



Oversight, Transparency & Administration Subcommittee

February 23, 2017
9:30 AM – 12:00 Noon
Morris Hall

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Oversight, Transparency & Administration Subcommittee

Start Date and Time: Thursday, February 23, 2017 09:30 am
End Date and Time: Thursday, February 23, 2017 12:00 pm
Location: Morris Hall (17 HOB)
Duration: 2.50 hrs

Consideration of the following bill(s):

HJR 321 Percentage of Elector Votes Required to Approve Constitutional Amendment or Revision by Roth
HB 397 Pub. Rec./Victim of Alleged Sexual Harassment/Identifying Information by Raschein
HB 479 Government Accountability by Metz

Consideration of the following proposed committee bill(s):

PCB OTA 17-01 -- OGSR/Department of Citrus
PCB OTA 17-02 -- OGSR/Peer Review Panels
PCB OTA 17-03 -- OGSR/Unclaimed Property

NOTICE FINALIZED on 02/16/2017 4:08PM by Larson.Lisa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 321 Percentage of Elector Votes Required to Approve Constitutional Amendment or Revision

SPONSOR(S): Roth

TIED BILLS: IDEN./SIM. BILLS: SJR 866

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee		Toliver <i>LT</i>	Harrington <i>TH</i>
2) Rules & Policy Committee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The State Constitution sets forth five methods by which the Constitution may be amended or revised: proposal by the Legislature, citizen initiative, proposal by the constitution revision commission, proposal by a constitutional convention, and proposal by the taxation and budget reform commission. Regardless of the method, all proposed amendments must be submitted to a vote of the electors. For an amendment to become part of the State Constitution, sixty percent of the electors voting must vote in favor of the amendment.

The joint resolution increases the percentage of electors needed to approve an amendment or revision to the State Constitution from sixty percent to sixty-six and two-thirds percent of those voting on the measure.

The joint resolution will be considered by the electorate at the next general election on November 6, 2018. If adopted, the effective date of this resolution is January 8, 2019.

The joint resolution may have an indeterminate fiscal impact on the state. See Fiscal Comments.

Article XI, s. 1 of the Florida Constitution requires a three-fifths vote of the members present and voting for final passage of a joint resolution proposing an amendment to the Florida Constitution. This joint resolution proposes a constitutional amendment; thus it requires a three-fifths vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Article XI of the State Constitution provides five methods for amending the Constitution: proposal by the Legislature,¹ citizen initiative,² proposal by the constitution revision commission,³ proposal by a constitutional convention,⁴ and proposal by the taxation and budget reform commission.⁵

Election and Voter Approval Requirements

After a proposed amendment meets the requirements to be submitted for approval by the electors, the amendment is placed on the ballot at the next general election.⁶ The Legislature may require the election to occur on an earlier date by special election by enacting a law that is approved by three-fourths of each chamber of the Legislature.⁷

For an amendment to become part of the State Constitution, sixty percent of the electors voting must vote in favor of the amendment.⁸

Effective Date of the Amendment

An amendment that is approved by the electors will take effect on the first Tuesday after the first Monday in January following the election, unless another date is specified in the amendment.

Effect of the Resolution

The bill increases the percentage of electors needed to approve an amendment to the State Constitution from sixty percent to sixty-six and two-thirds percent.

This joint resolution must pass each chamber with a three-fifths vote before it may be placed on the ballot.⁹ This joint resolution must be approved by 60 percent of the electors voting. If approved by the electorate, the joint resolution will take effect on January 8, 2019.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹ Article XI, s. 1, FLA. CONST.

² Article XI, s. 3, FLA. CONST.

³ Article XI, s. 2, FLA. CONST.

⁴ Article XI, s. 4, FLA. CONST.

⁵ Article XI, s. 6, FLA. CONST.

⁶ The State Constitution defines the term "general election" to mean an election held in each county on the first Tuesday after the first Monday in November of each even-numbered year. Article VI, s. 5, FLA. CONST; *see also* s. 97.021(16), F.S.

⁷ Article XI, s. 5(a), FLA. CONST.

⁸ Article XI, s. 5, FLA. CONST.

⁹ *Id.*

- 2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Article XI, s. 5(d) of the State Constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The Division of Elections is required to advertise the full text of a proposed constitutional amendment twice in a newspaper of general circulation in each county before the election. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of a proposed amendment.¹⁰

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision:
Not applicable.
- 2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

¹⁰ Section 101.171, F.S.
STORAGE NAME: h0321.OTA.DOCX
DATE: 2/16/2017

House Joint Resolution

A joint resolution proposing an amendment to Section 5 of Article XI of the State Constitution to increase the percentage of elector votes required to approve an amendment or a revision to the State Constitution from 60 percent to 66 and 2/3 percent.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 5 of Article XI of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE XI

AMENDMENTS

SECTION 5. Amendment or revision election.-

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the

26 legislature and limited to a single amendment or revision, it is
 27 submitted at an earlier special election held more than ninety
 28 days after such filing.

29 (b) A proposed amendment or revision of this constitution,
 30 or any part of it, by initiative shall be submitted to the
 31 electors at the general election provided the initiative
 32 petition is filed with the custodian of state records no later
 33 than February 1 of the year in which the general election is
 34 held.

35 (c) The legislature shall provide by general law, prior to
 36 the holding of an election pursuant to this section, for the
 37 provision of a statement to the public regarding the probable
 38 financial impact of any amendment proposed by initiative
 39 pursuant to section 3.

40 (d) Once in the tenth week, and once in the sixth week
 41 immediately preceding the week in which the election is held,
 42 the proposed amendment or revision, with notice of the date of
 43 election at which it will be submitted to the electors, shall be
 44 published in one newspaper of general circulation in each county
 45 in which a newspaper is published.

46 (e) Unless otherwise specifically provided for elsewhere
 47 in this constitution, if the proposed amendment or revision is
 48 approved by vote of at least sixty-six and two-thirds ~~sixty~~
 49 percent of the electors voting on the measure, it shall be
 50 effective as an amendment to or revision of the constitution of

51 | the state on the first Tuesday after the first Monday in January
52 | following the election, or on such other date as may be
53 | specified in the amendment or revision.

54 | BE IT FURTHER RESOLVED that the following statement be
55 | placed on the ballot:

56 | CONSTITUTIONAL AMENDMENT



57 | ARTICLE XI, SECTION 5

58 | PERCENTAGE OF ELECTOR VOTES REQUIRED TO APPROVE

59 | CONSTITUTIONAL AMENDMENT OR REVISION.—Proposing an amendment to
60 | the State Constitution to increase the percentage of elector
61 | votes required to approve an amendment or a revision to the
62 | State Constitution from 60 percent to 66 and 2/3 percent.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 397 Pub. Rec./Victim of Alleged Sexual Harassment/Identifying Information
SPONSOR(S): Raschein
TIED BILLS: IDEN./SIM. **BILLS:** SB 492

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee		Moore 	Harrington 
2) Government Accountability Committee			

SUMMARY ANALYSIS

Current law provides public record exemptions for various types of information related to agency investigations. Information that is exempt or confidential and exempt from public record requirements includes information related to complaints of discrimination, information related to complaints of misconduct, and information revealing the identity of a victim of certain crimes.

The bill amends s. 119.071, F.S., to provide that information related to an allegation of sexual harassment that could lead to the identification of the alleged victim, including, but not limited to, the alleged victim's name, home address, telephone number, and electronic mail address, is confidential and exempt from public record requirements.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the State Constitution.

The bill may have a minimal fiscal impact on the state and local governments. See Fiscal Comments section.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Art. I, s. 24(a). The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.³

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.⁴

Exemptions for Certain Information Related to Agency Investigations

Currently, s. 119.071(2), F.S., provides public record exemptions for various types of information related to agency investigations. Information that is exempt or confidential and exempt⁵ from public record requirements includes information related to complaints of discrimination,⁶ information related to complaints of misconduct,⁷ and information revealing the identity of a victim of certain crimes.⁸ There is not currently an exemption for information that could reveal the identity of an alleged victim of sexual harassment.

¹ Section 24(c), Art. I of the State Constitution.

² See s. 119.15, F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 119.15(3), F.S.

⁵ There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates as confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, the record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See 85-62 Fla. Op. Att'y Gen. (1985).

⁶ Section 119.071(2)(g), F.S.

⁷ Section 119.071(2)(k), F.S.

⁸ Sections 119.071(2)(h)1. and 119.071(2)(j), F.S.

Effect of Proposed Changes

The bill amends s. 119.071, F.S., to provide that information related to an allegation of sexual harassment that could lead to the identification of the alleged victim, including, but not limited to, the alleged victim's name, home address, telephone number, and electronic mail address, is confidential and exempt from public record requirements.

The bill provides a public necessity statement as required by the State Constitution, specifying that it is a public necessity to protect information that could identify alleged victims because disclosure of the information could place them at risk of further harassment and retaliation. In addition, the potential for disclosure of identifying information could discourage alleged victims from reporting instances of alleged harassment.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

B. SECTION DIRECTORY:

Section 1 amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

Section 2 provides a public necessity statement.

Section 3 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state government revenues.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have an impact on local government revenues.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill could have a minimal fiscal impact on agencies because agency staff responsible for complying with public record requests may require training related to the creation of the public record exemption. In addition, agencies could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of agencies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for information related to an allegation of sexual harassment which could lead to the identification of the alleged victim, including, but not limited to, the alleged victim's name, home address, telephone number, and electronic mail address. As such, the exemption does not appear to be in conflict with the constitutional requirement that it be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

The bill creates a public record exemption for information that could lead to the identification of an alleged sexual harassment victim, including, but not limited to, the alleged victim's name, home address, telephone number, and electronic mail address. Typically a public record exemption protects "personal identifying information" and does not provide a list of information that may not be identifying information. In order to be consistent with other public record exemptions, the sponsor may want to consider an amendment to protect "personal identifying information" of an alleged sexual harassment victim.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for information related to an
 5 allegation of sexual harassment that could lead to the
 6 identification of the alleged victim; providing for
 7 future legislative review and repeal of the exemption;
 8 providing a statement of public necessity; providing
 9 an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Paragraph (m) is added to subsection (2) of
 14 section 119.071, Florida Statutes, to read:

15 119.071 General exemptions from inspection or copying of
 16 public records.—

17 (2) AGENCY INVESTIGATIONS.—

18 (m) Information related to an allegation of sexual
 19 harassment which could lead to the identification of the alleged
 20 victim, including, but not limited to, the alleged victim's
 21 name, home address, telephone number, and electronic mail
 22 address, is confidential and exempt from s. 119.07(1) and s.
 23 24(a), Art. I of the State Constitution. This paragraph is
 24 subject to the Open Government Sunset Review Act in accordance
 25 with s. 119.15 and shall stand repealed on October 2, 2022,

26 unless reviewed and saved from repeal through reenactment by the
 27 Legislature.

28 Section 2. The Legislature finds that it is a public
 29 necessity that information related to an allegation of sexual
 30 harassment which could lead to the identification of the alleged
 31 victim be made confidential and exempt from s. 119.07(1),
 32 Florida Statutes, and s. 24(a), Article I of the State
 33 Constitution. The disclosure of such information could harm
 34 alleged victims by placing them at risk of further harassment
 35 and retaliation. Additionally, the potential for disclosure of
 36 such information could create a disincentive for alleged victims
 37 to report instances of alleged harassment. The Legislature finds
 38 that the potential harm that may result from the release of such
 39 information outweighs any public benefit that may be derived
 40 from the disclosure of such information.

41 Section 3. This act shall take effect upon becoming a law.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Oversight, Transparency &
 2 Administration Subcommittee
 3 Representative Raschein offered the following:

Amendment (with title amendment)

Remove lines 18-31 and insert:

7 (m) Personal identifying information of the alleged victim
 8 in an allegation of sexual harassment is confidential and exempt
 9 from s. 119.07(1) and s. 24(a), Art. I of the State
 10 Constitution. This paragraph is subject to the Open Government
 11 Sunset Review Act in accordance with s. 119.15 and shall stand
 12 repealed on October 2, 2022, unless reviewed and saved from
 13 repeal through reenactment by the Legislature.

14 Section 2. The Legislature finds that it is a public
 15 necessity that personal identifying information of the alleged



Amendment No. 1

16 victim in an allegation of sexual harassment be made
17 confidential and exempt from s. 119.07(1),

18

19 -----

20

T I T L E A M E N D M E N T

21

Remove lines 4-6 and insert:

22

records requirements for personal identifying information of the

23

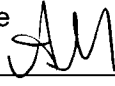

alleged victim in an allegation of sexual harassment; providing

24

for

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 479 Government Accountability
SPONSOR(S): Metz
TIED BILLS: IDEN./SIM. BILLS: SB 880

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee		Moore 	Harrington 
2) Appropriations Committee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

Various statutes ensure government accountability of state and local governments. For example, the Auditor General conducts audits of accounts and records of state agencies, state universities, state colleges, district school boards, and others as directed by the Legislative Auditing Committee. The Auditor General conducts operational and performance audits on public records and information technology systems. The Auditor General also reviews all audit reports of local governmental entities, charter schools, and charter technical career centers. Other statutes require publishing of government budgets and other information online and require government entities to follow certain practices to promote efficiency and compliance within the entity.

The bill amends statutes pertaining to government accountability and auditing. The bill:

- Specifies that the Governor or Commissioner of Education, or designee, may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements;
- Provides definitions for the terms "abuse," "fraud," and "waste;"
- Requires each agency, the judicial branch, the Justice Administrative Commission, state attorneys, public defenders, criminal conflict and civil regional counsel, the Guardian Ad Litem program, local governmental entities, charter schools, school districts, Florida College System institutions, and state universities to establish and maintain internal controls;
- Requires counties and municipalities to maintain certain budget documents on their websites for specified timeframes;
- Revises the monthly financial statement requirements for water management districts;
- Requires a local governmental entity, district school board, charter school, or charter technical career center, Florida College System board of trustees, or university board of trustees to respond to audit recommendations under certain circumstances;
- Requires an independent certified public accountant conducting an audit of a local governmental entity to determine, as part of the audit, whether the entity's annual financial report is in agreement with the entity's audited financial statements; and
- Prohibits a board or commission from requiring a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard.

The bill may have an indeterminate fiscal impact on the state and local governments. See Fiscal Comments section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Auditing

Auditor General

Present Situation

The position of Auditor General is established by Art. III, s. 2 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 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 may not have less than 10 years' experience in an accounting or auditing related field.³

The Auditor General must conduct audits, examinations, or reviews of government programs⁴ as well as audit the accounts and records of state agencies, state universities, state colleges, district school boards, and others as directed by the Legislative Auditing Committee.⁵ The Auditor General conducts operational and performance audits on public records and information technology systems and also reviews all audit reports of local governmental entities, charter schools, and charter technical career centers.⁶

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, the Speaker of the House of Representatives, and the Legislative Auditing Committee a summary of significant findings and financial trends identified in audit reports.⁷ 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. The 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.⁸ 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.⁹

The annual report for the Auditor General for November 1, 2015, through October 31, 2016, contained the following recommendation:¹⁰

The Legislature should consider amending applicable Florida Statutes to establish in law the responsibility of each State and local government for the establishment and maintenance of management systems and internal controls designed to prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best

¹ Section 11.42(2), F.S.

² Section 11.42(5), F.S.

³ Section 11.42(2), F.S.

⁴ Section 11.45(7), F.S.

⁵ Section 11.45(2)(d)-(f), F.S.

⁶ Section 11.45(7)(b), F.S.

⁷ Section 11.45(7)(f), F.S.

⁸ Section 11.45(7)(h), F.S.

⁹ *Id.*

¹⁰ A copy of the report can be found online at: <http://www.myflorida.com/audgen/pages/annualrpt.htm> (last visited February 10, 2017).

practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets.

Section 11.45, F.S., defines the types of audits the Auditor General may conduct. That section requires certain state and local governmental audits to be conducted and specifies the frequency with which the audits must occur. The Auditor General also may conduct other audits he or she determines to be appropriate.

Following notification by the Auditor General, the Department of Financial Services (DFS), or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with applicable auditing, financial reporting, bond issuance notification, or bond verification provisions or the failure to disclose a financial emergency or provide information required during a financial emergency,¹¹ the Legislative Auditing Committee may schedule a hearing to determine whether the entity should be subject to further state action. For purposes of s. 11.45, F.S., the term “local governmental entity” means a county agency, municipality, or special district as defined in s. 189.012,¹² F.S., but does not include any housing authority established under ch. 421, F.S.

The Auditor General is also required to annually transmit, by July 15, to the President of the Senate, the Speaker of the House of Representatives, and DFS a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and water management districts (WMDs) that have failed to comply with certain transparency requirements.

Effect of the Bill

The bill provides that the Governor or his or her designee, or the Commissioner of Education or his or her designee, are also authorized to notify the Legislative Auditing Committee that a local governmental entity, district school board, charter school, or charter technical career center has failed to comply with applicable auditing, financial reporting, bond issuance notification, or bond verification provisions or failed to disclose a financial emergency or provide information required during a financial emergency.

The bill creates the following definitions:

- “Abuse” means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.
- “Fraud” means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity’s assets, bribery, or the use of one’s position for personal enrichment through the deliberate misuse or misapplication of an organization’s resources.
- “Waste” means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

The bill amends the definition for “local governmental entity” for purposes of s. 11.45, F.S., to include tourist development council and county tourism promotion agency.

¹¹ Section 11.45, F.S., governs certain audits to be conducted by the Auditor General. Section 218.32(1), F.S., requires annual financial reports from local governmental entities. Section 218.38, F.S., requires notice of bond issuance and contains verification requirements. Section 218.503(3), F.S., requires certain entities to disclose a financial emergency and provide certain information concerning a financial emergency.

¹² Section 189.012(6), F.S., defines a “special district” to mean a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

The bill authorizes the Auditor General to conduct audits or other engagements of tourist development councils and county tourism promotion agencies. The bill also makes conforming changes to the Auditor General's reporting requirement.

The bill amends the list of entities that must be included in the Auditor General report concerning entities that fail to comply with transparency requirements in s. 11.45, F.S., to add local governmental entities and remove water management districts.

Florida Single Audit Act

Present Situation

The Florida Single Audit Act, codified in s. 215.97, F.S., is designed to

- Establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects;
- Promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities;
- Promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities;
- Provide for identification of state financial assistance transactions in the state accounting records and recipient organization records;
- Promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance; and
- Ensure, to the maximum extent possible, that state agencies monitor, use, and follow-up on audits of state financial assistance provided to nonstate entities.

Pursuant to the Florida Single Audit Act, certain entities that meet the "audit threshold" requirements are subject to a state single audit or a project-specific audit. Currently, the "audit threshold" requires each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such nonstate entity to have a state single audit, or a project-specific audit, for such fiscal year. Every two years, the Auditor General, after consulting with the Executive Office of the Governor, DFS, and all state awarding agencies, is required to review the threshold amount for requiring audits and may adjust the threshold amount.¹³

Effect of the Bill

The bill changes the requirement that the Auditor General review the threshold amount for requiring audits from every two years to "periodically;" however, the term "periodically" is not defined. The bill also authorizes the Auditor General to recommend to the Legislature a statutory change to revise the threshold amount in its annual report.

Annual Financial Audit Reports

Present Situation

If, by the first day in any fiscal year, a local governmental entity, district school board, charter school, or charter technical career center has not been notified that a financial audit for that fiscal year will be performed by the Auditor General, an entity meeting certain requirements must have an annual financial audit of its accounts and records completed within nine months after the end of its fiscal year by an independent certified public accountant.¹⁴ Section 218.39, F.S., specifies the minimum required information for the independent audits and provides for discussion between the governing body and the independent certified public accountant regarding certain specified conditions. If corrective action is required and has not been taken, the Legislative Auditing Committee can request a statement

¹³ Section 215.97(2)(a), F.S.

¹⁴ Section 218.39(1), F.S.

explaining why the corrective action has not been taken and take certain steps to determine whether the entity should be subject to further state action.¹⁵

Effect of the Bill

The bill provides that if an audit report contains a recommendation that was included in the preceding financial audit report but remains unaddressed, the governing body of the audited entity, within 60 days after delivery of the audit report to the governing body, must indicate during a regularly scheduled public meeting whether it intends to take a corrective action, the corrective action to be taken, and when the corrective action will occur. If the governing body does not intend to take any corrective action, it must explain its decision at the public meeting.

Local Governmental Entity Annual Financial Reports

Present Situation

Section 218.32, F.S., requires local governmental entities that are required to provide for an audit under s. 218.39, F.S., to submit an audit report and annual financial report to DFS within 45 days after completion of the audit report, but no later than nine months after the end of the fiscal year. The annual financial report must be signed by the chair of the governing body and the chief financial officer of the local governmental entity. The law also specifies the information that must be included in the report.

In addition, DFS is required to file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report.¹⁶

Effect of the Bill

The bill requires an independent certified public accountant conducting an audit of a local governmental entity pursuant to s. 218.39, F.S., to determine, as part of the audit, whether the entity's annual financial report is in agreement with the entity's audited financial statements. The accountant's audit report must be supported by the same level of detail as required for the annual financial report. If the reports are not in agreement, the bill requires the accountant to specify in the audit report the differences that exist between the annual financial report and the audit report.

The bill also authorizes DFS, in preparing the verified report, to request additional information from the local governmental entity. Any additional information requested must be provided to DFS within 45 days after the request. If the local governmental entity does not comply with the request, DFS must notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2), F.S.

Required Audits of Certain Educational Institutions

Present Situation

School districts, Florida College System institutions, and other institutions and agencies under the supervision of the State Board of Education (SBE) and state universities under the supervision of the Board of Governors (BOG) are subject to the audit provisions of ss. 11.45 and 218.39, F.S. If an audit contains a significant finding, the district school board, the Florida College System institution board of trustees, or the university board of trustees is required to conduct an audit overview during a public meeting.¹⁷

¹⁵ Section 11.40(2), F.S.

¹⁶ Section 218.32(2), F.S.

¹⁷ Section 1010.30(2), F.S.

Effect of the Bill

The bill provides that if an audit report includes a recommendation that was included in the preceding financial audit report but remains unaddressed, the district school board, the Florida College System institution board of trustees, or the university board of trustees must indicate during a regularly scheduled public meeting whether it intends to take corrective action, the corrective action to be taken, and when the corrective action will occur within 60 days after the delivery of the audit report. If the district school board, Florida College System institution board of trustees, or university board of trustees does not intend to take corrective action, it must explain its decision at the public meeting.

Internal Controls to Prevent and Detect Fraud, Waste, and Abuse

Present Situation

State Agencies and the Judicial Branch

Section 215.86, F.S., requires each state agency and the judicial branch as defined in s. 216.011, F.S., to establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; reliability of records and reports; and safeguarding of assets. It requires accounting systems and procedures to be designed to fulfill the requirements of generally accepted accounting principles.

Local Governmental Entities

Section 218.33, F.S., requires each local governmental entity to begin its fiscal year on October 1 and end it on September 30. Section 218.33(2), F.S., requires each local governmental entity to follow uniform accounting practices and procedures as provided by rule of DFS to assure the use of proper accounting and fiscal management by such units. Such rules must include a uniform classification of accounts.

Charter Schools

Section 1002.33, F.S., authorizes charter schools as part of Florida's state program of education. In addition to creating charter schools, that section also imposes certain requirements on charter schools. In pertinent part, the law provides that the governing body of a charter school is responsible for:

- Ensuring that the charter school has retained a certified public accountant or auditor to perform its annual audit;
- Reviewing and approving the audit report;
- Establishing a corrective plan, if necessary;
- Monitoring a financial recovery plan to ensure compliance; and
- Participating in governance training approved by the Department of Education, which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.¹⁸

School Districts, Florida College System Institutions, and State Universities

Current law requires the financial records and accounts of each school district, Florida College System institution, and other institution or agency under the supervision of the SBE to be prepared and maintained as prescribed by law and rules of the SBE. The financial records and accounts of each state university under the supervision of the BOG must be prepared and maintained as prescribed by law and rules of the BOG. Rules of the SBE and rules of the BOG must incorporate the requirements of law and accounting principles generally accepted in the United States and must include a uniform classification of accounts. Each state university must annually file with the BOG financial statements prepared in conformity with these requirements. The BOG's rules must prescribe the filing deadline for the financial statements. The required financial accounts and reports must include provisions that are unique to K-12 school districts, Florida College System institutions, and state universities.¹⁹

¹⁸ Section 1002.33(9)(j), F.S.

¹⁹ Section 1010.01, F.S.

Justice Administrative Commission

The Justice Administrative Commission (Commission) is created in s. 43.16, F.S. As one of its duties, the Commission is charged with maintaining a central state office for administrative services and assistance on behalf of state attorneys and public defenders, the capital collateral regional counsel, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program.²⁰ Additionally, the Commission records and submits certain documents prepared by a state attorney, public defender, or criminal conflict and civil regional counsel or the Guardian Ad Litem Program, including necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans.²¹

Effect of the Bill

The bill requires state agencies, the judicial branch, local governmental entities, charter schools, school districts, Florida College System institutions, state universities, the Commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program to establish and maintain internal controls designed to:

- Prevent and detect fraud, waste, and abuse;
- Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices;
- Support economical and efficient operations;
- Ensure reliability of financial records and reports; and
- Safeguard assets.

The bill also authorizes a district school board to retain an internal auditor to determine the adequacy of internal controls described above.

Online Posting of Governmental Budgets

Counties and Municipalities

Present Situation

Counties²² and municipalities²³ are required to post their tentative budgets on their websites two days prior to consideration of the budget at a public hearing. The final budget of a county or municipality must be posted on its website within 30 days after adoption. An amendment to a budget must be posted to the website within five days of adoption.²⁴ Current law does not specify how long these documents must remain available on the website.

Effect of the Bill

The bill requires a tentative budget to remain on a county's or municipality's website for at least 45 days. The bill also requires a final budget to remain on the entity's website for at least two years. Finally, the bill requires an adopted amendment to a budget to remain on the website for at least two years.

Water Management Districts

Present Situation

Chapter 373, F.S., governs Florida's water resource management and authorizes the creation of WMDs, which are given taxing authority. A WMD is defined as "any flood control, resource

²⁰ Section 43.16(5)(a), F.S.

²¹ Section 43.16(5)(b), F.S.

²² Section 129.03, F.S.

²³ Section 166.241, F.S.

²⁴ Sections 129.06(2)(f)2., 166.241(5), and 189.016(7), F.S.

management, or water management district” operating under the authority of chapter 373, F.S.²⁵ There are five WMDs in Florida: Northwest Florida, Suwanee River, St. Johns River, Southwest Florida, and South Florida.²⁶ Section 373.536, F.S., governs the budget process for WMDs and requires a WMD’s tentative budget to be posted on the WMD’s website at least two days before budget hearings are conducted. The law requires a WMD’s final adopted budget to be posted on the WMD’s official website within 30 days after adoption.

Effect of the Bill

The bill requires a WMD’s tentative budget to remain on the WMD’s website for at least 45 days and requires the final adopted budget to remain on the website for at least two years.

Other Provisions

Transparency in Government Spending

Present Situation

The Transparency Florida Act (Act), codified in s. 215.985, F.S., requires the Governor, in consultation with the appropriations committees of the House and Senate, to maintain a central website providing access to all other websites required to be linked under the Act. It also requires certain budget information, certain contract information, and minimum functionality standards to be readily available online. In pertinent part, s. 215.985(11), F.S., requires each WMD to provide a monthly financial statement to its governing board and make the statement available for public access on its website.

Effect of the Bill

The bill requires a WMD’s monthly financial statement to be in the form and manner prescribed by DFS and requires each WMD to make the monthly financial statement available to the public on its website.

Reasonable Opportunity to be Heard at Public Meetings

Present Situation

Section 286.0114, F.S., requires, with certain exceptions, that members of the public be provided a reasonable opportunity to be heard before a board or commission. The law describes a general public comment process and allows entities to prescribe how public comment is made and create certain reasonable limitations.

Effect of the Bill

The bill specifies that a board or commission may not require a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard at a meeting.

Statement of Legislative Findings

The bill specifies that a proper and legitimate state purpose is served when internal controls are established to prevent and detect fraud, waste, and abuse and to safeguard and account for government funds and property.

B. SECTION DIRECTORY:

Section 1 amends s. 11.40, F.S., relating to the Legislative Auditing Committee.

Section 2 amends s. 11.45, F.S., relating to definitions; duties; authorities; reports; and rules of the Auditor General.

²⁵ Section 373.019(23), F.S.

²⁶ Section 373.069(1), F.S.

Section 3 amends s. 43.16, F.S., relating to the Justice Administrative Commission.

Section 4 amends s. 129.03, F.S., relating to preparation and adoption of county budgets.

Section 5 amends s. 129.06, F.S., relating to execution and amendment of county budgets.

Section 6 amends s. 166.241, F.S., relating to fiscal years, budgets, and budget amendments for municipalities.

Section 7 amends s. 215.86, F.S., relating to management systems and controls for state agencies and the judicial branch.

Section 8 amends s. 215.97, F.S., relating to the Florida Single Audit Act.

Section 9 amends s. 215.985, F.S., relating to transparency in government spending.

Section 10 amends s. 218.32, F.S., relating to annual financial reports for local governmental entities.

Section 11 amends s. 218.33, F.S., relating to local governmental entities; establishment of uniform fiscal years and accounting practices and procedures.

Section 12 amends s. 218.39, F.S., relating to annual financial audit reports.

Section 13 amends s. 286.0114, F.S., relating to public meetings; reasonable opportunity to be heard; attorney fees.

Section 14 amends s. 373.536, F.S., relating to water management district budgets.

Section 15 amends s. 1001.42, F.S., relating to powers and duties of district school boards.

Section 16 amends s. 1002.33, F.S., relating to charter schools.

Section 17 amends s. 1010.01, F.S., relating to uniform records and accounts.

Section 18 amends s. 1010.30, F.S., relating to audits required.

Section 19 specifies that the act fulfills an important state interest.

Section 20 provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state government revenues.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have an impact on local government revenues.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have an indeterminate negative fiscal impact on state agencies, the court system, court-related entities, local governments, district school boards, charter schools, and state colleges and universities because it requires them to establish specified internal controls. This requirement may require additional time and expense to create the internal controls.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the State Constitution may apply because the bill requires county and municipal governments to establish and maintain specified internal controls. An exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. An exception also may apply because similarly situated persons are all required to comply and the bill specifies that it serves an important state interest.

2. Other:

Other Comments: Single-Subject Requirement

Article III, s. 6 of the State Constitution provides, in relevant part, that “[e]very law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.” In interpreting this provision, the Florida Supreme Court has stated, “[a]n act may be as broad as the Legislature chooses, provided the matters included in the act have a natural or logical connection.”²⁷

The title of the bill is “Government Accountability” and it contains many provisions related to governmental auditing and reporting requirements. Section 13 of the bill amends s. 286.0114, F.S., to prohibit a board or commission from requiring a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard at a meeting. It is unclear whether a reviewing court would conclude that this provision has a “natural or logical connection” with government accountability.

B. RULE-MAKING AUTHORITY:

The bill requires DFS to specify the form and manner for the submission of WMD monthly financial statements.

²⁷ *Chenoweth v. Kemp*, 396 So. 2d 1122 (Fla. 1981).

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to government accountability; amending
 3 s. 11.40, F.S.; specifying that the Governor, the
 4 Commissioner of Education, or the designee of the
 5 Governor or of the commissioner, may notify the
 6 Legislative Auditing Committee of an entity's failure
 7 to comply with certain auditing and financial
 8 reporting requirements; amending s. 11.45, F.S.;
 9 defining the terms "abuse," "fraud," and "waste";
 10 revising the definition of the term "local
 11 governmental entity"; removing a cross-reference;
 12 authorizing the Auditor General to conduct audits of
 13 tourist development councils and county tourism
 14 promotion agencies; revising reporting requirements
 15 applicable to the Auditor General; amending s. 43.16,
 16 F.S.; revising the responsibilities of the Justice
 17 Administrative Commission, each state attorney, each
 18 public defender, the criminal conflict and civil
 19 regional counsel, the capital collateral regional
 20 counsel, and the Guardian Ad Litem Program, to include
 21 the establishment and maintenance of certain internal
 22 controls; amending ss. 129.03, 129.06, and 166.241,
 23 F.S.; requiring counties and municipalities to
 24 maintain certain budget documents on the entities'
 25 websites for a specified period; amending s. 215.86,

26 F.S.; revising the purposes for which management
 27 systems and internal controls must be established and
 28 maintained by each state agency and the judicial
 29 branch; amending s. 215.97, F.S.; revising certain
 30 audit threshold requirements; amending s. 215.985,
 31 F.S.; revising the requirements for a monthly
 32 financial statement provided by a water management
 33 district; amending s. 218.32, F.S.; revising the
 34 requirements of the annual financial audit report of a
 35 local governmental entity; authorizing the Department
 36 of Financial Services to request additional
 37 information from a local governmental entity;
 38 requiring a local governmental entity to respond to
 39 such requests within a specified timeframe; requiring
 40 the department to notify the Legislative Auditing
 41 Committee of noncompliance; amending s. 218.33, F.S.;
 42 requiring local governmental entities to establish and
 43 maintain internal controls to achieve specified
 44 purposes; amending s. 218.39, F.S.; requiring an
 45 audited entity to respond to audit recommendations
 46 under specified circumstances; amending s. 286.0114,
 47 F.S.; prohibiting a board or commission from requiring
 48 an advance copy of testimony or comments from a member
 49 of the public as a precondition to being given the
 50 opportunity to be heard at a public meeting; amending

51 s. 373.536, F.S.; deleting obsolete language;
 52 requiring water management districts to maintain
 53 certain budget documents on the districts' websites
 54 for a specified period; amending s. 1001.42, F.S.;
 55 authorizing additional internal audits as directed by
 56 the district school board; amending s. 1002.33, F.S.;
 57 revising the responsibilities of the governing board
 58 of a charter school to include the establishment and
 59 maintenance of internal controls; removing obsolete
 60 provisions; amending s. 1010.01, F.S.; requiring each
 61 school district, Florida College System institution,
 62 and state university to establish and maintain certain
 63 internal controls; amending s. 1010.30, F.S.;
 64 requiring a district school board, Florida College
 65 System institution board of trustees, or university
 66 board of trustees to respond to audit recommendations
 67 under certain circumstances; declaring that the act
 68 fulfills an important state interest; providing an
 69 effective date.

70
 71 Be It Enacted by the Legislature of the State of Florida:

72
 73 Section 1. Subsection (2) of section 11.40, Florida
 74 Statutes, is amended to read:

75 11.40 Legislative Auditing Committee.-

76 (2) Following notification by the Auditor General, the
 77 Department of Financial Services, ~~or~~ the Division of Bond
 78 Finance of the State Board of Administration, the Governor or
 79 his or her designee, or the Commissioner of Education or his or
 80 her designee of the failure of a local governmental entity,
 81 district school board, charter school, or charter technical
 82 career center to comply with the applicable provisions within s.
 83 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the
 84 Legislative Auditing Committee may schedule a hearing to
 85 determine if the entity should be subject to further state
 86 action. If the committee determines that the entity should be
 87 subject to further state action, the committee shall:

88 (a) In the case of a local governmental entity or district
 89 school board, direct the Department of Revenue and the
 90 Department of Financial Services to withhold any funds not
 91 pledged for bond debt service satisfaction which are payable to
 92 such entity until the entity complies with the law. The
 93 committee shall specify the date that such action must ~~shall~~
 94 begin, and the directive must be received by the Department of
 95 Revenue and the Department of Financial Services 30 days before
 96 the date of the distribution mandated by law. The Department of
 97 Revenue and the Department of Financial Services may implement
 98 ~~the provisions of~~ this paragraph.

99 (b) In the case of a special district created by:

100 1. A special act, notify the President of the Senate, the

101 Speaker of the House of Representatives, the standing committees
 102 of the Senate and the House of Representatives charged with
 103 special district oversight as determined by the presiding
 104 officers of each respective chamber, the legislators who
 105 represent a portion of the geographical jurisdiction of the
 106 special district, and the Department of Economic Opportunity
 107 that the special district has failed to comply with the law.
 108 Upon receipt of notification, the Department of Economic
 109 Opportunity shall proceed pursuant to s. 189.062 or s. 189.067.
 110 If the special district remains in noncompliance after the
 111 process set forth in s. 189.0651, or if a public hearing is not
 112 held, the Legislative Auditing Committee may request the
 113 department to proceed pursuant to s. 189.067(3).

114 2. A local ordinance, notify the chair or equivalent of
 115 the local general-purpose government pursuant to s. 189.0652 and
 116 the Department of Economic Opportunity that the special district
 117 has failed to comply with the law. Upon receipt of notification,
 118 the department shall proceed pursuant to s. 189.062 or s.
 119 189.067. If the special district remains in noncompliance after
 120 the process set forth in s. 189.0652, or if a public hearing is
 121 not held, the Legislative Auditing Committee may request the
 122 department to proceed pursuant to s. 189.067(3).

123 3. Any manner other than a special act or local ordinance,
 124 notify the Department of Economic Opportunity that the special
 125 district has failed to comply with the law. Upon receipt of

126 notification, the department shall proceed pursuant to s.
 127 189.062 or s. 189.067(3).

128 (c) In the case of a charter school or charter technical
 129 career center, notify the appropriate sponsoring entity, which
 130 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

131 Section 2. Subsection (1), paragraph (u) of subsection
 132 (3), and paragraph (i) of subsection (7) of section 11.45,
 133 Florida Statutes, are amended, and paragraph (x) is added to
 134 subsection (3) of that section to read:

135 11.45 Definitions; duties; authorities; reports; rules.—

136 (1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

137 (a) "Abuse" means behavior that is deficient or improper
 138 when compared with behavior that a prudent person would consider
 139 a reasonable and necessary operational practice given the facts
 140 and circumstances. The term includes the misuse of authority or
 141 position for personal gain.

142 ~~(b)(a)~~ "Audit" means a financial audit, operational audit,
 143 or performance audit.

144 ~~(c)(b)~~ "County agency" means a board of county
 145 commissioners or other legislative and governing body of a
 146 county, however styled, including that of a consolidated or
 147 metropolitan government, a clerk of the circuit court, a
 148 separate or ex officio clerk of the county court, a sheriff, a
 149 property appraiser, a tax collector, a supervisor of elections,
 150 or any other officer in whom any portion of the fiscal duties of

151 a body or officer expressly stated in this paragraph are ~~the~~
 152 ~~above are under law~~ separately placed by law.

153 (d) ~~(e)~~ "Financial audit" means an examination of financial
 154 statements in order to express an opinion on the fairness with
 155 which they are presented in conformity with generally accepted
 156 accounting principles and an examination to determine whether
 157 operations are properly conducted in accordance with legal and
 158 regulatory requirements. Financial audits must be conducted in
 159 accordance with auditing standards generally accepted in the
 160 United States and government auditing standards as adopted by
 161 the Board of Accountancy. When applicable, the scope of
 162 financial audits must ~~shall~~ encompass the additional activities
 163 necessary to establish compliance with the Single Audit Act
 164 Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other
 165 applicable federal law.

166 (e) "Fraud" means obtaining something of value through
 167 willful misrepresentation, including, but not limited to, the
 168 intentional misstatements or omissions of amounts or disclosures
 169 in financial statements to deceive users of financial
 170 statements, theft of an entity's assets, bribery, or the use of
 171 one's position for personal enrichment through the deliberate
 172 misuse or misapplication of an organization's resources.

173 (f) ~~(d)~~ "Governmental entity" means a state agency, a
 174 county agency, or any other entity, however styled, that
 175 independently exercises any type of state or local governmental

176 function.

177 (g)~~(e)~~ "Local governmental entity" means a county agency,
 178 municipality, tourist development council, county tourism
 179 promotion agency, or special district as defined in s. 189.012.
 180 The term,~~but~~ does not include any housing authority established
 181 under chapter 421.

182 (h)~~(f)~~ "Management letter" means a statement of the
 183 auditor's comments and recommendations.

184 (i)~~(g)~~ "Operational audit" means an audit whose purpose is
 185 to evaluate management's performance in establishing and
 186 maintaining internal controls, including controls designed to
 187 prevent and detect fraud, waste, and abuse, and in administering
 188 assigned responsibilities in accordance with applicable laws,
 189 administrative rules, contracts, grant agreements, and other
 190 guidelines. Operational audits must be conducted in accordance
 191 with government auditing standards. Such audits examine internal
 192 controls that are designed and placed in operation to promote
 193 and encourage the achievement of management's control objectives
 194 in the categories of compliance, economic and efficient
 195 operations, reliability of financial records and reports, and
 196 safeguarding of assets, and identify weaknesses in those
 197 internal controls.

198 (j)~~(h)~~ "Performance audit" means an examination of a
 199 program, activity, or function of a governmental entity,
 200 conducted in accordance with applicable government auditing

201 standards or auditing and evaluation standards of other
 202 appropriate authoritative bodies. The term includes an
 203 examination of issues related to:

- 204 1. Economy, efficiency, or effectiveness of the program.
- 205 2. Structure or design of the program to accomplish its
 206 goals and objectives.
- 207 3. Adequacy of the program to meet the needs identified by
 208 the Legislature or governing body.
- 209 4. Alternative methods of providing program services or
 210 products.
- 211 5. Goals, objectives, and performance measures used by the
 212 agency to monitor and report program accomplishments.
- 213 6. The accuracy or adequacy of public documents, reports,
 214 or requests prepared under the program by state agencies.
- 215 7. Compliance of the program with appropriate policies,
 216 rules, or laws.
- 217 8. Any other issues related to governmental entities as
 218 directed by the Legislative Auditing Committee.

219 (k)~~(i)~~ "Political subdivision" means a separate agency or
 220 unit of local government created or established by law and
 221 includes, but is not limited to, the following and the officers
 222 thereof: authority, board, branch, bureau, city, commission,
 223 consolidated government, county, department, district,
 224 institution, metropolitan government, municipality, office,
 225 officer, public corporation, town, or village.

226 ~~(1)(j)~~ "State agency" means a separate agency or unit of
 227 state government created or established by law and includes, but
 228 is not limited to, the following and the officers thereof:
 229 authority, board, branch, bureau, commission, department,
 230 division, institution, office, officer, or public corporation,
 231 as the case may be, except any such agency or unit within the
 232 legislative branch of state government other than the Florida
 233 Public Service Commission.

234 (m) "Waste" means the act of using or expending resources
 235 unreasonably, carelessly, extravagantly, or for no useful
 236 purpose.

237 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
 238 Auditor General may, pursuant to his or her own authority, or at
 239 the direction of the Legislative Auditing Committee, conduct
 240 audits or other engagements as determined appropriate by the
 241 Auditor General of:

242 (u) The Florida Virtual School ~~pursuant to s. 1002.37.~~

243 (x) Tourist development councils and county tourism
 244 promotion agencies.

245 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

246 (i) The Auditor General shall annually transmit by July
 247 15, to the President of the Senate, the Speaker of the House of
 248 Representatives, and the Department of Financial Services, a
 249 list of all school districts, charter schools, charter technical
 250 career centers, Florida College System institutions, state

251 universities, and local governmental entities ~~water management~~
 252 ~~districts~~ that have failed to comply with the transparency
 253 requirements as identified in the audit reports reviewed
 254 pursuant to paragraph (b) and those conducted pursuant to
 255 subsection (2).

256 Section 3. Subsections (6) and (7) of section 43.16,
 257 Florida Statutes, are renumbered as subsections (7) and (8),
 258 respectively, and a new subsection (6) is added to that section
 259 to read:

260 43.16 Justice Administrative Commission; membership,
 261 powers and duties.—

262 (6) The commission, each state attorney, each public
 263 defender, the criminal conflict and civil regional counsel, the
 264 capital collateral regional counsel, and the Guardian Ad Litem
 265 Program shall establish and maintain internal controls designed
 266 to:

- 267 (a) Prevent and detect fraud, waste, and abuse.
- 268 (b) Promote and encourage compliance with applicable laws,
 269 rules, contracts, grant agreements, and best practices.
- 270 (c) Support economical and efficient operations.
- 271 (d) Ensure reliability of financial records and reports.
- 272 (e) Safeguard assets.

273 Section 4. Paragraph (c) of subsection (3) of section
 274 129.03, Florida Statutes, is amended to read:

275 129.03 Preparation and adoption of budget.—

276 (3) The county budget officer, after tentatively
 277 ascertaining the proposed fiscal policies of the board for the
 278 next fiscal year, shall prepare and present to the board a
 279 tentative budget for the next fiscal year for each of the funds
 280 provided in this chapter, including all estimated receipts,
 281 taxes to be levied, and balances expected to be brought forward
 282 and all estimated expenditures, reserves, and balances to be
 283 carried over at the end of the year.

284 (c) The board shall hold public hearings to adopt
 285 tentative and final budgets pursuant to s. 200.065. The hearings
 286 shall be primarily for the purpose of hearing requests and
 287 complaints from the public regarding the budgets and the
 288 proposed tax levies and for explaining the budget and any
 289 proposed or adopted amendments. The tentative budget must be
 290 posted on the county's official website at least 2 days before
 291 the public hearing to consider such budget and must remain on
 292 the website for at least 45 days. The final budget must be
 293 posted on the website within 30 days after adoption and must
 294 remain on the website for at least 2 years. The tentative
 295 budgets, adopted tentative budgets, and final budgets shall be
 296 filed in the office of the county auditor as a public record.
 297 Sufficient reference in words and figures to identify the
 298 particular transactions must ~~shall~~ be made in the minutes of the
 299 board to record its actions with reference to the budgets.

300 Section 5. Paragraph (f) of subsection (2) of section

301 129.06, Florida Statutes, is amended to read:

302 129.06 Execution and amendment of budget.—

303 (2) The board at any time within a fiscal year may amend a
 304 budget for that year, and may within the first 60 days of a
 305 fiscal year amend the budget for the prior fiscal year, as
 306 follows:

307 (f) Unless otherwise prohibited by law, if an amendment to
 308 a budget is required for a purpose not specifically authorized
 309 in paragraphs (a)-(e), the amendment may be authorized by
 310 resolution or ordinance of the board of county commissioners
 311 adopted following a public hearing.

312 1. The public hearing must be advertised at least 2 days,
 313 but not more than 5 days, before the date of the hearing. The
 314 advertisement must appear in a newspaper of paid general
 315 circulation and must identify the name of the taxing authority,
 316 the date, place, and time of the hearing, and the purpose of the
 317 hearing. The advertisement must also identify each budgetary
 318 fund to be amended, the source of the funds, the use of the
 319 funds, and the total amount of each fund's appropriations.

320 2. If the board amends the budget pursuant to this
 321 paragraph, the adopted amendment must be posted on the county's
 322 official website within 5 days after adoption and must remain on
 323 the website for at least 2 years.

324 Section 6. Subsections (3) and (5) of section 166.241,
 325 Florida Statutes, are amended to read:

326 166.241 Fiscal years, budgets, and budget amendments.—
 327 (3) The tentative budget must be posted on the
 328 municipality's official website at least 2 days before the
 329 budget hearing, held pursuant to s. 200.065 or other law, to
 330 consider such budget and must remain on the website for at least
 331 45 days. The final adopted budget must be posted on the
 332 municipality's official website within 30 days after adoption
 333 and must remain on the website for at least 2 years. If the
 334 municipality does not operate an official website, the
 335 municipality must, within a reasonable period of time as
 336 established by the county or counties in which the municipality
 337 is located, transmit the tentative budget and final budget to
 338 the manager or administrator of such county or counties who
 339 shall post the budgets on the county's website.

340 (5) If the governing body of a municipality amends the
 341 budget pursuant to paragraph (4)(c), the adopted amendment must
 342 be posted on the official website of the municipality within 5
 343 days after adoption and must remain on the website for at least
 344 2 years. If the municipality does not operate an official
 345 website, the municipality must, within a reasonable period of
 346 time as established by the county or counties in which the
 347 municipality is located, transmit the adopted amendment to the
 348 manager or administrator of such county or counties who shall
 349 post the adopted amendment on the county's website.

350 Section 7. Section 215.86, Florida Statutes, is amended to

351 read:

352 215.86 Management systems and controls.—Each state agency
 353 and the judicial branch as defined in s. 216.011 shall establish
 354 and maintain management systems and internal controls designed
 355 to:

- 356 (1) Prevent and detect fraud, waste, and abuse. ~~that~~
- 357 (2) Promote and encourage compliance with applicable laws,
 358 rules, contracts, and grant agreements.†
- 359 (3) Support economical and economic, efficient, and
 360 effective operations.†
- 361 (4) Ensure reliability of financial records and reports.†
- 362 (5) Safeguard and safeguarding of assets. Accounting
 363 systems and procedures shall be designed to fulfill the
 364 requirements of generally accepted accounting principles.

365 Section 8. Paragraph (a) of subsection (2) of section
 366 215.97, Florida Statutes, is amended to read:

367 215.97 Florida Single Audit Act.—

368 (2) As used in this section, the term:

369 (a) "Audit threshold" means the threshold amount used to
 370 determine when a state single audit or project-specific audit of
 371 a nonstate entity shall be conducted in accordance with this
 372 section. Each nonstate entity that expends a total amount of
 373 state financial assistance equal to or in excess of \$750,000 in
 374 any fiscal year of such nonstate entity shall be required to
 375 have a state single audit~~†~~ or a project-specific audit~~†~~ for such

376 fiscal year in accordance with the requirements of this section.
 377 ~~Every 2 years the Auditor General,~~ After consulting with the
 378 Executive Office of the Governor, the Department of Financial
 379 Services, and all state awarding agencies, the Auditor General
 380 shall periodically review the threshold amount for requiring
 381 audits under this section and may recommend any appropriate
 382 statutory change to revise the threshold amount in the annual
 383 report submitted pursuant to s. 11.45(7)(h) to the Legislature
 384 ~~adjust such threshold amount consistent with the purposes of~~
 385 ~~this section.~~

386 Section 9. Subsection (11) of section 215.985, Florida
 387 Statutes, is amended to read:

388 215.985 Transparency in government spending.—

389 (11) Each water management district shall provide a
 390 monthly financial statement in the form and manner prescribed by
 391 the Department of Financial Services to the district's its
 392 governing board and make such monthly financial statement
 393 available for public access on its website.

394 Section 10. Paragraph (d) of subsection (1) and subsection
 395 (2) of section 218.32, Florida Statutes, are amended to read:

396 218.32 Annual financial reports; local governmental
 397 entities.—

398 (1)

399 (d) Each local governmental entity that is required to
 400 provide for an audit under s. 218.39(1) must submit a copy of

401 the audit report and annual financial report to the department
402 within 45 days after the completion of the audit report but no
403 later than 9 months after the end of the fiscal year. In
404 conducting an audit of a local governmental entity pursuant to
405 s. 218.39, an independent certified public accountant shall
406 determine whether the entity's annual financial report is in
407 agreement with the audited financial statements. The
408 accountant's audit report must be supported by the same level of
409 detail as required for the annual financial report. If the
410 accountant's audit report is not in agreement with the annual
411 financial report, the accountant shall specify and explain the
412 significant differences that exist between the annual financial
413 report and the audit report.

414 (2) The department shall annually by December 1 file a
415 verified report with the Governor, the Legislature, the Auditor
416 General, and the Special District Accountability Program of the
417 Department of Economic Opportunity showing the revenues, both
418 locally derived and derived from intergovernmental transfers,
419 and the expenditures of each local governmental entity, regional
420 planning council, local government finance commission, and
421 municipal power corporation that is required to submit an annual
422 financial report. In preparing the verified report, the
423 department may request additional information from the local
424 governmental entity. The information requested must be provided
425 to the department within 45 days after the request. If the local

426 governmental entity does not comply with the request, the
 427 department shall notify the Legislative Auditing Committee,
 428 which may take action pursuant to s. 11.40(2). The report must
 429 include, but is not limited to:

430 (a) The total revenues and expenditures of each local
 431 governmental entity that is a component unit included in the
 432 annual financial report of the reporting entity.

433 (b) The amount of outstanding long-term debt by each local
 434 governmental entity. For purposes of this paragraph, the term
 435 "long-term debt" means any agreement or series of agreements to
 436 pay money, which, at inception, contemplate terms of payment
 437 exceeding 1 year in duration.

438 Section 11. Subsection (3) of section 218.33, Florida
 439 Statutes, is renumbered as subsection (4), and a new subsection
 440 (3) is added to that section to read:

441 218.33 Local governmental entities; establishment of
 442 uniform fiscal years and accounting practices and procedures.—

443 (3) Each local governmental entity shall establish and
 444 maintain internal controls designed to:

445 (a) Prevent and detect fraud, waste, and abuse.

446 (b) Promote and encourage compliance with applicable laws,
 447 rules, contracts, grant agreements, and best practices.

448 (c) Support economical and efficient operations.

449 (d) Ensure reliability of financial records and reports.

450 (e) Safeguard assets.

451 Section 12. Subsections (8) through (12) of section
 452 218.39, Florida Statutes, are renumbered as subsections (9)
 453 through (13), respectively, and a new subsection (8) is added to
 454 that section to read:

455 218.39 Annual financial audit reports.—

456 (8) If the audit report includes a recommendation that was
 457 included in the preceding financial audit report but remains
 458 unaddressed, the governing body of the audited entity, within 60
 459 days after the delivery of the audit report to the governing
 460 body, shall indicate during a regularly scheduled public meeting
 461 whether it intends to take corrective action, the intended
 462 corrective action, and the timeframe for the corrective action.
 463 If the governing body indicates that it does not intend to take
 464 corrective action, it must explain its decision at the public
 465 meeting.

466 Section 13. Subsection (2) of section 286.0114, Florida
 467 Statutes, is amended to read:

468 286.0114 Public meetings; reasonable opportunity to be
 469 heard; attorney fees.—

470 (2) Members of the public shall be given a reasonable
 471 opportunity to be heard on a proposition before a board or
 472 commission. The opportunity to be heard need not occur at the
 473 same meeting at which the board or commission takes official
 474 action on the proposition if the opportunity occurs at a meeting
 475 that is during the decisionmaking process and is within

476 reasonable proximity in time before the meeting at which the
 477 board or commission takes the official action. A board or
 478 commission may not require a member of the public to provide an
 479 advance written copy of his or her testimony or comments as a
 480 condition of being given the opportunity to be heard at a
 481 meeting. This section does not prohibit a board or commission
 482 from maintaining orderly conduct or proper decorum in a public
 483 meeting. The opportunity to be heard is subject to rules or
 484 policies adopted by the board or commission, as provided in
 485 subsection (4).

486 Section 14. Paragraph (e) of subsection (4), paragraph (d)
 487 of subsection (5), and paragraph (d) of subsection (6) of
 488 section 373.536, Florida Statutes, are amended to read:

489 373.536 District budget and hearing thereon.—

490 (4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

491 (e) ~~By September 1, 2012,~~ Each district shall provide a
 492 monthly financial statement in the form and manner prescribed by
 493 the Department of Financial Services to the district's governing
 494 board and make such monthly financial statement available for
 495 public access on its website.

496 (5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND
 497 APPROVAL.—

498 (d) Each district shall, by August 1 of each year, submit
 499 for review a tentative budget and a description of any
 500 significant changes from the preliminary budget submitted to the

501 Legislature pursuant to s. 373.535 to the Governor, the
 502 President of the Senate, the Speaker of the House of
 503 Representatives, the chairs of all legislative committees and
 504 subcommittees having substantive or fiscal jurisdiction over
 505 water management districts, as determined by the President of
 506 the Senate or the Speaker of the House of Representatives, as
 507 applicable, the secretary of the department, and the governing
 508 body of each county in which the district has jurisdiction or
 509 derives any funds for the operations of the district. The
 510 tentative budget must be posted on the district's official
 511 website at least 2 days before budget hearings held pursuant to
 512 s. 200.065 or other law and must remain on the website for at
 513 least 45 days.

514 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
 515 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

516 (d) The final adopted budget must be posted on the water
 517 management district's official website within 30 days after
 518 adoption and must remain on the website for at least 2 years.

519 Section 15. Paragraph (1) of subsection (12) of section
 520 1001.42, Florida Statutes, is amended to read:

521 1001.42 Powers and duties of district school board.—The
 522 district school board, acting as a board, shall exercise all
 523 powers and perform all duties listed below:

524 (12) FINANCE.—Take steps to assure students adequate
 525 educational facilities through the financial procedure

526 authorized in chapters 1010 and 1011 and as prescribed below:

527 (1) *Internal auditor.*—May employ an internal auditor to
 528 perform ongoing financial verification of the financial records
 529 of the school district and such other audits and reviews as the
 530 district school board directs for the purpose of determining:

531 1. The adequacy of internal controls designed to prevent
 532 and detect fraud, waste, and abuse.

533 2. Compliance with applicable laws, rules, contracts,
 534 grant agreements, district school board-approved policies, and
 535 best practices.

536 3. The efficiency of operations.

537 4. The reliability of financial records and reports.

538 5. The safeguarding of assets.

539
 540 The internal auditor shall report directly to the district
 541 school board or its designee.

542 Section 16. Paragraph (j) of subsection (9) of section
 543 1002.33, Florida Statutes, is amended to read:

544 1002.33 Charter schools.—

545 (9) CHARTER SCHOOL REQUIREMENTS.—

546 (j) The governing body of the charter school shall be
 547 responsible for:

548 1. Establishing and maintaining internal controls designed
 549 to:

550 a. Prevent and detect fraud, waste, and abuse.

551 b. Promote and encourage compliance with applicable laws,
 552 rules, contracts, grant agreements, and best practices.

553 c. Support economical and efficient operations.

554 d. Ensure reliability of financial records and reports.

555 e. Safeguard assets.

556 ~~2.4.~~ Ensuring that the charter school has retained the
 557 services of a certified public accountant or auditor for the
 558 annual financial audit, pursuant to s. 1002.345(2), who shall
 559 submit the report to the governing body.

560 ~~3.2.~~ Reviewing and approving the audit report, including
 561 audit findings and recommendations for the financial recovery
 562 plan.

563 ~~4.a.3.a.~~ Performing the duties in s. 1002.345, including
 564 monitoring a corrective action plan.

565 b. Monitoring a financial recovery plan in order to ensure
 566 compliance.

567 ~~5.4.~~ Participating in governance training approved by the
 568 department which must include government in the sunshine,
 569 conflicts of interest, ethics, and financial responsibility.

570 Section 17. Subsection (5) is added to section 1010.01,
 571 Florida Statutes, to read:

572 1010.01 Uniform records and accounts.—

573 (5) Each school district, Florida College System
 574 institution, and state university shall establish and maintain
 575 internal controls designed to:

- 576 (a) Prevent and detect fraud, waste, and abuse.
- 577 (b) Promote and encourage compliance with applicable laws,
- 578 rules, contracts, grant agreements, and best practices.
- 579 (c) Support economical and efficient operations.
- 580 (d) Ensure reliability of financial records and reports.
- 581 (e) Safeguard assets.

582 Section 18. Subsection (2) of section 1010.30, Florida
 583 Statutes, is amended to read:

584 1010.30 Audits required.—

585 (2) If a school district, Florida College System
 586 institution, or university audit report includes a
 587 recommendation that was included in the preceding financial
 588 audit report but remains unaddressed ~~an audit contains a~~
 589 ~~significant finding~~, the district school board, the Florida
 590 College System institution board of trustees, or the university
 591 board of trustees, within 60 days after the delivery of the
 592 audit report to the school district, Florida College System
 593 institution, or university, shall indicate ~~conduct an audit~~
 594 ~~overview~~ during a regularly scheduled public meeting whether it
 595 intends to take corrective action, the intended corrective
 596 action, and the timeframe for the corrective action. If the
 597 district school board, Florida College System institution board
 598 of trustees, or university board of trustees indicates that it
 599 does not intend to take corrective action, it shall explain its
 600 decision at the public meeting.

601 Section 19. The Legislature finds that a proper and
602 legitimate state purpose is served when internal controls are
603 established to prevent and detect fraud, waste, and abuse and to
604 safeguard and account for government funds and property.
605 Therefore, the Legislature determines and declares that this act
606 fulfills an important state interest.

607 Section 20. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Oversight, Transparency &
 2 Administration Subcommittee
 3 Representative Metz offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Subsection (2) of section 11.40, Florida
 8 Statutes, is amended to read:

9 11.40 Legislative Auditing Committee.—

10 (2) Following notification by the Auditor General, the
 11 Department of Financial Services, or the Division of Bond
 12 Finance of the State Board of Administration, the Governor or
 13 his or her designee, or the Commissioner of Education or his or
 14 her designee of the failure of a local governmental entity,
 15 district school board, charter school, or charter technical
 16 career center to comply with the applicable provisions within s.



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17 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the
18 Legislative Auditing Committee may schedule a hearing to
19 determine if the entity should be subject to further state
20 action. If the committee determines that the entity should be
21 subject to further state action, the committee shall:

22 (a) In the case of a local governmental entity or district
23 school board, direct the Department of Revenue and the
24 Department of Financial Services to withhold any funds not
25 pledged for bond debt service satisfaction which are payable to
26 such entity until the entity complies with the law. The
27 committee shall specify the date that such action must ~~shall~~
28 begin, and the directive must be received by the Department of
29 Revenue and the Department of Financial Services 30 days before
30 the date of the distribution mandated by law. The Department of
31 Revenue and the Department of Financial Services may implement
32 ~~the provisions of~~ this paragraph.

33 (b) In the case of a special district created by:

34 1. A special act, notify the President of the Senate, the
35 Speaker of the House of Representatives, the standing committees
36 of the Senate and the House of Representatives charged with
37 special district oversight as determined by the presiding
38 officers of each respective chamber, the legislators who
39 represent a portion of the geographical jurisdiction of the
40 special district, and the Department of Economic Opportunity
41 that the special district has failed to comply with the law.

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42 Upon receipt of notification, the Department of Economic
43 Opportunity shall proceed pursuant to s. 189.062 or s. 189.067.
44 If the special district remains in noncompliance after the
45 process set forth in s. 189.0651, or if a public hearing is not
46 held, the Legislative Auditing Committee may request the
47 department to proceed pursuant to s. 189.067(3).

48 2. A local ordinance, notify the chair or equivalent of
49 the local general-purpose government pursuant to s. 189.0652 and
50 the Department of Economic Opportunity that the special district
51 has failed to comply with the law. Upon receipt of notification,
52 the department shall proceed pursuant to s. 189.062 or s.
53 189.067. If the special district remains in noncompliance after
54 the process set forth in s. 189.0652, or if a public hearing is
55 not held, the Legislative Auditing Committee may request the
56 department to proceed pursuant to s. 189.067(3).

57 3. Any manner other than a special act or local ordinance,
58 notify the Department of Economic Opportunity that the special
59 district has failed to comply with the law. Upon receipt of
60 notification, the department shall proceed pursuant to s.
61 189.062 or s. 189.067(3).

62 (c) In the case of a charter school or charter technical
63 career center, notify the appropriate sponsoring entity, which
64 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

65 Section 2. Subsection (1), paragraph (j) of subsection
66 (2), paragraph (u) of subsection (3), and paragraph (i) of

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67 subsection (7) of section 11.45, Florida Statutes, are amended,
68 and paragraph (x) is added to subsection (3) of that section to
69 read:

70 11.45 Definitions; duties; authorities; reports; rules.—

71 (1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

72 (a) "Abuse" means behavior that is deficient or improper
73 when compared with behavior that a prudent person would consider
74 a reasonable and necessary operational practice given the facts
75 and circumstances. The term includes the misuse of authority or
76 position for personal gain.

77 ~~(b)-(a)~~ "Audit" means a financial audit, operational audit,
78 or performance audit.

79 ~~(c)-(b)~~ "County agency" means a board of county
80 commissioners or other legislative and governing body of a
81 county, however styled, including that of a consolidated or
82 metropolitan government, a clerk of the circuit court, a
83 separate or ex officio clerk of the county court, a sheriff, a
84 property appraiser, a tax collector, a supervisor of elections,
85 or any other officer in whom any portion of the fiscal duties of
86 a body or officer expressly stated in this paragraph are the
87 above are under law separately placed by law.

88 ~~(d)-(e)~~ "Financial audit" means an examination of financial
89 statements in order to express an opinion on the fairness with
90 which they are presented in conformity with generally accepted
91 accounting principles and an examination to determine whether

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92 operations are properly conducted in accordance with legal and
93 regulatory requirements. Financial audits must be conducted in
94 accordance with auditing standards generally accepted in the
95 United States and government auditing standards as adopted by
96 the Board of Accountancy. When applicable, the scope of
97 financial audits must ~~shall~~ encompass the additional activities
98 necessary to establish compliance with the Single Audit Act
99 Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other
100 applicable federal law.

101 (e) "Fraud" means obtaining something of value through
102 willful misrepresentation, including, but not limited to, the
103 intentional misstatements or omissions of amounts or disclosures
104 in financial statements to deceive users of financial
105 statements, theft of an entity's assets, bribery, or the use of
106 one's position for personal enrichment through the deliberate
107 misuse or misapplication of an organization's resources.

108 (f)-(d) "Governmental entity" means a state agency, a
109 county agency, or any other entity, however styled, that
110 independently exercises any type of state or local governmental
111 function.

112 (g)-(e) "Local governmental entity" means a county agency,
113 municipality, tourist development council, county tourism
114 promotion agency, or special district as defined in s. 189.012.
115 The term, ~~but~~ does not include any housing authority established
116 under chapter 421.

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117 (h) ~~(f)~~ "Management letter" means a statement of the
118 auditor's comments and recommendations.

119 (i) ~~(g)~~ "Operational audit" means an audit whose purpose is
120 to evaluate management's performance in establishing and
121 maintaining internal controls, including controls designed to
122 prevent and detect fraud, waste, and abuse, and in administering
123 assigned responsibilities in accordance with applicable laws,
124 administrative rules, contracts, grant agreements, and other
125 guidelines. Operational audits must be conducted in accordance
126 with government auditing standards. Such audits examine internal
127 controls that are designed and placed in operation to promote
128 and encourage the achievement of management's control objectives
129 in the categories of compliance, economic and efficient
130 operations, reliability of financial records and reports, and
131 safeguarding of assets, and identify weaknesses in those
132 internal controls.

133 (j) ~~(h)~~ "Performance audit" means an examination of a
134 program, activity, or function of a governmental entity,
135 conducted in accordance with applicable government auditing
136 standards or auditing and evaluation standards of other
137 appropriate authoritative bodies. The term includes an
138 examination of issues related to:

- 139 1. Economy, efficiency, or effectiveness of the program.
140 2. Structure or design of the program to accomplish its
141 goals and objectives.

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142 3. Adequacy of the program to meet the needs identified by
143 the Legislature or governing body.

144 4. Alternative methods of providing program services or
145 products.

146 5. Goals, objectives, and performance measures used by the
147 agency to monitor and report program accomplishments.

148 6. The accuracy or adequacy of public documents, reports,
149 or requests prepared under the program by state agencies.

150 7. Compliance of the program with appropriate policies,
151 rules, or laws.

152 8. Any other issues related to governmental entities as
153 directed by the Legislative Auditing Committee.

154 (k)~~(i)~~ "Political subdivision" means a separate agency or
155 unit of local government created or established by law and
156 includes, but is not limited to, the following and the officers
157 thereof: authority, board, branch, bureau, city, commission,
158 consolidated government, county, department, district,
159 institution, metropolitan government, municipality, office,
160 officer, public corporation, town, or village.

161 (l)~~(j)~~ "State agency" means a separate agency or unit of
162 state government created or established by law and includes, but
163 is not limited to, the following and the officers thereof:
164 authority, board, branch, bureau, commission, department,
165 division, institution, office, officer, or public corporation,
166 as the case may be, except any such agency or unit within the



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167 legislative branch of state government other than the Florida
168 Public Service Commission.

169 (m) "Waste" means the act of using or expending resources
170 unreasonably, carelessly, extravagantly, or for no useful
171 purpose.

172 (2) DUTIES.—The Auditor General shall:

173 (j) Conduct audits of local governmental entities when
174 determined to be necessary by the Auditor General, when directed
175 by the Legislative Auditing Committee, or when otherwise
176 required by law. No later than 18 months after the release of
177 the audit report, the Auditor General shall perform such
178 appropriate followup procedures as he or she deems necessary to
179 determine the audited entity's progress in addressing the
180 findings and recommendations contained within the Auditor
181 General's previous report. The Auditor General shall notify each
182 member of the audited entity's governing body and the
183 Legislative Auditing Committee of the results of his or her
184 determination. For purposes of this paragraph, local
185 governmental entities do not include water management districts.

186
187 The Auditor General shall perform his or her duties
188 independently but under the general policies established by the
189 Legislative Auditing Committee. This subsection does not limit
190 the Auditor General's discretionary authority to conduct other
191 audits or engagements of governmental entities as authorized in

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192 subsection (3).

193 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
194 Auditor General may, pursuant to his or her own authority, or at
195 the direction of the Legislative Auditing Committee, conduct
196 audits or other engagements as determined appropriate by the
197 Auditor General of:

198 (u) The Florida Virtual School ~~pursuant to s. 1002.37.~~

199 (x) Tourist development councils and county tourism
200 promotion agencies.

201 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

202 (i) The Auditor General shall annually transmit by July
203 15, to the President of the Senate, the Speaker of the House of
204 Representatives, and the Department of Financial Services, a
205 list of all school districts, charter schools, charter technical
206 career centers, Florida College System institutions, state
207 universities, and local governmental entities ~~water management~~
208 ~~districts~~ that have failed to comply with the transparency
209 requirements as identified in the audit reports reviewed
210 pursuant to paragraph (b) and those conducted pursuant to
211 subsection (2).

212 Section 3. Paragraph (d) of subsection (2) of section
213 28.35, Florida Statutes, is amended to read:

214 28.35 Florida Clerks of Court Operations Corporation.—

215 (2) The duties of the corporation shall include the
216 following:

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217 (d) Developing and certifying a uniform system of workload
218 measures and applicable workload standards for court-related
219 functions as developed by the corporation and clerk workload
220 performance in meeting the workload performance standards. These
221 workload measures and workload performance standards shall be
222 designed to facilitate an objective determination of the
223 performance of each clerk in accordance with minimum standards
224 for fiscal management, operational efficiency, and effective
225 collection of fines, fees, service charges, and court costs. The
226 corporation shall develop the workload measures and workload
227 performance standards in consultation with the Legislature. When
228 the corporation finds a clerk has not met the workload
229 performance standards, the corporation shall identify the nature
230 of each deficiency and any corrective action recommended and
231 taken by the affected clerk of the court. For quarterly periods
232 ending on the last day of March, June, September, and December
233 of each year, the corporation shall notify the Legislature of
234 any clerk not meeting workload performance standards and provide
235 a copy of any corrective action plans. Such notifications shall
236 be submitted no later than 45 days after the end of the
237 preceding quarterly period. As used in this subsection, the
238 term:

239 1. "Workload measures" means the measurement of the
240 activities and frequency of the work required for the clerk to
241 adequately perform the court-related duties of the office as

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242 defined by the membership of the Florida Clerks of Court
243 Operations Corporation.

244 2. "Workload performance standards" means the standards
245 developed to measure the timeliness and effectiveness of the
246 activities that are accomplished by the clerk in the performance
247 of the court-related duties of the office as defined by the
248 membership of the Florida Clerks of Court Operations
249 Corporation.

250 Section 4. Subsections (6) and (7) of section 43.16,
251 Florida Statutes, are renumbered as subsections (7) and (8),
252 respectively, and a new subsection (6) is added to that section
253 to read:

254 43.16 Justice Administrative Commission; membership,
255 powers and duties.—

256 (6) The commission, each state attorney, each public
257 defender, the criminal conflict and civil regional counsel, the
258 capital collateral regional counsel, and the Guardian Ad Litem
259 Program shall establish and maintain internal controls designed
260 to:

261 (a) Prevent and detect fraud, waste, and abuse as defined
262 by s. 11.45(1).

263 (b) Promote and encourage compliance with applicable laws,
264 rules, contracts, grant agreements, and best practices.

265 (c) Support economical and efficient operations.

266 (d) Ensure reliability of financial records and reports.

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267 (e) Safeguard assets.

268 Section 5. Subsection (6) of section 112.061, Florida
269 Statutes, is amended to read:

270 112.061 Per diem and travel expenses of public officers,
271 employees, and authorized persons.—

272 (6) RATES OF PER DIEM AND SUBSISTENCE ALLOWANCE.—For
273 purposes of reimbursement rates and methods of calculation, per
274 diem and subsistence allowances are provided as follows:

275 (a) All travelers shall be allowed for subsistence when
276 traveling to a convention or conference or when traveling within
277 or outside the state in order to conduct bona fide state
278 business, which convention, conference, or business serves a
279 direct and lawful public purpose with relation to the public
280 agency served by the person attending such meeting or conducting
281 such business, either of the following for each day of such
282 travel at the option of the traveler:

283 1. Eighty dollars per diem; or

284 2. If actual expenses exceed \$80, the amounts permitted in
285 paragraph (b) for subsistence, plus actual expenses for lodging
286 at a single-occupancy rate, except as provided in paragraph (c),
287 to be substantiated by paid bills therefor.

288
289 When lodging or meals are provided at a state institution, the
290 traveler shall be reimbursed only for the actual expenses of
291 such lodging or meals, not to exceed the maximum provided for in

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292 this subsection.

293 (b) All travelers shall be allowed the following amounts
294 for subsistence while on Class C travel on official business as
295 provided in paragraph (5) (b):

- 296 1. Breakfast \$6
- 297 2. Lunch \$11
- 298 3. Dinner \$19

299 (c) Actual expenses for lodging associated with the
300 attendance of an employee of a state agency or the judicial
301 branch at a meeting, conference, or convention organized or
302 sponsored in whole or in part by a state agency or the judicial
303 branch may not exceed \$150 per day. However, an employee may
304 expend his or her own funds for any lodging expenses that exceed
305 \$150 per day.

306 (d) ~~(e)~~ No one, whether traveling out of state or in state,
307 shall be reimbursed for any meal or lodging included in a
308 convention or conference registration fee paid by the state.

309 Section 6. Paragraph (c) of subsection (3) of section
310 129.03, Florida Statutes, is amended to read:

311 129.03 Preparation and adoption of budget.—

312 (3) The county budget officer, after tentatively
313 ascertaining the proposed fiscal policies of the board for the
314 next fiscal year, shall prepare and present to the board a
315 tentative budget for the next fiscal year for each of the funds
316 provided in this chapter, including all estimated receipts,



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317 taxes to be levied, and balances expected to be brought forward
318 and all estimated expenditures, reserves, and balances to be
319 carried over at the end of the year.

320 (c) The board shall hold public hearings to adopt
321 tentative and final budgets pursuant to s. 200.065. The hearings
322 shall be primarily for the purpose of hearing requests and
323 complaints from the public regarding the budgets and the
324 proposed tax levies and for explaining the budget and any
325 proposed or adopted amendments. The tentative budget must be
326 posted on the county's official website at least 2 days before
327 the public hearing to consider such budget and must remain on
328 the website for at least 45 days. The final budget must be
329 posted on the website within 30 days after adoption and must
330 remain on the website for at least 2 years. The tentative
331 budgets, adopted tentative budgets, and final budgets shall be
332 filed in the office of the county auditor as a public record.
333 Sufficient reference in words and figures to identify the
334 particular transactions must ~~shall~~ be made in the minutes of the
335 board to record its actions with reference to the budgets.

336 Section 7. Paragraph (f) of subsection (2) of section
337 129.06, Florida Statutes, is amended to read:

338 129.06 Execution and amendment of budget.—

339 (2) The board at any time within a fiscal year may amend a
340 budget for that year, and may within the first 60 days of a
341 fiscal year amend the budget for the prior fiscal year, as

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342 follows:

343 (f) Unless otherwise prohibited by law, if an amendment to
344 a budget is required for a purpose not specifically authorized
345 in paragraphs (a)-(e), the amendment may be authorized by
346 resolution or ordinance of the board of county commissioners
347 adopted following a public hearing.

348 1. The public hearing must be advertised at least 2 days,
349 but not more than 5 days, before the date of the hearing. The
350 advertisement must appear in a newspaper of paid general
351 circulation and must identify the name of the taxing authority,
352 the date, place, and time of the hearing, and the purpose of the
353 hearing. The advertisement must also identify each budgetary
354 fund to be amended, the source of the funds, the use of the
355 funds, and the total amount of each fund's appropriations.

356 2. If the board amends the budget pursuant to this
357 paragraph, the adopted amendment must be posted on the county's
358 official website within 5 days after adoption and must remain on
359 the website for at least 2 years.

360 Section 8. Subsections (3) and (5) of section 166.241,
361 Florida Statutes, are amended to read:

362 166.241 Fiscal years, budgets, and budget amendments.—

363 (3) The tentative budget must be posted on the
364 municipality's official website at least 2 days before the
365 budget hearing, held pursuant to s. 200.065 or other law, to
366 consider such budget and must remain on the website for at least

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367 45 days. The final adopted budget must be posted on the
368 municipality's official website within 30 days after adoption
369 and must remain on the website for at least 2 years. If the
370 municipality does not operate an official website, the
371 municipality must, within a reasonable period of time as
372 established by the county or counties in which the municipality
373 is located, transmit the tentative budget and final budget to
374 the manager or administrator of such county or counties who
375 shall post the budgets on the county's website.

376 (5) If the governing body of a municipality amends the
377 budget pursuant to paragraph (4) (c), the adopted amendment must
378 be posted on the official website of the municipality within 5
379 days after adoption and must remain on the website for at least
380 2 years. If the municipality does not operate an official
381 website, the municipality must, within a reasonable period of
382 time as established by the county or counties in which the
383 municipality is located, transmit the adopted amendment to the
384 manager or administrator of such county or counties who shall
385 post the adopted amendment on the county's website.

386 Section 9. Section 215.86, Florida Statutes, is amended to
387 read:

388 215.86 Management systems and controls.—Each state agency
389 and the judicial branch as defined in s. 216.011 shall establish
390 and maintain management systems and internal controls designed
391 to:

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392 (1) Prevent and detect fraud, waste, and abuse as defined
393 by s. 11.45(1). ~~that~~

394 (2) Promote and encourage compliance with applicable laws,
395 rules, contracts, and grant agreements.

396 (3) Support economical and economic, efficient, ~~and~~
397 effective operations.

398 (4) Ensure reliability of financial records and reports.

399 (5) Safeguard ~~and safeguarding of assets. Accounting~~
400 ~~systems and procedures shall be designed to fulfill the~~
401 ~~requirements of generally accepted accounting principles.~~

402 Section 10. Paragraph (a) of subsection (2) of section
403 215.97, Florida Statutes, is amended to read:

404 215.97 Florida Single Audit Act.—

405 (2) As used in this section, the term:

406 (a) "Audit threshold" means the threshold amount used to
407 determine when a state single audit or project-specific audit of
408 a nonstate entity shall be conducted in accordance with this
409 section. Each nonstate entity that expends a total amount of
410 state financial assistance equal to or in excess of \$750,000 in
411 any fiscal year of such nonstate entity shall be required to
412 have a state single audit, or a project-specific audit, for such
413 fiscal year in accordance with the requirements of this section.
414 ~~Every 2 years the Auditor General,~~ After consulting with the
415 Executive Office of the Governor, the Department of Financial
416 Services, and all state awarding agencies, the Auditor General

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417 shall periodically review the threshold amount for requiring
418 audits under this section and may recommend any appropriate
419 statutory change to revise the threshold amount in the annual
420 report submitted pursuant to s. 11.45(7)(h) to the Legislature
421 ~~adjust such threshold amount consistent with the purposes of~~
422 ~~this section.~~

423 Section 11. Subsection (11) of section 215.985, Florida
424 Statutes, is amended to read:

425 215.985 Transparency in government spending.--

426 (11) Each water management district shall provide a
427 monthly financial statement in the form and manner prescribed by
428 the Department of Financial Services to the district's its
429 governing board and make such monthly financial statement
430 available for public access on its website.

431 Section 12. Paragraph (d) of subsection (1) and subsection
432 (2) of section 218.32, Florida Statutes, are amended to read:

433 218.32 Annual financial reports; local governmental
434 entities.--

435 (1)

436 (d) Each local governmental entity that is required to
437 provide for an audit under s. 218.39(1) must submit a copy of
438 the audit report and annual financial report to the department
439 within 45 days after the completion of the audit report but no
440 later than 9 months after the end of the fiscal year. In
441 conducting an audit of a local governmental entity pursuant to

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442 s. 218.39, an independent certified public accountant shall
443 determine whether the entity's annual financial report is in
444 agreement with the audited financial statements. If the audited
445 financial statements are not in agreement with the annual
446 financial report, the accountant shall specify and explain the
447 significant differences that exist between the audited financial
448 statements and the annual financial report.

449 (2) The department shall annually by December 1 file a
450 verified report with the Governor, the Legislature, the Auditor
451 General, and the Special District Accountability Program of the
452 Department of Economic Opportunity showing the revenues, both
453 locally derived and derived from intergovernmental transfers,
454 and the expenditures of each local governmental entity, regional
455 planning council, local government finance commission, and
456 municipal power corporation that is required to submit an annual
457 financial report. In preparing the verified report, the
458 department may request additional information from the local
459 governmental entity. The information requested must be provided
460 to the department within 45 days after the request. If the local
461 governmental entity does not comply with the request, the
462 department shall notify the Legislative Auditing Committee,
463 which may take action pursuant to s. 11.40(2). The report must
464 include, but is not limited to:

465 (a) The total revenues and expenditures of each local
466 governmental entity that is a component unit included in the



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467 annual financial report of the reporting entity.

468 (b) The amount of outstanding long-term debt by each local
469 governmental entity. For purposes of this paragraph, the term
470 "long-term debt" means any agreement or series of agreements to
471 pay money, which, at inception, contemplate terms of payment
472 exceeding 1 year in duration.

473 Section 13. Subsection (3) of section 218.33, Florida
474 Statutes, is renumbered as subsection (4), and a new subsection
475 (3) is added to that section to read:

476 218.33 Local governmental entities; establishment of
477 uniform fiscal years and accounting practices and procedures.—

478 (3) Each local governmental entity shall establish and
479 maintain internal controls designed to:

480 (a) Prevent and detect fraud, waste, and abuse as defined
481 by s. 11.45(1).

482 (b) Promote and encourage compliance with applicable laws,
483 rules, contracts, grant agreements, and best practices.

484 (c) Support economical and efficient operations.

485 (d) Ensure reliability of financial records and reports.

486 (e) Safeguard assets.

487 Section 14. Subsections (8) through (12) of section
488 218.39, Florida Statutes, are renumbered as subsections (9)
489 through (13), respectively, and a new subsection (8) is added to
490 that section to read:

491 218.39 Annual financial audit reports.—

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492 (8) If the audit report includes a recommendation that was
493 included in the preceding financial audit report but remains
494 unaddressed, the governing body of the audited entity, within 60
495 days after the delivery of the audit report to the governing
496 body, shall indicate during a regularly scheduled public meeting
497 whether it intends to take corrective action, the intended
498 corrective action, and the timeframe for the corrective action.
499 If the governing body indicates that it does not intend to take
500 corrective action, it must explain its decision at the public
501 meeting.

502 Section 15. Subsection (2) of section 218.391, Florida
503 Statutes, is amended to read:

504 218.391 Auditor selection procedures.—

505 (2) The governing body of a ~~charter~~ county, municipality,
506 special district, district school board, charter school, or
507 charter technical career center shall establish an audit
508 committee.

509 (a) The audit committee for a county ~~Each noncharter~~
510 ~~county shall establish an audit committee that,~~ at a minimum,
511 shall consist of each of the county officers elected pursuant to
512 the county charter or s. 1(d), Art. VIII of the State
513 Constitution, or their respective designees ~~a designee,~~ and one
514 member of the board of county commissioners or its designee.

515 (b) The audit committee for a municipality, special
516 district, district school board, charter school, or charter

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517 technical career center shall consist of at least three members.
518 One member of the audit committee must be a member of the
519 governing body of an entity specified in this paragraph, who
520 shall also serve as the chair of the committee.

521 (c) An employee, chief executive officer, or chief
522 financial officer of the county, municipality, special district,
523 district school board, charter school, or charter technical
524 career center may not serve as a member of an audit committee
525 established under this subsection.

526 (d) The primary purpose of the audit committee is to
527 assist the governing body in selecting an auditor to conduct the
528 annual financial audit required in s. 218.39; however, the audit
529 committee may serve other audit oversight purposes as determined
530 by the entity's governing body. The public ~~may~~ shall not be
531 excluded from the proceedings under this section.

532 Section 16. Subsection (2) of section 286.0114, Florida
533 Statutes, is amended to read:

534 286.0114 Public meetings; reasonable opportunity to be
535 heard; attorney fees.—

536 (2) Members of the public shall be given a reasonable
537 opportunity to be heard on a proposition before a board or
538 commission. The opportunity to be heard need not occur at the
539 same meeting at which the board or commission takes official
540 action on the proposition if the opportunity occurs at a meeting
541 that is during the decisionmaking process and is within

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542 reasonable proximity in time before the meeting at which the
543 board or commission takes the official action. A board or
544 commission may not require a member of the public to provide an
545 advance written copy of his or her testimony or comments as a
546 condition of being given the opportunity to be heard at a
547 meeting. This section does not prohibit a board or commission
548 from maintaining orderly conduct or proper decorum in a public
549 meeting. The opportunity to be heard is subject to rules or
550 policies adopted by the board or commission, as provided in
551 subsection (4).

552 Section 17. Paragraph (e) of subsection (4), paragraph (d)
553 of subsection (5), and paragraph (d) of subsection (6) of
554 section 373.536, Florida Statutes, are amended to read:

555 373.536 District budget and hearing thereon.—

556 (4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

557 (e) ~~By September 1, 2012,~~ Each district shall provide a
558 monthly financial statement in the form and manner prescribed by
559 the Department of Financial Services to the district's governing
560 board and make such monthly financial statement available for
561 public access on its website.

562 (5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND
563 APPROVAL.—

564 (d) Each district shall, by August 1 of each year, submit
565 for review a tentative budget and a description of any
566 significant changes from the preliminary budget submitted to the

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567 Legislature pursuant to s. 373.535 to the Governor, the
568 President of the Senate, the Speaker of the House of
569 Representatives, the chairs of all legislative committees and
570 subcommittees having substantive or fiscal jurisdiction over
571 water management districts, as determined by the President of
572 the Senate or the Speaker of the House of Representatives, as
573 applicable, the secretary of the department, and the governing
574 body of each county in which the district has jurisdiction or
575 derives any funds for the operations of the district. The
576 tentative budget must be posted on the district's official
577 website at least 2 days before budget hearings held pursuant to
578 s. 200.065 or other law and must remain on the website for at
579 least 45 days.

580 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
581 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

582 (d) The final adopted budget must be posted on the water
583 management district's official website within 30 days after
584 adoption and must remain on the website for at least 2 years.

585 Section 18. Paragraph (1) of subsection (12) of section
586 1001.42, Florida Statutes, is amended to read:

587 1001.42 Powers and duties of district school board.—The
588 district school board, acting as a board, shall exercise all
589 powers and perform all duties listed below:

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590 (12) FINANCE.—Take steps to assure students adequate
591 educational facilities through the financial procedure
592 authorized in chapters 1010 and 1011 and as prescribed below:

593 (1) *Internal auditor.*—May employ an internal auditor to
594 perform ongoing financial verification of the financial records
595 of the school district and such other audits and reviews as the
596 district school board directs for the purpose of determining:

597 1. The adequacy of internal controls designed to prevent
598 and detect fraud, waste, and abuse as defined by s. 11.45(1).

599 2. Compliance with applicable laws, rules, contracts,
600 grant agreements, district school board-approved policies, and
601 best practices.

602 3. The efficiency of operations.

603 4. The reliability of financial records and reports.

604 5. The safeguarding of assets.

605

606 The internal auditor shall report directly to the district
607 school board or its designee.

608 Section 19. Paragraph (j) of subsection (9) of section
609 1002.33, Florida Statutes, is amended to read:

610 1002.33 Charter schools.—

611 (9) CHARTER SCHOOL REQUIREMENTS.—

612 (j) The governing body of the charter school shall be
613 responsible for:

614 1. Establishing and maintaining internal controls designed



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615 to:616 a. Prevent and detect fraud, waste, and abuse as defined
617 by s. 11.45(1).618 b. Promote and encourage compliance with applicable laws,
619 rules, contracts, grant agreements, and best practices.620 c. Support economical and efficient operations.621 d. Ensure reliability of financial records and reports.622 e. Safeguard assets.623 ~~2.1-~~ Ensuring that the charter school has retained the
624 services of a certified public accountant or auditor for the
625 annual financial audit, pursuant to s. 1002.345(2), who shall
626 submit the report to the governing body.627 ~~3.2-~~ Reviewing and approving the audit report, including
628 audit findings and recommendations for the financial recovery
629 plan.630 ~~4.a.3.a-~~ Performing the duties in s. 1002.345, including
631 monitoring a corrective action plan.632 b. Monitoring a financial recovery plan in order to ensure
633 compliance.634 ~~5.4-~~ Participating in governance training approved by the
635 department which must include government in the sunshine,
636 conflicts of interest, ethics, and financial responsibility.637 Section 20. Subsections (6) through (10) of section
638 1002.37, Florida Statutes, are renumbered as subsections (7)
639 through (11), respectively, a new subsection (6) is added to

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640 that section, and present subsections (6) and (11) of that
641 section are amended, to read:

642 1002.37 The Florida Virtual School.—

643 (6) The Florida Virtual School shall have an annual
644 financial audit of its accounts and records conducted by an
645 independent auditor who is a certified public accountant
646 licensed under chapter 473. The independent auditor shall
647 conduct the audit in accordance with rules adopted by the
648 Auditor General pursuant to s. 11.45 and, upon completion of the
649 audit, shall prepare an audit report in accordance with such
650 rules. The audit report must include a written statement by the
651 board of trustees describing corrective action to be taken in
652 response to each of the recommendations of the independent
653 auditor included in the audit report. The independent auditor
654 shall submit the audit report to the board of trustees and the
655 Auditor General no later than 9 months after the end of the
656 preceding fiscal year.

657 (7)~~(6)~~ The board of trustees shall annually submit to the
658 Governor, the Legislature, the Commissioner of Education, and
659 the State Board of Education the audit report prepared pursuant
660 to subsection (6) and a complete and detailed report setting
661 forth:

662 (a) The operations and accomplishments of the Florida
663 Virtual School within the state and those occurring outside the
664 state as Florida Virtual School Global.

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665 (b) The marketing and operational plan for the Florida
666 Virtual School and Florida Virtual School Global, including
667 recommendations regarding methods for improving the delivery of
668 education through the Internet and other distance learning
669 technology.

670 (c) The assets and liabilities of the Florida Virtual
671 School and Florida Virtual School Global at the end of the
672 fiscal year.

673 ~~(d) A copy of an annual financial audit of the accounts~~
674 ~~and records of the Florida Virtual School and Florida Virtual~~
675 ~~School Global, conducted by an independent certified public~~
676 ~~accountant and performed in accordance with rules adopted by the~~
677 ~~Auditor General.~~

78 (d)~~(e)~~ Recommendations regarding the unit cost of
679 providing services to students through the Florida Virtual
680 School and Florida Virtual School Global. In order to most
681 effectively develop public policy regarding any future funding
682 of the Florida Virtual School, it is imperative that the cost of
683 the program is accurately identified. The identified cost of the
684 program must be based on reliable data.

685 (e)~~(f)~~ Recommendations regarding an accountability
686 mechanism to assess the effectiveness of the services provided
687 by the Florida Virtual School and Florida Virtual School Global.

688 ~~(11) The Auditor General shall conduct an operational~~
689 ~~audit of the Florida Virtual School, including Florida Virtual~~

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690 ~~School Global. The scope of the audit shall include, but not be~~
691 ~~limited to, the administration of responsibilities relating to~~
692 ~~personnel; procurement and contracting; revenue production;~~
693 ~~school funds, including internal funds; student enrollment~~
694 ~~records; franchise agreements; information technology~~
695 ~~utilization, assets, and security; performance measures and~~
696 ~~standards; and accountability. The final report on the audit~~
697 ~~shall be submitted to the President of the Senate and the~~
698 ~~Speaker of the House of Representatives no later than January~~
699 ~~31, 2014.~~

700 Section 21. Subsection (5) is added to section 1010.01,
701 Florida Statutes, to read:

702 1010.01 Uniform records and accounts.-

703 (5) Each school district, Florida College System
704 institution, and state university shall establish and maintain
705 internal controls designed to:

706 (a) Prevent and detect fraud, waste, and abuse as defined
707 by s. 11.45(1).

708 (b) Promote and encourage compliance with applicable laws,
709 rules, contracts, grant agreements, and best practices.

710 (c) Support economical and efficient operations.

711 (d) Ensure reliability of financial records and reports.

712 (e) Safeguard assets.

713 Section 22. Subsection (2) of section 1010.30, Florida
714 Statutes, is amended to read:



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715 1010.30 Audits required.-
716 (2) If a school district, Florida College System
717 institution, or university audit report includes a
718 recommendation that was included in the preceding financial
719 audit report but remains unaddressed ~~an audit contains a~~
720 ~~significant finding~~, the district school board, the Florida
721 College System institution board of trustees, or the university
722 board of trustees, within 60 days after the delivery of the
723 audit report to the school district, Florida College System
724 institution, or university, shall indicate ~~conduct an audit~~
725 ~~overview~~ during a regularly scheduled public meeting whether it
726 intends to take corrective action, the intended corrective
727 action, and the timeframe for the corrective action. If the
28 district school board, Florida College System institution board
729 of trustees, or university board of trustees indicates that it
730 does not intend to take corrective action, it shall explain its
731 decision at the public meeting.

732 Section 23. Subsection (3) of section 218.503, Florida
733 Statutes, is amended to read:

734 218.503 Determination of financial emergency.-

735 (3) Upon notification that one or more of the conditions
736 in subsection (1) have occurred or will occur if action is not
737 taken to assist the local governmental entity or district school
738 board, the Governor or his or her designee shall contact the
739 local governmental entity or the Commissioner of Education or

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740 his or her designee shall contact the district school board, as
741 appropriate, to determine what actions have been taken by the
742 local governmental entity or the district school board to
743 resolve or prevent the condition. The information requested must
744 be provided within 45 days after the date of the request. If the
745 local governmental entity or the district school board does not
746 comply with the request, the Governor or his or her designee or
747 the Commissioner of Education or his or her designee shall
748 notify ~~the members of~~ the Legislative Auditing Committee, which
749 ~~who~~ may take action pursuant to s. 11.40(2) ~~11.40~~. The Governor
750 or the Commissioner of Education, as appropriate, shall
751 determine whether the local governmental entity or the district
752 school board needs state assistance to resolve or prevent the
753 condition. If state assistance is needed, the local governmental
754 entity or district school board is considered to be in a state
755 of financial emergency. The Governor or the Commissioner of
756 Education, as appropriate, has the authority to implement
757 measures as set forth in ss. 218.50-218.504 to assist the local
758 governmental entity or district school board in resolving the
759 financial emergency. Such measures may include, but are not
760 limited to:

761 (a) Requiring approval of the local governmental entity's
762 budget by the Governor or approval of the district school
763 board's budget by the Commissioner of Education.

764 (b) Authorizing a state loan to a local governmental

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765 entity and providing for repayment of same.

766 (c) Prohibiting a local governmental entity or district
767 school board from issuing bonds, notes, certificates of
768 indebtedness, or any other form of debt until such time as it is
769 no longer subject to this section.

770 (d) Making such inspections and reviews of records,
771 information, reports, and assets of the local governmental
772 entity or district school board as are needed. The appropriate
773 local officials shall cooperate in such inspections and reviews.

774 (e) Consulting with officials and auditors of the local
775 governmental entity or the district school board and the
776 appropriate state officials regarding any steps necessary to
777 bring the books of account, accounting systems, financial
778 procedures, and reports into compliance with state requirements.

779 (f) Providing technical assistance to the local
780 governmental entity or the district school board.

781 (g)1. Establishing a financial emergency board to oversee
782 the activities of the local governmental entity or the district
783 school board. If a financial emergency board is established for
784 a local governmental entity, the Governor shall appoint board
785 members and select a chair. If a financial emergency board is
786 established for a district school board, the State Board of
787 Education shall appoint board members and select a chair. The
788 financial emergency board shall adopt such rules as are
789 necessary for conducting board business. The board may:

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790 a. Make such reviews of records, reports, and assets of
791 the local governmental entity or the district school board as
792 are needed.

793 b. Consult with officials and auditors of the local
794 governmental entity or the district school board and the
795 appropriate state officials regarding any steps necessary to
796 bring the books of account, accounting systems, financial
797 procedures, and reports of the local governmental entity or the
798 district school board into compliance with state requirements.

799 c. Review the operations, management, efficiency,
800 productivity, and financing of functions and operations of the
801 local governmental entity or the district school board.

802 d. Consult with other governmental entities for the
03 consolidation of all administrative direction and support
804 services, including, but not limited to, services for asset
805 sales, economic and community development, building inspections,
806 parks and recreation, facilities management, engineering and
807 construction, insurance coverage, risk management, planning and
808 zoning, information systems, fleet management, and purchasing.

809 2. The recommendations and reports made by the financial
810 emergency board must be submitted to the Governor for local
811 governmental entities or to the Commissioner of Education and
812 the State Board of Education for district school boards for
813 appropriate action.

814 (h) Requiring and approving a plan, to be prepared by

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815 officials of the local governmental entity or the district
816 school board in consultation with the appropriate state
817 officials, prescribing actions that will cause the local
818 governmental entity or district school board to no longer be
819 subject to this section. The plan must include, but need not be
820 limited to:

821 1. Provision for payment in full of obligations outlined
822 in subsection (1), designated as priority items, which are
823 currently due or will come due.

824 2. Establishment of priority budgeting or zero-based
825 budgeting in order to eliminate items that are not affordable.

826 3. The prohibition of a level of operations which can be
827 sustained only with nonrecurring revenues.

28 4. Provisions implementing the consolidation, sourcing, or
29 discontinuance of all administrative direction and support
830 services, including, but not limited to, services for asset
831 sales, economic and community development, building inspections,
832 parks and recreation, facilities management, engineering and
833 construction, insurance coverage, risk management, planning and
834 zoning, information systems, fleet management, and purchasing.

835 Section 24. Subsection (2) of section 1002.455, Florida
836 Statutes, is amended to read:

837 1002.455 Student eligibility for K-12 virtual
838 instruction.-

839 (2) A student is eligible to participate in virtual

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840 instruction if:

841 (a) The student spent the prior school year in attendance
842 at a public school in the state and was enrolled and reported by
843 the school district for funding during October and February for
844 purposes of the Florida Education Finance Program surveys;

845 (b) The student is a dependent child of a member of the
846 United States Armed Forces who was transferred within the last
847 12 months to this state from another state or from a foreign
848 country pursuant to a permanent change of station order;

849 (c) The student was enrolled during the prior school year
850 in a virtual instruction program under s. 1002.45 or a full-time
851 Florida Virtual School program under s. 1002.37(9)(a)
852 ~~1002.37(8)(a)~~;

53 (d) The student has a sibling who is currently enrolled in
854 a virtual instruction program and the sibling was enrolled in
855 that program at the end of the prior school year;

856 (e) The student is eligible to enter kindergarten or first
857 grade; or

858 (f) The student is eligible to enter grades 2 through 5
859 and is enrolled full-time in a school district virtual
860 instruction program, virtual charter school, or the Florida
861 Virtual School.

862 Section 25. The Legislature finds that a proper and
863 legitimate state purpose is served when internal controls are
864 established to prevent and detect fraud, waste, and abuse and to



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865 safeguard and account for government funds and property.
866 Therefore, the Legislature determines and declares that this act
867 fulfills an important state interest.

868 Section 26. This act shall take effect July 1, 2017.
869

870 -----

871 T I T L E A M E N D M E N T

872 Remove everything before the enacting clause and insert:
873 An act relating to government accountability; amending s.
874 11.40, F.S.; specifying that the Governor, the Commissioner
875 of Education, or the designee of the Governor or of the
876 commissioner, may notify the Legislative Auditing Committee
877 of an entity's failure to comply with certain auditing and
78 financial reporting requirements; amending s. 11.45, F.S.;
879 defining the terms "abuse," "fraud," and "waste"; revising
880 the definition of the term "local governmental entity";
881 excluding water management districts from certain audit
882 requirements; removing a cross-reference; authorizing the
883 Auditor General to conduct audits of tourist development
884 councils and county tourism promotion agencies; revising
885 reporting requirements applicable to the Auditor General;
886 amending s. 28.35, F.S.; revising reporting requirements
887 applicable to the Florida Clerks of Court Operations
888 Corporation; amending s. 43.16, F.S.; revising the
889 responsibilities of the Justice Administrative Commission,

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890 each state attorney, each public defender, the criminal
891 conflict and civil regional counsel, the capital collateral
892 regional counsel, and the Guardian Ad Litem Program, to
893 include the establishment and maintenance of certain
894 internal controls; amending s. 112.061, F.S.; revising
895 certain lodging rates for the purpose of reimbursement to
896 specified employees; authorizing an employee to expend his
897 or her funds for certain lodging expenses; amending ss.
898 129.03, 129.06, and 166.241, F.S.; requiring counties and
899 municipalities to maintain certain budget documents on the
900 entities' websites for a specified period; amending s.
901 215.86, F.S.; revising the purposes for which management
902 systems and internal controls must be established and
903 maintained by each state agency and the judicial branch;
904 amending s. 215.97, F.S.; revising certain audit threshold
905 requirements; amending s. 215.985, F.S.; revising the
906 requirements for a monthly financial statement provided by
907 a water management district; amending s. 218.32, F.S.;
908 revising the requirements of the annual financial audit
909 report of a local governmental entity; authorizing the
910 Department of Financial Services to request additional
911 information from a local governmental entity; requiring a
912 local governmental entity to respond to such requests
913 within a specified timeframe; requiring the department to
914 notify the Legislative Auditing Committee of noncompliance;

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915 amending s. 218.33, F.S.; requiring local governmental
916 entities to establish and maintain internal controls to
917 achieve specified purposes; amending s. 218.39, F.S.;
918 requiring an audited entity to respond to audit
919 recommendations under specified circumstances; amending s.
920 218.391, F.S.; revising the composition of an audit
921 committee; prohibiting an audit committee member from being
922 an employee, a chief executive officer, or a chief
923 financial officer of the respective governmental entity;
924 amending s. 286.0114, F.S.; prohibiting a board or
925 commission from requiring an advance copy of testimony or
926 comments from a member of the public as a precondition to
927 being given the opportunity to be heard at a public
28 meeting; amending s. 373.536, F.S.; deleting obsolete
929 language; requiring water management districts to maintain
930 certain budget documents on the districts' websites for a
931 specified period; amending s. 1001.42, F.S.; authorizing
932 additional internal audits as directed by the district
933 school board; amending s. 1002.33, F.S.; revising the
934 responsibilities of the governing board of a charter school
935 to include the establishment and maintenance of internal
936 controls; removing obsolete provisions; amending s.
937 1002.37, F.S.; requiring completion of an annual financial
938 audit of the Florida Virtual School; specifying audit
939 requirements; requiring an audit report to be submitted to

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940 the board of trustees of the Florida Virtual School and the
941 Auditor General; removing obsolete provisions; amending s.
942 1010.01, F.S.; requiring each school district, Florida
943 College System institution, and state university to
944 establish and maintain certain internal controls; amending
945 s. 1010.30, F.S.; requiring a district school board,
946 Florida College System institution board of trustees, or
947 university board of trustees to respond to audit
948 recommendations under certain circumstances; amending ss.
949 218.503 and 1002.455, F.S.; conforming provisions and
950 cross-references to changes made by the act; declaring that
951 the act fulfills an important state interest; providing an
952 effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB OTA 17-01 OGSR/Department of Citrus
SPONSOR(S): Oversight, Transparency & Administration Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee		Whittaker <i>WD</i>	Harrington <i>JA</i>

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Department of Citrus prepares and disseminates important information to citrus growers, handlers, shippers, processors and industry-related and interested persons and organizations relating to department activities and the production, handling, shipping, processing, and marketing of citrus fruit and processed citrus products. The Department of Citrus also conducts or causes studies to be conducted concerning citrus fruit, citrus fruit juices, and the products and byproducts of the fruit.

Current law provides that any nonpublished reports or data related to studies or research conducted, caused to be conducted, or funded by the Department of Citrus is confidential and exempt from public record requirements.

The bill reenacts the public record exemption, which will repeal on October 2, 2017, if this bill does not become law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created⁵ then a public necessity statement and a two-thirds vote for passage are not required.

Department of Citrus Research

The Department of Citrus prepares and disseminates important information to citrus growers, handlers, shippers, processors and industry-related and interested persons and organizations relating to department activities and the production, handling, shipping, processing, and marketing of citrus fruit and processed citrus products.

Current law governing citrus research requires the Department of Citrus to:

- Conduct or cause to be conducted a thorough and comprehensive study of citrus fruit and citrus fruit juices;
 - With respect to the quality and maturity of fruit and the fruit juices, including proper effort to assemble data and arrive at a proper standard of quality, grade, and maturity with reference to its texture, stability, and general marketability and so far as possible reduce such findings to specific and readily understood chemical, mathematical, or descriptive terms; and
 - With respect to the nutritional and other value or values of such fruit and the fruit juices;
- Conduct or cause to be conducted such study and research as is necessary to provide all the information and data required to be disseminated pursuant to law;

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 24(c), Art. I of the State Constitution.

⁵ An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

- Provide suitable and sufficient laboratory facilities and equipment, making use of the laboratory facilities and equipment of the University of Florida, for the purpose of conducting thorough and comprehensive study and research to determine all possible new and further uses for citrus fruit and citrus fruit juices and the products and byproducts into which the same can be converted or manufactured, as well as to determine and develop new and profitable methods and instruments of distribution;
- Carry on, or cause to be carried on, suitable experiments in an effort to prove the commercial value of each, and determine and develop new and further use for citrus fruit and citrus fruit juices or the products and byproducts into which the same can be converted or manufactured;
- Carry on or cause to be carried on suitable experiments in an effort to prove the commercial value of any and all new profitable methods and instruments of distribution of citrus fruit and citrus fruit juices and the products and byproducts into which the same can be converted or manufactured;
- Carry on or cause to be carried on an economic and marketing research program relating to citrus fruits and products or byproducts;
- Enter into any mutually satisfactory contracts or agreements with any person, firm, institution, corporation, or business unit, as well as any state or federal agency, that the department deems wise, necessary, and expedient to administer chapter 601, F.S.;
- Incur and pay such expenses and obligations necessary in connection with and required for the proper carrying out of the provisions of chapter 601, F.S.; and
- Conduct or cause to be conducted any research related to disease and crop efficiency that would advance the purposes of the state's citrus industry and commercialization related to advancing such research.⁶

Public Record Exemption under Review

In 2012, the Legislature created a public record exemption for the Department of Citrus to provide that any nonpublished reports or data related to studies or research conducted, caused to be conducted, or funded by the Department of Citrus is confidential and exempt⁷ from public record requirements.⁸

The 2012 public necessity statement for the exemption provided that:

In order to conduct or cause to be conducted studies or research related to citrus fruit, citrus fruit juices, and the products and byproducts thereof, the Department of Citrus must achieve the cooperation of the citrus industry in the state to obtain access to samples of such citrus fruit, citrus fruit juices, and the products and byproducts thereof, trade secrets, and proprietary business information. Unless the Department of Citrus can assure the citrus industry that any nonpublished reports or data related to such studies or research will not be disclosed until the analysis of such data and until the reports of such studies or research are complete and approved for publication, a chilling effect will arise that reduces access by the Department of Citrus to the necessary samples and information provided by the citrus industry, thereby undermining the validity and value of such studies and research.⁹

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2017, unless reenacted by the Legislature.¹⁰

⁶ Section 601.13, F.S.

⁷ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

⁸ Chapter 2012-183, L.O.F.; codified as s. 601.10(8)(c), F.S.

⁹ Section 2, ch. 2012-183, L.O.F.

¹⁰ Section 610.10(8)(c), F.S.

During the 2016 interim, subcommittee staff met with staff from the Department of Citrus as part of the Open Government Sunset Review process. Department of Citrus staff indicated that it is critical for the department to have this exemption and its ability to obtain samples and conduct necessary research for the citrus industry. According to the department, repeal of the exemption would negatively affect the department's ability to receive samples and cooperation from the industry. As such, the department recommended reenactment of the exemption without changes.

Effect of the Bill

The bill removes the repeal date thereby reenacting the public record exemption for nonpublished reports and data related to studies or research conducted, caused to be conducted, or funded by the Department of Citrus.

B. SECTION DIRECTORY:

Section 1. Amends s. 601.10, F.S., to save from repeal the public record exemption for certain information held by the Department of Citrus.

Section 2. Provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

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. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 601.10, F.S., which
 4 provides an exemption from public record requirements
 5 for nonpublished reports or data related to certain
 6 studies or research related to citrus that is
 7 conducted, caused to be conducted, or funded by the
 8 Department of Citrus; removing the scheduled repeal of
 9 the exemption; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Paragraph (c) of subsection (8) of section
 14 601.10, Florida Statutes, is amended to read:



15 601.10 Powers of the Department of Citrus.-

16 (8)(c) Any nonpublished reports or data related to studies
 17 or research conducted, caused to be conducted, or funded by the
 18 department under s. 601.13 is confidential and exempt from s.
 19 119.07(1) and s. 24(a), Art. I of the State Constitution. ~~This~~
 20 ~~paragraph is subject to the Open Government Sunset Review Act in~~
 21 ~~accordance with 119.15 and shall stand repealed on October 2,~~
 22 ~~2017, unless reviewed and saved from repeal through reenactment~~
 23 ~~by the Legislature.~~

24 Section 2. This act shall take effect October 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB OTA 17-02 OGSR/Peer Review Panels
SPONSOR(S): Oversight, Transparency & Administration Subcommittee
TIED BILLS: IDEN./SIM. BILLS: SB 7004

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee		Toliver 	Harrington 

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The James and Esther King Biomedical Research Program was created to provide an annual and perpetual source of funding to support research initiatives that address the healthcare problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease. The William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program was created to advance progress towards cures for cancer through grants awarded through a peer-reviewed, competitive process. Both programs award competitive grants and fellowships for biomedical research. The grants are awarded based on criteria and standards developed by the Biomedical Research Advisory Council and are reviewed by independent peer review panels.

Current law provides that when the peer review panels convene to evaluate grant or fellowship applications submitted to the James and Esther King Biomedical Research Program or to the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program, the portion of the meeting in which applications for biomedical research grants are discussed, is exempt from public meeting requirements. In addition, any records generated relating to research grant applications or the review of those applications, except final recommendations, are confidential and exempt from public record requirements. Information held confidential and exempt may be disclosed with the express written consent of the individual to whom the information pertains or the individuals legal guardian or by court order.

The bill reenacts the public meeting and public record exemptions, which will repeal on October 2, 2017, if this bill does not become law.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created⁵ then a public necessity statement and a two-thirds vote for passage are not required.

James and Esther King and Bankhead-Coley Research Programs

The James and Esther King Biomedical Research Program (King Program) is established within the Florida Department of Health (DOH) and is funded by the proceeds of the Lawton Chiles Endowment Fund, cigarette surcharge, and the General Revenue Fund.⁶ The purpose of the King Program is to provide an annual and perpetual source of funding in order to support research initiatives that address the healthcare problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease.⁷ The funds appropriated to the King Program are to be used to award research grants and fellowships.⁸

The William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program) is established within DOH and is funded by an annual appropriation from the General Revenue Fund.⁹ The purpose of the Bankhead-Coley Program is to advance progress towards cures for cancer and cancer-related illnesses through grants awarded through a peer-reviewed process.¹⁰

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 24(c), Art. I, FLA. CONST.

⁵ An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

⁶ Section 215.5602(1) and (12), F.S.

⁷ Section 215.5602(1), F.S.

⁸ Section 215.5602(2), F.S.

⁹ Sections 381.922(5) and 215.5602(12), F.S.

¹⁰ Section 381.922(1), F.S.

Research grants and fellowships are awarded based on criteria and standards developed by the Biomedical Research Advisory Council (Council),¹¹ an entity created within DOH.¹² Each grant or fellowship application is evaluated by a peer review panel to ensure that all proposals for research funding are appropriate and are evaluated fairly on the basis of scientific merit.¹³ The peer review panel reviews the content of each proposal and establishes a scientific priority score.¹⁴ The score must be considered in the review process by the Council¹⁵ which then makes recommendations to the State Surgeon General as to what grants or fellowships should be awarded.¹⁶ The Council and peer review panels are directed to establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflict of interest.¹⁷

Public Record and Public Meeting Exemptions under Review

In 2012, the Legislature created a public meeting exemption for portions of meetings of peer review panels under the King and Bankhead-Coley Programs.¹⁸ The Legislature also created a public records exemption that provides that any research grant applications provided to the panel¹⁹ or any records generated by the panel relating to the review of those applications, except final recommendations,²⁰ are confidential and exempt²¹ from public record requirements. The information may only be disclosed with the express written consent of the individual to whom the information pertains or the individual's legal guardian or by court order.²²

The 2012 public necessity statement for the exemptions provides that:²³

The research grant applications contain information of a confidential nature, including ideas and processes, the disclosure of which could injure the affected researcher. Maintaining confidentiality is a hallmark of scientific peer review when awarding grants, is practiced by the National Science Foundation and the National Institutes of Health, and allows for candid exchanges between reviewers critiquing proposals. The Legislature further finds that closing access to meetings of scientific peer review panels in which biomedical research applications are discussed serves a public good by ensuring that decisions are based upon merit without bias or undue influence. Further, the Legislature finds that records generated during meetings of the peer review panels related to the review of applications for biomedical research grants must be protected for the same reasons that justify the closing of such meetings.

Pursuant to the Open Government Sunset Review Act, the exemptions will repeal on October 2, 2017, unless reenacted by the Legislature.²⁴

¹¹ Section 215.5602(4)(f), F.S.

¹² Section 215.5602(3), F.S.

¹³ Sections 215.5602(6) and 381.922(3)(b), F.S.

¹⁴ Sections 215.5602(6) and 381.922(3)(b), F.S.

¹⁵ Sections 215.5602(6) and 381.922(3)(b), F.S.

¹⁶ Section 215.5602(5)(b) and 381.922(3)(a), F.S.

¹⁷ Sections 215.5602(7) and 381.922(3)(c), F.S.

¹⁸ Sections 215.56021(1) and 318.92201(1), F.S.; *see also* ch. 2012-15, L.O.F.

¹⁹ Sections 215.56021(3) and 318.92201(3), F.S.

²⁰ Sections 215.56021(2) and 381.92201(2), F.S.

²¹ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (*See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (*See* Attorney General Opinion 85-62, August 1, 1985).

²² Sections 215.56021(4) and 381.92201(4), F.S.

²³ Chapter 2012-15, L.O.F.

During the 2016 interim, subcommittee staff sent DOH a questionnaire as part of its review under the Open Government Sunset Review Act. DOH recommended reenactment of the exemptions as is, noting that "[g]rant applications contain novel research ideas, can be considered intellectual property, and should not be made available."²⁵ The department also explained that "[p]eer review exemptions for meetings and records are supported by the Biomedical Research Advisory Council and the Alzheimer's Disease Research Grant Advisory Board."²⁶

Effect of the Bill

The bill removes the repeal date thereby reenacting the public meeting exemption for portions of a meeting of a peer review panel in which applications for biomedical research grants are discussed. The bill also reenacts the public record exemptions for research grant applications provided to a peer review panel and any records generated by the panel relating to the review of those applications, except final recommendations.

In 2012, the public meeting and public record exemptions were cross published in two different statutes. The bill repeals the duplicative provision from law. As such, the repeal of the duplicative provision does not have a substantive effect.²⁷

B. SECTION DIRECTORY:

Section 1 repeals a duplicative statute.

Section 2 amends s. 381.92201, F.S., to save from repeal the public meeting and public record exemptions for peer review panels under the King and Bankhead-Coley Programs.

Section 3 provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

²⁴ Sections 215.56021(5) and 381.92201(5), F.S.

²⁵ Open Government Sunset Review of ss. 215.56021 and 381.92201, F.S., relating to Peer Review Panels, questionnaire by House and Senate Staff, August 10, 2016, at question 11 (on file with the Oversight, Transparency & Administration Subcommittee).

²⁶ *Id.* at question 12.

²⁷ DOH confirmed in the questionnaire that one section of law would be sufficient to cover both the King and Bankhead-Coley Programs as both "statutory provisions are the same." *Id.* at question 9.

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. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; repealing s. 215.56021, F.S., which
4 provides an exemption from public record and public
5 meeting requirements for certain records generated by,
6 and meetings of, a peer review panel under the James
7 and Esther King Biomedical Research Program and the
8 William G. "Bill" Bankhead, Jr., and David Coley
9 Cancer Research Program; amending s. 381.92201, F.S.,
10 which provides an exemption from public record and
11 public meeting requirements for certain records
12 generated by, and meetings of, a peer review panel
13 under the James and Esther King Biomedical Research
14 Program and the William G. "Bill" Bankhead, Jr., and
15 David Coley Cancer Research Program; removing the
16 scheduled repeal of the exemption; providing an
17 effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 215.56021, Florida Statutes, is
22 repealed.

23 Section 2. Subsection (5) of section 381.92201, Florida
24 Statutes, is amended to read:

25 381.92201 Exemptions from public records and public

26 meetings requirements; peer review panels.-

27 ~~(5) Subsections (1), (2), (3), and (4) are subject to the~~
28 ~~Open Government Sunset Review Act in accordance with s. 119.15~~
29 ~~and shall stand repealed on October 2, 2017, unless reviewed and~~
30 ~~saved from repeal through reenactment by the Legislature.~~

31 Section 3. This act shall take effect October 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB OTA 17-03 OGSR/Unclaimed Property
SPONSOR(S): Oversight, Transparency & Administration Subcommittee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee		Toliver <i>LT</i>	Harrington <i>JA</i>

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Unclaimed property consists of any funds or other property, tangible or intangible, which has remained unclaimed by the owner for more than five years after the property becomes payable or distributable. Holders of inactive accounts (presumed unclaimed property) are required to use due diligence to locate apparent owners. Once the allowable time period for holding unclaimed property has expired, a holder is required to file a report with the Department of Financial Services by May 1, for all property valued at \$50 or more and presumed unclaimed for the preceding calendar year. The report must contain the name and social security number or federal employer identification number, if known, and the last known address of the apparent owner.

Current law provides a public record exemption for social security numbers and property identifiers contained in reports of unclaimed property held by the Department of Financial Services.

The bill reenacts the public record exemption, which will repeal on October 2, 2017, if this bill does not become law.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created⁵ then a public necessity statement and a two-thirds vote for passage are not required.

Unclaimed Property

Unclaimed property consists of any funds or other property, tangible or intangible, which has remained unclaimed by the owner for more than five years after the property becomes payable or distributable.⁶ Savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes are potentially unclaimed property.⁷ Holders of unclaimed property, which typically include banks and insurance companies, are required to report unclaimed property to the Department of Financial Services (DFS).⁸ If the property remains unclaimed, all proceeds from abandoned property are deposited by DFS into the Department of Education School Trust Fund (State School Fund), except for a \$15 million balance that is retained in a separate account (the Unclaimed Property Trust Fund) for the prompt payment of verified claims.⁹

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 24(c), Art. I, FLA. CONST.

⁵ An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

⁶ Section 717.102(1), F.S.

⁷ Sections 717.104 – 717.116, F.S.

⁸ Section 717.117(1), F.S.

⁹ Section 717.123, F.S.

Florida Disposition of Unclaimed Property Act

The Florida Disposition of Unclaimed Property Act¹⁰ serves to protect the interest of missing owners of property while the people of the state derive a benefit from the unclaimed and abandoned property until the property is claimed, if ever. DFS administers the Act through its Division of Unclaimed Property (division).¹¹

Holders of inactive accounts (presumed unclaimed property) are required to use due diligence to locate apparent owners.¹² Once the allowable time period for holding unclaimed property has expired, a holder is required to file a report with DFS by May 1 for all property valued at \$50 or more and presumed unclaimed for the preceding calendar year.¹³ The report generally must contain the name and social security number or federal employer identification number, if known, and the last known address of the apparent owner.¹⁴

Current law places an obligation on the state to notify owners of unclaimed property accounts valued at over \$250, in a cost-effective manner, including through attempts to directly contact the owner.¹⁵ DFS indicates that the means used to find lost property owners include social security numbers, direct mailing, motor vehicle records, state payroll records, newspaper advertisements, and a state website¹⁶ where unclaimed property can be found.¹⁷

Attorneys, Florida-certified public accountants, Florida-licensed private investigators, and Florida-licensed private investigative agencies register with DFS in order to act as a claimant's representative, acquire ownership or entitlement to unclaimed property, and receive a distribution of fees and costs from DFS.¹⁸ Claimants' representatives access information from the division's website or the division itself.

Public Record Exemption under Review

Current law provides a public record exemption for social security numbers and property identifiers contained in reports of unclaimed property held by DFS. Prior to 2012, the exemption provided an exception which allowed social security numbers to be released to certain persons registered with DFS to act as claimants' representatives.¹⁹ In 2012, the Legislature repealed the exception to the public record exemption and reenacted the exemption, requiring all social security numbers and property identifiers to be kept confidential and exempt²⁰ from public record requirements.²¹

The 2012 public necessity statement provides that:

Social security numbers, which are used by a holder of unclaimed property to identify such property, could be used to fraudulently obtain unclaimed property. The release of social security numbers could also place owners of unclaimed

¹⁰ Section 717.001, F.S. Chapter 717, F.S., may be cited as the "Florida Disposition of Unclaimed Property Act."

¹¹ Section 20.121(2)(k), F.S.

¹² Section 717.117(4), F.S.

¹³ Section 717.117(3), F.S.

¹⁴ Section 717.117(1), F.S.

¹⁵ Section 717.118(1), F.S.

¹⁶ www.ftreasurehunt.org (last visited February 3, 2017).

¹⁷ Section 717.118(1), F.S.

¹⁸ Section 717.1400, F.S.

¹⁹ Section 717.117, F.S. (2011).

²⁰ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

²¹ Chapter 2012-227, L.O.F., and s. 717.117(8)(b), F.S.

property at risk of identity theft. Therefore, the protection of social security numbers is a public necessity in order to prevent the fraudulent use of such information by creating falsified or forged documents that appear to demonstrate entitlement to unclaimed property and to prevent opportunities for identity theft.²²

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2017, unless reenacted by the Legislature.²³

During the 2016 interim, subcommittee staff consulted with staff from DFS as part of the Open Government Sunset Review process. DFS staff indicated that protecting social security numbers and property identifiers is critical to preventing fraud and identity theft related to unclaimed property claims. According to the department, protecting the social security number and property identifiers has not impaired property locators' ability to locate the property owners. As such, DFS staff recommended reenactment of the exemption without changes.

B. SECTION DIRECTORY:

Section 1 amends s. 717.117, F.S., to save from repeal the public record exemption for unclaimed property reports.

Section 2 provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

²² *Id.*

²³ Section 717.117(8)(c), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
An act relating to a review under the Open Government
Sunset Review Act; amending s. 717.117, F.S., which
provides an exemption from public record requirements
for social security numbers and property identifiers
contained in reports of unclaimed property; removing
the scheduled repeal of the exemption; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (8) of section 717.117, Florida
Statutes, is amended to read:

- 717.117 Report of unclaimed property.—
- (8)(a) As used in this subsection, the term "property
identifier" means the descriptor used by the holder to identify
the unclaimed property.
- (b) Social security numbers and property identifiers
contained in reports required under this section, held by the
department, are confidential and exempt from s. 119.07(1) and s.
24(a), Art. I of the State Constitution.
- (c) This exemption applies to social security numbers and
property identifiers held by the department before, on, or after
the effective date of this exemption.
- ~~(d) This subsection is subject to the Open Government~~

PCB OTA 17-03

ORIGINAL

2017

26 ~~Sunset Review Act in accordance with s. 119.15, and shall stand~~
27 ~~repealed October 2, 2017, unless reviewed and saved from repeal~~
28 ~~through reenactment by the Legislature.~~

29 Section 2. This act shall take effect October 1, 2017.