

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1327 Government Accountability

SPONSOR(S): Metz

TIED BILLS: **IDEN./SIM. BILLS:** SB 1628

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Harrington	Williamson
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The position of the Auditor General is created in the State Constitution. 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. Specified reports on such audit findings must be submitted to the President of the Senate, Speaker of the House, and the Legislative Auditing Committee.

The bill revises auditing provisions governing state agencies, the state courts system, court-related entities, local governments, district school boards, charter schools, and state colleges and universities. The bill requires such entities to establish, maintain, and document the effective operation of internal controls, including controls designed to prevent and detect fraud, waste, and abuse; to ensure the administration of assigned public duties and responsibilities in accordance with applicable laws, rules, contracts, grant agreements, and best practices; to promote and encourage economic and efficient operations; to ensure the reliability of financial records and reports; and to safeguard assets.

The bill also requires each Florida College System institution to annually file with the State Board of Education financial statements prepared in conformity with accounting principles generally accepted by the United States and the uniform classification of accounts prescribed by the State Board of Education. The State Board of Education's rules must prescribe the filing deadline for the financial statements.

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

This bill may be a county or municipal mandate. See Section III.A.1. of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Auditor General

The position of Auditor General is established by s. 2, Art. III of the State Constitution. The Auditor General is appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Legislative Auditing Committee, subject to confirmation by both houses of the Legislature.¹ The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the Legislature.²

The Auditor General, before entering upon the duties of the office, must take the oath of office required of state officers by the State Constitution.³ At the time of appointment, the Auditor General must have been certified under the Public Accountancy Law in Florida for a period of at least 10 years and must have not less than 10 years' experience in an accounting or auditing related field.⁴

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

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

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

The Auditor General must:¹⁰

- Conduct audits of records and perform related duties as prescribed by law, concurrent resolution of the Legislature, or as directed by the Legislative Auditing Committee;
- Annually conduct a financial audit of state government;
- Annually conduct financial audits of all state universities and state colleges;
- Annually conduct financial audits of all accounts and records of all district school boards in counties with populations of fewer than 150,000, according to the most recent federal decennial statewide census;
- Once every three years, conduct financial audits of the accounts and records of all district school boards in counties that have populations of 150,000 or more, according to the most recent federal decennial statewide census;

¹ Section 11.42(2), F.S.

² Section 11.42(5), F.S.

³ Section 11.42(4), F.S.

⁴ Section 11.42(2), F.S.

⁵ Section 11.42(3)(a), F.S.

⁶ *Id.*

⁷ Section 11.42(6)(a), F.S.

⁸ Section 11.42(6)(b), F.S.

⁹ Section 11.42(7), F.S.

¹⁰ Section 11.45(2), F.S.

- At least every three years, conduct operational audits of the accounts and records of state agencies, state universities, state colleges, district school boards, and Florida Clerks of Court Operations, water management districts, and the Florida School of Deaf and the Blind;
- At least every three years, conduct a performance audit of the local government financial reporting system, which means any statutory provision related to local government financial reporting;
- At least every three years, conduct a performance audit of the Department of Revenue's administration of the ad valorem tax laws;
- Once every three years, review a sample of internal audit reports at each state agency¹¹ to determine compliance with the current Standards for Professional Practice of Internal Auditing or, if appropriate, government auditing standards; and
- Conduct audits of local governmental entities when determined to be necessary by the Auditor General, when directed by the Legislative Auditing Committee, or when otherwise required by law.

The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:¹²

- The accounts and records of any governmental entity created or established by law;
- The information technology programs, activities, functions, or systems of any governmental entity created or established by law;
- The accounts and records of any charter school created or established by law;
- The accounts and records of any direct-support organization or citizen support organization created or establish by law;
- The public records associated with any appropriation made by the Legislature to a nongovernmental agency, corporation, or person;
- State financial assistance provided to any nonstate entity;
- The Tobacco Settlement Financing Corporation;
- Any purchases of federal surplus lands for use as sites for correctional facilities;
- Enterprise Florida, Inc., including any of its boards, advisory committees, or similar groups created by Enterprise Florida, Inc., and programs;
- The Florida Development Finance Corporation or the capital development board or the programs or entities created by the board;
- The records pertaining to the use of funds from voluntary contributions on a motor vehicle registration application or on a driver's license application;
- The records pertaining to the use of funds from the sale of specialty license plates;
- The transportation corporations under contract with the Department of Transportation that are acting on behalf of the state to secure and obtain rights-of-way for urgently needed transportation systems and to assist in the planning and design of such systems;
- The acquisition and divestitures related to the Florida Communities Trust Program;
- The Florida Water Pollution Control Financing Corporation;
- The school readiness program, including the early learning coalitions;
- The Florida Special Disability Trust Fund Financing Corporation;
- Workforce Florida, Inc., or other programs or entities created by Workforce Florida, Inc.;
- The corporation under contract with the Department of Business and Professional Regulation to provide administrative, investigative, examination, licensing, and prosecutorial support services;
- The Florida Engineers Management Corporation;
- The books and records of any permitholder that conducts race meetings or jai alai exhibitions;
- The corporation known as the Prison Rehabilitative Industries and Diversified Enterprise, Inc., or PRIDE Enterprises;
- The Florida Virtual School; and

¹¹ Section 20.055, F.S., defines "state agency" as each department created pursuant to chapter 20, F.S., and also includes the Executive Office of the Governor, the Department of Military Affairs, the Fish and Wildlife Conservation Commission, the Office of Insurance Regulation of the Financial Services Commission, the Office of Financial Regulation of the Financial Services Commission, the Public Service Commission, the Board of Governors of the State University System, the Florida Housing Finance Corporation, and the state courts system.

¹² Section 11.45(3), F.S.

- Virtual education providers receiving state funds or funds from local ad valorem taxes.

Auditor General Reports

The Auditor General must conduct audits, examinations, or reviews of government programs.¹³ Various provisions require the Auditor General to compile and submit reports. For example, the Auditor General must annually compile and transmit to the President of the Senate, Speaker of the House of Representatives, and Legislative Auditing Committee a summary of significant findings and financial trends identified in audit reports.¹⁴ The Auditor General also must compile and transmit to the President of the Senate, Speaker of the House of Representatives, and Legislative Auditing Committee an annual report by December 1; such report must include a two-year work plan identifying the audit and other accountability activities to be undertaken and a list of statutory and fiscal changes recommended by the Auditor General.¹⁵ 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.¹⁶

The annual report for the Auditor General for November 1, 2012, through October 31, 2013, recommended, among others, the following two changes to the current law:¹⁷

- Require each state and local government to maintain internal controls designed to prevent fraud and detect fraud, waste, and abuse; ensure the administration of assigned public duties and responsibilities in accordance with applicable laws, rules, contracts, grant agreements, and best practices; promote and encourage economic and efficient operations; ensure the reliability of financial records and reports; and safeguard assets; and
- Require the Justice Administration Commission, whose agencies are currently not audited by an internal auditor, to jointly employ an internal auditor or provide for internal audit services by interagency agreement with a state agency.

Effect of Proposed Changes

The bill requires each agency head, state attorney, public defender, criminal conflict and civil regional counsel, Guardian Ad Litem program, Florida Clerk of Courts Operations Corporation, local government entity, charter school, Florida College System institution, and state university, as well as the Supreme Court and the Justice Administrative Commission to establish, maintain, and document the effective operation of internal controls, including controls designed to prevent and detect fraud, waste, and abuse; to ensure the administration of assigned public duties and responsibilities in accordance with applicable laws, rules, contracts, grant agreements, and best practices; to promote and encourage economic and efficient operations; to ensure the reliability of financial records and reports; and to safeguard assets.

The bill also requires each Florida College System institution to annually file with the State Board of Education financial statements prepared in conformity with accounting principles generally accepted by the United States and the uniform classification of accounts prescribed by the State Board of Education. The State Board of Education's rules must prescribe the filing deadline for the financial statements.

¹³ Section 11.45(7), F.S.

¹⁴ Section 11.45(7)(f), F.S.

¹⁵ Section 11.45(7)(h), F.S.

¹⁶ *Id.*

¹⁷ A copy of the report can be found online at: <http://www.myflorida.com/audgen/pages/whatsnew.htm> (last visited March 21, 2014).

B. SECTION DIRECTORY:

Sections 1., 3., 4., 5., and 7. amend ss. 20.05, 25.382, 43.16, 218.33, and 1002.33, F.S., revising the responsibilities of department heads, the Supreme Court as it relates to the state courts system, the Justice Administrative Commission, state attorneys, public defenders, criminal conflict and civil regional counsel, the Guardian Ad Litem program, the Florida Clerk of Court Operations Corporation, local governmental entities, and governing bodies of charter schools to include the responsibility of establishing certain internal controls.

Section 2. amends s. 20.055, F.S., revising provisions relating to agency inspectors general; revising the definition of "state agency" to include the Justice Administration Commission and the agencies it administratively supports; expanding the definition of the term "agency head."

Section 6. amends s. 1001.42, F.S., revising the responsibilities of a district school board's internal auditor to perform certain audits and reviews.

Section 8. amends s. 1010.01, F.S., requiring each Florida College System institution to file certain annual financial statements with the State Board of Education; requiring each school district, Florida College System institution, and state university to establish certain internal controls.

Section 9. provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill requires state agencies, the court system, court-related entities, local governments, district school boards, charter schools, and state colleges and universities to establish, maintain, and document the effective use of specified internal controls. Such requirement may require additional time and expense to create the internal controls and document the effective operation of such 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, maintain, and document the effective operation of internal controls; however, an exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. The exceptions to the mandates provision of Art. VII, s. 18 of the State Constitution appear to be inapplicable because the bill does not articulate a threshold finding of serving an important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to prescribe by rule the filing deadline for the required financial statements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.