

**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 Community Affairs

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BILL: SJR 1502

INTRODUCER: Senator Diaz

SUBJECT: Information About Counties and Municipalities

DATE: February 4, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SJR 1502 proposes an amendment to the Florida Constitution to require the Chief Financial Officer to provide annual information about counties and municipalities to residents, as prescribed by general law. The required information would allow residents to compare economic and non-economic factors of each local government.

If this joint resolution is agreed to by three-fifths of the membership of each house of the Legislature, the proposed amendment will be placed on the 2020 General Election ballot or at an earlier special election specifically authorized by law for that purpose. If approved by at least 60 percent of the votes cast on the measure, the proposed amendment will take effect on January 5, 2021.

**II. Present Situation:**

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serving as the chief fiscal officer of the state and the head of the Department of Financial Services (DFS).<sup>1</sup> The CFO is responsible for settling and approving accounts against the state and keeping all state funds and securities.<sup>2</sup> The CFO is also designated as the State Fire Marshal.<sup>3</sup> The office of CFO was created by Amendment 8 in 1998, which merged the offices of state treasurer and state comptroller.<sup>4</sup> In 2002, the Florida Legislature merged the state Departments of Insurance, Treasury and State Fire Marshal with the Department of Banking and Finance to create a new Department of Financial Services.

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<sup>1</sup> FLA. CONST., art. IV, s. 4. and s. 20.121, F.S.

<sup>2</sup> FLA. CONST., art. IV, s. 4.

<sup>3</sup> Section 633.104(1), F.S.

<sup>4</sup> Florida Division of Elections, *Restructuring the State Cabinet*, available at <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=11&seqnum=4> (last visited Feb. 5, 2020).

Section 20.121, F.S., establishes the following divisions within DFS:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;<sup>5</sup>
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;<sup>6</sup>
- Unclaimed Property;
- Workers' Compensation;
- Administration; and
- Office of the Insurance Consumer Advocate.

DFS is also the parent agency for the Financial Services Commission, which consists of the Governor, Attorney General, CFO, and Commissioner of Agriculture.<sup>7</sup> The Financial Services Commission has two subunits, the Office of Insurance Regulation and the Office of Financial Regulation.<sup>8</sup> Both subunits are managed by directors selected by the commission and must have at least 5 years of relevant experience in the previous 10 years.<sup>9</sup>

### **Local Government Financial Reporting**

Local governments are accountable for the manner in which they spend public funds, and the submission of financial reports required by state law is one method of demonstrating accountability. Section 218.39, F.S., requires the completion of an annual financial audit of accounts and records within nine months after the end of the fiscal year for counties, district school boards, charter schools, and charter technical career centers and certain municipalities and special districts. The statute requires filing of these annual financial audit reports with the State of Florida's Auditor General.

Section 218.32, F.S., requires counties, municipalities, and special districts to complete and submit to DFS a copy of its annual financial report (AFR) for the previous fiscal year no later

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<sup>5</sup> The Division of Investigative and Forensic Services is considered a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and may conduct investigations within and outside of the state. The division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.

<sup>6</sup> The Division of Treasury includes the Bureau of Deferred Compensation, which is responsible for administering the Government Employees Deferred Compensation Plan established under s. 112.215, F.S. for state employees.

<sup>7</sup> Section 20.121(3), F.S.

<sup>8</sup> Section 20.121(3)(a), F.S.

<sup>9</sup> Section 20.121(3)(d), F.S.

than nine months after the end of the fiscal year. The AFR is not an audit but rather a unique financial document completed using a format prescribed by the DFS.<sup>10</sup>

The DFS's Bureau of Local Government has created a web-based AFR system called Local Government Electronic Reporting (LOGER) where local government entities complete and electronically submit AFRs.<sup>11</sup> DFS personnel verify an entity's data entered in LOGER by comparing the data to the financial statements included in the submitted audit report, or with other prescribed information from those entities not subject to the audit requirement and contact the entities for clarification when the comparisons yield significant differences.<sup>12</sup>

In addition to the above local government financial reporting, ch. 2019-56, L.O.F., amended ss. 129.03 and 166.241, F.S., to require counties and municipalities respectively to report certain economic status information to the Office of Economic and Demographic Research. This includes information on government spending and debt per resident, median income, average local government employee salary, percentage of budget spent on employee salaries and benefits, and the number of taxing districts.

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

The joint resolution proposes an amendment to Article IV, section 4 the Florida Constitution to require the Chief Financial Officer to provide annual information about counties and municipalities to residents, as prescribed by general law. The required information would allow residents to compare economic and non-economic factors of each local government.

If this joint resolution is agreed to by three-fifths of the membership of each house of the Legislature, the proposed amendment will be placed on the 2020 General Election ballot or at an earlier special election specifically authorized by law for that purpose. If approved by at least 60 percent of the votes cast on the measure, the proposed amendment will take effect on January 5, 2021.

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

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

The mandates provisions in Article VII, section 18 of the State Constitution, do not apply to joint resolutions.

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

None.

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<sup>10</sup> See Department of Financial Services Bureau of Financial Reporting, *Uniform Accounting System Manual for Florida Local Governments* (2014), available at [https://www.myfloridacfo.com/Division/AA/Manuals/2014UASManual-7-31-15\\_FINAL.pdf](https://www.myfloridacfo.com/Division/AA/Manuals/2014UASManual-7-31-15_FINAL.pdf) (last visited Jan. 6, 2020).

<sup>11</sup> LOGER is available at <https://apps.fldfs.com/LocalGov/Reports/> (last visited Jan. 6, 2020).

<sup>12</sup> See Florida Auditor General, *Local Government Financial Reporting System: Performance Audit Report 2019-028* (Sep. 2019), available at [https://flauditor.gov/pages/pdf\\_files/2019-028.pdf](https://flauditor.gov/pages/pdf_files/2019-028.pdf) (last visited Jan. 6, 2020).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, section 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Section 101.161(1), F.S., requires constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”

Article XI, section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Division of Elections (division) is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general

circulation in each county before the election in which the amendment shall be submitted to the electors. The division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and in Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.<sup>13</sup>

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be, at a minimum, \$63,378.26.<sup>14</sup> Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.<sup>15</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This joint resolution substantially amends Article IV, section 4 of the Florida Constitution.

**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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<sup>13</sup> E-mail from Brittany N. Dover, Legislative Affairs Director, Florida Department of State (Oct. 2, 2019) (on file with the Senate Committee on Community Affairs).

<sup>14</sup> *Id.*

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