites required under the Act and prepare an annual report.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**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:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 11.40, 11.45, 215.985, and 218.39.

**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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