

House Bill 1149 (AS PASSED HOUSE AND SENATE)

By: Representatives Mainor of the 56<sup>th</sup>, Sainz of the 180<sup>th</sup>, and Thomas of the 21<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated,  
2 relating to local government budgets and audits, so as to require audits of supplemental  
3 official income of county officers; to provide a definition; to provide for related matters; to  
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated, relating to  
8 local government budgets and audits, is amended by revising Code Section 36-81-7, relating  
9 to requirement of audits, conduct of audits, audit reports, forwarding of audits to state  
10 auditor, failure to file or correct deficiencies, and public inspection, as follows:

11 "36-81-7.

12 (a)(1) ~~Beginning with the local government fiscal year which ends between July 1, 1994,~~  
13 ~~and June 30, 1995, the~~ The governing authority of each unit of local government having  
14 a population in excess of 1,500 persons according to the latest estimate of population by  
15 the United States Bureau of the Census or its successor agency or expenditures  
16 of \$550,000.00 or more shall provide for and cause to be made an annual audit of the

17 financial affairs and transactions of all funds and activities of the local government for  
18 each fiscal year of the local government.

19 (2) The governing authority of each local unit of government not included in  
20 paragraph (1) of this subsection shall provide for and cause to be made the audit required  
21 pursuant to paragraph (1) of this subsection not less often than once every two fiscal  
22 years. Audits performed pursuant to this paragraph shall be for both fiscal years.

23 (3) The governing authority of each local unit of government having expenditures of less  
24 than \$550,000.00 in that government's most recently ended fiscal year may elect to  
25 provide for and cause to be made, in lieu of the biennial audit otherwise required under  
26 paragraph (2) of this subsection, an annual report of agreed upon procedures for that  
27 fiscal year. The agreed upon procedures shall include as a minimum: proof and  
28 reconciliation of cash, confirmation of cash balances, a listing of bank balances by bank,  
29 a statement of cash receipts and cash disbursements, a review of compliance with state  
30 law, and a report of agreed upon procedures. This agreed upon procedures report shall  
31 be in a format prescribed by the state auditor and shall constitute an annual audit report  
32 for purposes of and within the meaning of the requirements of subsections (d) through (g)  
33 of this Code section. The Department of Community Affairs is authorized to assist  
34 requesting local governments in preparing agreed upon procedures reports required under  
35 this paragraph and in establishing record-keeping procedures needed in preparing those  
36 reports and is further authorized to charge those local governments reasonable fees for  
37 that assistance. To the extent that the state auditor is able to perform the agreed upon  
38 procedures, the governing body may contract with the state auditor.

39 (4) At the option of the governing authority, an audit may be made at a lesser interval  
40 than one year.

41 (b) The audits of each local government shall be conducted in accordance with generally  
42 accepted government auditing standards. Each audit shall also contain a statement of any  
43 agreement or arrangement under which the local unit of government has assumed any

44 actual or potential liability for the obligations of any governmental or private agency,  
45 authority, or instrumentality. Such statement shall include the purpose of the agreement  
46 or arrangement, shall identify the agency, authority, or instrumentality upon whose  
47 obligations the unit of local government is or may become liable, and shall state the amount  
48 of actual liability and the maximum amount of potential liability of the local government  
49 under the agreement or arrangement. To the extent that the state auditor is able to provide  
50 comparable auditing services, the governing body may contract with the state auditor.

51 (c) All annual audit reports of local units of government shall contain at least the  
52 following:

53 (1) Financial statements prepared in conformity with generally accepted governmental  
54 accounting principles, setting forth the financial condition and results of operation of each  
55 fund and activity of the local government and such financial statements shall be the  
56 representation of the local government; and

57 (2) The opinion of the performing auditor with respect to the financial statement; in  
58 addition to an explanation of any qualification or disclaimers contained in the opinion,  
59 such opinion shall also disclose, in accordance with generally accepted government  
60 auditing standards, any apparent material violation of state or local law discovered during  
61 the audit.

62 (c.1)(1) The annual audit reports of a county or consolidated city-county government  
63 shall also contain financial statements prepared in conformity with generally accepted  
64 governmental accounting principles, providing a detailed account of the supplemental  
65 official income and related expenditures of each county officer listed in Article IX,  
66 Section I, Paragraph III(a) of the Constitution, provided that such county officer is paid  
67 in whole or in part on a salary basis and over whom the county governing authority  
68 exercises budgetary authority; and such financial statements shall be the representation  
69 of such officers. Such officers shall be obligated to cooperate with the county or  
70 consolidated government in the preparation of such financial statements and audit reports

71 and shall provide such government with all documentation the government deems  
72 necessary to prepare such financial statements or audit reports. The failure of any such  
73 officer to cooperate with or provide required documentation to a county or consolidated  
74 government shall not result in any liability applying to such government.

75 (2) The opinion of the performing auditor with respect to the financial statement  
76 provided for in this subsection, in addition to an explanation of any qualifications or  
77 disclaimers contained in the opinion, shall also disclose, in accordance with generally  
78 accepted government auditing standards, any apparent material violation of state or local  
79 law discovered during the audit of the supplemental official income of such county  
80 officers.

81 (3) For the purpose of this subsection, the term 'supplemental official income' means all  
82 funds from any source other than funds appropriated by a county or consolidated  
83 government that an individual or his or her office derives from performing duties that are  
84 within his or her official capacity as a county officer.

85 (d)(1) Each annual audit report of a local unit of government shall be completed and a  
86 copy of the report forwarded to the state auditor within 180 days after the close of the  
87 unit's fiscal year. In addition to the audit report, the local unit of government shall  
88 forward to the state auditor, within 30 days after the audit report due date, written  
89 comments on the findings and recommendations in the report, including a plan for  
90 corrective action taken or planned and comments on the status of corrective action taken  
91 on prior findings. If corrective action is not necessary, the written comments should  
92 include a statement describing the reason it is not. In the case of units provided for in  
93 paragraph (2) of subsection (a) of this Code section, the audit reports for both fiscal  
94 periods shall be submitted within 180 days after the close of each second fiscal year and  
95 the written comments shall be submitted within 30 days after the audit report due date.

96 (2) The state auditor shall review the audit report and written comments submitted to the  
97 auditor's office to ensure that it meets the requirements for audits of local governments.

98 If the state auditor finds the requirements for audits of local governments have not been  
99 complied with, the state auditor shall within 60 days of receipt of the audit or the written  
100 comments notify the governing authority and the auditor who performed the audit and  
101 shall submit to them a list of deficiencies to be corrected. A copy of this notification shall  
102 also be sent by the state auditor to each member of the General Assembly whose  
103 senatorial or representative district includes any part of the unit of local government.

104 (3) If the state auditor has not received any required audit or written comments by the  
105 date specified in paragraph (1) of this subsection, the state auditor shall within 30 days  
106 of such date notify the unit of local government that the audit has not been received as  
107 required by law. A copy of this notification shall also be sent by the state auditor to each  
108 member of the General Assembly whose senatorial or representative district includes any  
109 part of the unit of local government.

110 (4) The state auditor, for good cause shown by those local units in which an audit is in  
111 the process of being conducted or will promptly be conducted, may waive the  
112 requirement for completion of the audit within 180 days. Such waiver shall be for an  
113 additional period of not more than 180 days and no such waiver shall be granted for more  
114 than two successive years to the same unit of local government.

115 (5) No state agency shall make or transmit any state grant funds to any local government  
116 which has failed to provide all the audits required by law within the preceding five years.

117 (e) A copy of the report and of any comments made by the state auditor pursuant to  
118 paragraph (2) of subsection (d) of this Code section shall be maintained as a public record  
119 for public inspection during the regular working hours at the principal office of the local  
120 government. Those units of local government not having a principal office shall provide  
121 a notification to the public as to the location of and times during which the public may  
122 inspect the report.

123 (f) Upon a failure, refusal, or neglect to have an annual audit made, or a failure to file a  
124 copy of the annual audit report with the state auditor, or a failure to correct auditing

125 deficiencies noted by the state auditor, the state auditor shall cause a prominent notice to  
126 be published in the legal organ of, and any other newspapers of general circulation within,  
127 the unit of local government. Such notice shall be a prominently displayed advertisement  
128 or news article and shall not be placed in that section of the newspaper where legal notices  
129 appear. Such notice shall be published twice and shall state that the governing authority  
130 of the unit of local government has failed or refused, as the case may be, to file an audit  
131 report or to correct auditing deficiencies, as the case may be, for the fiscal year or years in  
132 question. Such notice shall further state that such failure or refusal is in violation of state  
133 law.

134 (g) The state auditor may waive the requirement of correction of auditing deficiencies for  
135 a period of one year from the required audit filing date, provided evidence is presented that  
136 substantial progress is being made towards removing the cause of the need for the waiver.  
137 No such waiver for the same set of deficiencies shall be granted for more than two  
138 successive years to the same local government."

139 **SECTION 2.**

140 All laws and parts of laws in conflict with this Act are repealed.