

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

County Budget Process.

There are several key participants in the county budget process: the Board of County Commissioners; Sheriff; Property Appraiser; Tax Collector; Supervisor of Elections; Clerk; Office of Management and Budget; Stakeholders – Taxpayers; and County Operating Departments.

The components of a county's general fund include:

- Departments of the Board of County Commissioners;
- Elected Officials;
- Article V – State Courts;
- Mandated Programs;
- Agency Funding; and
- Reserves.

Section 129.01, F.S., establishes the budget process for counties. It provides, among other things, that an annual budget must be prepared, approved, adopted, and executed for each fiscal year ending September 30. The budget must be created using sound financial practices and generally accepted accounting principles. The budget controls the levy of taxes and the expenditure of money for all county purposes during the ensuing fiscal year. Each budget must conform to the following general directions and requirements:

- (a) The budget shall be prepared, summarized, and approved by the board of county commissioners of each county.
- (b) The budget must be balanced.
- (c) Provision may be made for the following reserves:
 1. A reserve for contingencies may be provided in a sum not to exceed 10 percent of the total of the budget.
 2. A reserve for cash balance to be carried over may be provided for the purpose of paying expenses from October 1 of the ensuing fiscal year until the time when the revenues for that year are expected to be available. This reserve may be not more than 20 percent of the total receipts and balances of the budget.
- (d) An appropriation for "outstanding indebtedness" shall be made to provide for the payment of vouchers which have been incurred in and charged against the budget for the current year or a

prior year, but which are expected to be unpaid at the beginning of the ensuing year for which the budget is being prepared.

(e) Any surplus arising from an excess of the estimated cash balance over the estimated amount of unpaid obligations to be carried over in a fund at the end of the current fiscal year may be transferred to any of the other funds of the county, and the amount so transferred shall be budgeted as a receipt to such other funds; provided, that no such surplus in a fund raised for debt service shall be transferred to another fund, except to a fund raised for the same purposes in the same territory, unless the debt of such territory has been extinguished, in which case it may be transferred to any other fund raised for that territory; provided, further, that no such surplus in a capital outlay reserve fund may be transferred to another fund until such time as the projects for which such capital outlay reserve fund was raised have been completed and all obligations paid.

Section 129.02, F.S., requires each budget to conform to the following specific directions:

The general fund budget, the county transportation trust fund budget, the budget for county fine and forfeiture, and the capital outlay reserve fund must contain an estimate of receipts by source.¹ A bond interest and sinking fund budget must be made for each county and for each special district included within the county budget having bonds outstanding. The budget must contain an estimate of receipts by source, including any taxes authorized by law to be levied for that purpose, and including any balances brought forward, and an itemized estimate of expenditures and reserves.² For each special district included within the county budget, the operating fund budget must contain an estimate of receipts by source and balances and an itemized estimate of expenditures that will need to be incurred to carry on all functions and activities of the special district.³

In preparing and adopting a budget, a county has some additional duties described as follows:

Upon receipt of the tentative budgets and completion of any revisions made by the board, the board must prepare a statement summarizing all of the adopted tentative budgets. This summary statement shall show, for each budget and the total of all budgets, the proposed tax millages, the balances, the reserves, and the total of each major classification of receipts and expenditures, classified according to the classification of accounts prescribed by the appropriate state agency. The board shall cause this summary statement to be advertised one time in a newspaper of general circulation published in the county, or by posting at the courthouse door if there is no such newspaper, and the advertisement shall appear adjacent to the advertisement required pursuant to s. 200.065, F.S.⁴ The tentative budgets, adopted tentative budgets, and final budgets shall be filed in the office of the county auditor as a public record.⁵

Municipal Budget Process.

The statutory provisions for the municipal budget process are not as defined as for the county process.⁶ Each municipality is required to follow the same fiscal year as counties, beginning October 1 of each year and ending September 30 of the following year. The governing body of each municipality is required to adopt a budget each fiscal year. The budget must be adopted by ordinance or resolution unless otherwise specified in the respective municipality's charter. The amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total

¹ See statute text for further specifics.

² Section 129.02(5), F.S.

³ Section 129.02(6), F.S.

⁴ Section 129.03(3)(b), F.S.

⁵ Section 129.03(3)(c), F.S.

⁶ Section 166.241, F.S.

appropriations for expenditures and reserves. The budget must regulate expenditures of the municipality.

The governing body of each municipality at any time within a fiscal year or within up to 60 days following the end of the fiscal year may amend a budget for that year as follows:

- (a) Appropriations for expenditures within a fund may be decreased or increased by motion recorded in the minutes, provided that the total of the appropriations of the fund is not changed.
- (b) The governing body may establish procedures by which the designated budget officer may authorize certain budget amendments within a department, provided that the total of the appropriations of the department is not changed.
- (c) If a budget amendment is required for a purpose not specifically authorized in paragraph (a) or paragraph (b), the budget amendment must be adopted in the same manner as the original budget unless otherwise specified in the charter of the respective municipality.

Special District Budget Process.

Section 189.418, F.S., establishes the budget process for special districts, which are similar to the municipal budget requirements. The governing body of each special district must adopt a budget by resolution each fiscal year. The total amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total of appropriations for expenditures and reserves. The adopted budget must regulate expenditures of the special district. The proposed budget of a dependent special district shall be presented in accordance with generally accepted accounting principles, contained within the general budget of the local governing authority, and be clearly stated as the budget of the dependent district. However, with the concurrence of the local governing authority, a dependent district may be budgeted separately.

The governing body of each special district at any time within a fiscal year or within up to 60 days following the end of the fiscal year may amend a budget for that year. The budget amendment must be adopted by resolution.

Special District Information Program

Through the Special District Information Program (SDIP), the Department of Community Affairs (DCA) plays an important role in special district reporting and state monitoring. Each special district must file with the SDIP its creation document, creation document amendments, a written statement referencing the basis for its independent or dependent status, map, and map amendments. The SDIP acts as an information clearinghouse, enforces compliance with financial reporting on behalf of the Joint Legislative Auditing Committee (JLAC), and may grant filing extensions for reports due to the Department of Financial Services (DFS) and the Auditor General.

The DCA assists special districts with its financial reporting requirements by sending a certified letter, which describes the required report, including statutory submission deadlines, contact information for technical assistance, and a 60-day extension of time for filing the required report. The DCA may grant an additional 30-day extension, if requested, in writing. The Legislative Auditing Committee must notify the DCA of those districts that have failed to file the required reports. The DCA must file a petition for writ of certiorari in circuit court.

As of March 2, 2010, there are currently 32 special districts that are one or more years late filing their financial reports.⁷

⁷ Department of Community Affairs, List of Special Districts in Noncompliance with Financial Reporting Requirements ~ One or More Years Late, available at, <http://www.floridaspecialdistricts.org/Noncompliance/index.cfm>

Inactive Special Districts

Under certain circumstances, the DCA may declare a special district inactive and take steps to dissolve a district. In particular, the DCA may take steps to dissolve a district if the district fails to file with the appropriate state agency the following:

- Retirement related reports with the Department of Management Services (DMS)
- Annual Financial Report with the DFS
- Annual Financial Audit Report with the Auditor General and DFS
- Bond related reports with the State Board of Administration, Division of Bond Finance

Local Government Annual Financial Reports

Local governments must submit to the DFS an Annual Financial Report covering their operations for the preceding fiscal year following accounting principles.⁸ These reports improve government accountability by making financial information more comparable. Submission of the annual report depends on whether the local government entity is required to have an annual audit. If no audit is required, the deadline is April 30 of each year. If an audit is required the deadline is no later than 12 months after the end of the fiscal year. If the DFS does not receive a completed annual financial report from a local government entity, the DFS must notify the Legislative Auditing Committee, which must schedule a hearing.

Local Government Annual Financial Audit Reports

Local governments not audited by the Auditor General must provide for an annual financial audit, conducted by an independent certified public accountant, to be completed within 12 months after the end of the fiscal year.⁹ These entities are:

- each county, district school board, charter school, or charter technical center;
- each city with revenues or expenditures and expenses of more than \$250,000;
- each special district with revenues or expenditures and expenses of more than \$100,000;
- each city with revenues or expenditures and expenses between \$100,000 and \$250,000 that has not been audited within the two preceding fiscal years; and
- each special district with revenues or expenditures and expenses between \$50,000 and \$100,000 that has not been audited within the two preceding fiscal years.

Actuarial Reports

Part VII, ch. 112, F. S., the “Florida Protection of Public Employee Retirement Benefits Act,” establishes minimum standards for operating and funding public employee retirement systems and plans. The act is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

Section 112.63, F.S., provides that no unit of local government shall agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body, and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system, consistent with the actuarial review, and has furnished a copy of such statement to the Division of Retirement within the DMS.

If a local government does not submit complete and adequate data necessary for the Division of Retirement to perform its statutorily required functions, the Division requests additional information. Upon completion of its review, the Division may notify the local government about concerns it has regarding the actuarial soundness of a plan. If, after a reasonable period of time, a satisfactory adjustment has not been made, the DMS may notify the Department of Revenue and the DFS of the noncompliance and those agencies may withhold and funds not pledged for satisfaction of bonds until

⁸ Section 218.32(1), F.S.

⁹ Section 218.39, F.S.

such adjustment is made. The affected local government may petition for a hearing. If a special district fails to make the adjustment, the DMS also notifies the DCA, which may seek a writ of certiorari in circuit court for noncompliance.¹⁰

Effect of Proposed Changes

The bill requires that budgets and budget amendments of each county, county officer, municipality, special district, water management district, and school district be posted on the government entity's website or on the county's website if the government entity does not have a website. The bill also requires water management districts to post the tentative budget on the district's website at least two days before the budget hearing.

The budget must be prepared in accordance with the uniform chart of accounts prescribed by the Department of Financial Services and in the level of detail similar to that required by the annual financial report under s. 218.32(1), F.S. The bill also clarifies when budget amendments can be made and the type of approval necessary to make such amendments.

Local Government Budgets

The county must provide, at a minimum, a budget that shows, for each fund, as required by law and sound financial practices, revenues and expenditures by organizational unit at a level of detail that is at least similar to the level of detail in the annual financial report required under s. 218.32(1), F.S. The amount available from taxation and other sources, including balances brought forward, must equal the total appropriations for expenditures and reserves. The tentative budget must be posted on the county's website at least two days before the budget hearing and within thirty days of adoption.

Similar requirements are placed on the sheriff, tax collector, property appraiser, county fee officer, clerk of the court, supervisor of elections and municipalities. If the local government entity does not have an official website, the local government must transmit the required budget information to the county or counties in which it is located or to the relevant governing authority. The bill only permits the board or commission to amend, modify, increase, or reduce any expenditure at the subobject code level of the sheriff and supervisor of elections. Dependent special districts must provide any budget information requested by the local governing authority.

Special Districts

The bill authorizes the Department of Community Affairs to declare a special district inactive, pursuant to s. 189.4044, F.S., for failure to disclose financial reports, or for not having a registered office and agent on file with the department for one or more years. The Department of Community Affairs Special District Information Program must collect and maintain a special district noncompliance status report prepared by the Legislative Auditing Committee.

Independent special districts must provide, at a minimum, a budget that shows, for each fund, as required by law and sound financial practices, revenues and expenditures by organizational unit at a level of detail that is at least similar to the level of detail in the annual financial report required under s. 218.32(1), F.S. The tentative budget must be posted on the independent special district's website at least two days before the budget hearing and within thirty days of adoption. If the independent special district does not operate a website the special district must transmit the tentative budget or final budget to the local general-purpose government or the local governing authority. Dependent special districts must provide any budget information requested by the local governing authority. A local general-purpose government or governing authority may request, from any special district located solely within its boundaries, financial information necessary to comply with its reporting requirements under ss. 218.32 and 218.39, F.S.

¹⁰ Section 189.421, F.S.

Any amendment to the adopted budget must be posted on the official website or transmitted to the local general-purpose government or local governing authority. All special districts must comply with the financial reporting requirements of ss. 218.32 and 218.39, F.S. If a dependent special district fails to file reports or information with the local governing authority, the local governing authority shall take whatever steps necessary to enforce the special district's accountability, including withholding funds, removing governing board members at will, vetoing the special district's budget, conducting the oversight review process set forth in s. 189.428, F.S., or amending, merging, or dissolving the special district. State agencies must notify the DCA if a special district fails to file certain reports.

The bill also provides procedures for when a special district is unable to meet the 60-day reporting deadline for filing financial reports. In addition, if a special district fails to file certain information relating to actuarial reports with the DMS, DCA must file a petition for writ of certiorari with the circuit court.

Local Government Annual Financial Audit Reports

All audits must be conducted pursuant to s. 218.39, F.S., and rules of the Auditor General. The audit must be filed with the Auditor General within 45 days after delivery to the governing body, but no later than 9 months after the end of the audited entity's fiscal year. The Auditor General must notify the Joint Legislative Auditing Committee of any audit report that indicates that an audited entity has failed to take corrective action. The committee may direct the governing body of the audited entity to explain why corrective action was not taken. If the committee determines that there is no justifiable reason for not taking corrective action, or if the audited entity fails to comply with the committee's request, the committee may proceed pursuant to s. 11.40(5), F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 11.40, F.S., to clarify that the Department of Community Affairs can declare a special district inactive for failure to disclose financial reports.

Section 2: Amends s. 30.49, F.S., to clarify account categories and level of detail required for each account.

Section 3: Amends s. 112.63, F.S., to authorize the Department of Management Services to notify the Department of Community Affairs that a special district has failed to provide requested information or make appropriate adjustments.

Section 4: Amends s. 129.01, F.S., to require county budgets to be prepared in detail consistent with annual financial reports required by s. 218.32(1), F.S.

Section 5: Amends s. 129.02, F.S., to require budgets of special districts included within in the county budget to be in detail consistent with annual financial reports required by s. 218.32(1), F.S.

Section 6: Amends s. 129.021, F.S., to correct cross-reference.

Section 7: Amends s. 129.03, F.S., to require county tentative, adopted tentative, and final adopted budget to be posted on the county's official website.

Section 8: Amends s. 129.06, F.S., to clarify the budget amendment authority of counties.

Section 9: Amends s. 129.07, F.S., to clarify that a board of county commissioners may not exceed budgeted appropriations, except as provided in s. 129.06, F.S.

Section 10: Amends s. 129.201, F.S., to require supervisor of elections to itemize expenditures according to uniform chart of accounts.

Section 11: Amends s. 166.241, F.S., to require: municipalities to provide, at a minimum, detail consistent with the annual financial report required by s. 218.32, F.S., publishing of the tentative, adopted, and final adopted budgets, including amendments, on the municipality's website.

Section 12: Amends s. 189.4044, F.S., to allow the Department of Community Affairs to declare any special district inactive if the district has not had a registered office and agent on file with the department with one or more years.

Section 13: Amends s. 189.412(1), F.S., to require the Department of Community Affairs Special District Information Program to collect and maintain a special district noncompliance state report prepared by the Legislative Auditing Committee.

Section 14: Amends s. 189.418, F.S., to require special districts to prepare budgets in detail consistent with annual financial reports required by s. 218.32(1), F.S., publishing of the tentative, adopted, and final adopted budgets, including amendments, on the special district's website or on the county's website in which the special district is located.

Section 15: Amends s. 189.419, F.S., to provide procedures to follow when a special district fails to provide certain information.

Section 16: Amends s. 189.421, F.S., to provide procedures to follow when a special district fails to provide financial reports.

Section 17: Amends s. 195.087, F.S., to require each tax collector and property appraiser to post his or her budget on the county's official website.

Section 18: Requires each local governmental entity's website to provide a link to the Department of Financial Services website to view the entity's annual financial report.

Section 19: Amends s. 218.35, F.S., to specify how county fee officers and clerks of court must prepare budget.

Section 20: Amends s. 218.39, F.S., to require certain local government entities to have annual financial audits completed within 9 months after the end of the fiscal year.

Section 21: Amends s. 218.503, F.S., to clarify how to determine a fund balance deficit.

Section 22: Amends s. 373.536, F.S., to require water management districts to post their tentative and final adopted budgets on their website.

Section 23: Amends s. 1011.03, F.S., to require district school boards to post a summary of their tentative and adopted budgets, including amendments, on their website. If the school district does not operate a website the information shall be posted on the county's website.

Section 24: Amends s. 1011.051, F.S., to correct accounting terminology.

Section 25: Amends s. 1011.64, F.S., to correct accounting terminology.

Section 26: provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Community Affairs may experience increased expenditures resulting from the enhanced enforcement provisions.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The website posting requirements may have an indeterminate fiscal impact on affected local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will increase transparency in the budget process of local governments.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill requires counties or municipalities to spend funds or take an action requiring the expenditure of funds. However, the amount of the expenditure is insignificant because many local governments have websites, and therefore an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES