

House Bill 244 (AS PASSED HOUSE AND SENATE)

By: Representatives Cannon of the 172nd, Yearata of the 152nd, Greene of the 154th, Jackson of the 128th, and Hagan of the 156th

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 update and revise provisions,
3 content, and form of annual audits by local governments; to authorize regulatory basis of
4 accounting framework for certain annual audits; to authorize the state auditor to prescribe
5 necessary forms and information contained in certain components of such audits; to provide
6 for exceptions; to provide that certain public officers and employees may be liable for the
7 failure of their offices to assist counties in complying with audit requirements; to provide for
8 the temporary withholding of compensation for certain officers for failing to assist counties
9 in complying with audit requirements; to provide for related matters; to repeal conflicting
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated, relating to
14 local government budgets and audits, is amended by revising Code Section 36-81-7, relating
15 to audit of financial affairs and transactions, contents, copy to state auditor, and public
16 inspection, as follows:

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17 "36-81-7.

18 (a)(1) The governing authority of each unit of local government having a population in
19 ~~excess of 1,500 persons according to the latest estimate of population by the United~~
20 ~~States Bureau of the Census or its successor agency or expenditures of \$550,000.00~~
21 \$2.5 million or more shall provide for and cause to be made an annual audit of the
22 financial affairs and transactions of all funds and activities of the local government for
23 each fiscal year of the local government.

24 (2) The governing authority of each local unit of government ~~not included in~~
25 ~~paragraph (1) of this subsection shall~~ having expenditures of \$2.5 million or less may
26 provide for and cause to be made ~~the~~ an audit ~~required pursuant to paragraph (1) of this~~
27 ~~subsection not less often than once every two fiscal years~~ using the special purpose
28 framework prescribed by the state auditor. The state auditor shall develop reporting
29 templates to be used by a local unit of government making a report pursuant to this
30 paragraph and establish an effective date to begin reporting under the special purpose
31 framework. Audits performed pursuant to this paragraph shall be for both fiscal years.

32 (3)(A) The governing authority of each local unit of government having expenditures
33 of ~~less than \$550,000.00~~ \$1 million or less in ~~that~~ such government's most recently
34 ended fiscal year may elect to provide for and cause to be made, in lieu of the biennial
35 audit otherwise ~~required under~~ provided for in paragraph paragraphs (1) and (2) of this
36 subsection, an annual report of agreed upon procedures for that fiscal year. The agreed
37 upon procedures shall include as a minimum: proof and reconciliation of cash,
38 confirmation of cash balances, a listing of bank balances by bank, copies of financial
39 statements and notes as prescribed by the state auditor, a statement of cash receipts and
40 cash disbursements, a review of compliance with state law, and a report of agreed upon
41 procedures. The annual report of agreed upon procedures performed pursuant to this
42 paragraph shall not be used for more than four consecutive years. The governing
43 authority of each local unit of government not included in paragraph (1) or (2) of this

44 subsection shall, no less than every fifth year, provide for and cause to be made an audit
45 of the financial affairs and transactions of all funds and activities of the local
46 government in accordance with generally accepted government auditing standards.

47 (B) Agreed ~~This agreed~~ upon procedures report reports or reports using the special
48 purpose framework shall be in a format prescribed by the state auditor and shall
49 constitute an annual audit report for purposes of and within the meaning of the
50 requirements of subsections (d) through (g) of this Code section. The Department of
51 Community Affairs is authorized to assist requesting local governments in preparing
52 agreed upon procedures reports or special purpose framework reports required under
53 this paragraph and in establishing record-keeping procedures needed in preparing those
54 reports and is further authorized to charge those local governments reasonable fees for
55 that assistance. To the extent that the state auditor is able to perform the agreed upon
56 procedures, the governing body may contract with the state auditor.

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

59 (5) In the event that a local unit of government presents evidence that in a particular
60 fiscal year unusual circumstances resulted in expenditures exceeding the amounts
61 provided for in this subsection, the state auditor shall be authorized for good cause shown
62 to grant exceptions to the audit filing required under this subsection.

63 (b) The audits of each local government shall be conducted in accordance with generally
64 accepted government auditing standards. Each audit shall also contain a statement of any
65 agreement or arrangement under which the local unit of government has assumed any
66 actual or potential liability for the obligations of any governmental or private agency,
67 authority, or instrumentality. Such statement shall include the purpose of the agreement
68 or arrangement, shall identify the agency, authority, or instrumentality upon whose
69 obligations the unit of local government is or may become liable, and shall state the amount
70 of actual liability and the maximum amount of potential liability of the local government

71 under the agreement or arrangement. To the extent that the state auditor is able to provide
72 comparable auditing services, the governing body may contract with the state auditor.

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

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

79 (2) The opinion of the performing auditor with respect to the financial statement; in
80 addition to an explanation of any qualification or disclaimers contained in the opinion,
81 such opinion shall also disclose, in accordance with generally accepted government
82 auditing standards, any apparent material violation of state or local law discovered during
83 the audit; provided, however, that the state auditor may accept an adverse opinion on an
84 audit if the basis of such adverse opinion is the result of a unit of local government
85 making a report pursuant to paragraph (2) of subsection (a) of this Code section.

86 (c.1)(1) The annual audit reports of a county or consolidated city-county government
87 shall also contain financial statements prepared in conformity with generally accepted
88 governmental accounting principles, providing a detailed account of the supplemental
89 official income and related expenditures of each county officer listed in Article IX,
90 Section I, Paragraph III(a) of the Constitution, provided that such county officer is paid
91 in whole or in part on a salary basis and over whom the county governing authority
92 exercises budgetary authority; and such financial statements shall be the representation
93 of such officers. Such officers shall be obligated to cooperate with the county or
94 consolidated government in the preparation of such financial statements and audit reports
95 and shall provide such government with all documentation the government deems
96 necessary to prepare such financial statements or audit reports. ~~The failure of any such~~

97 ~~officer to cooperate with or provide required documentation to a county or consolidated~~
98 ~~government shall not result in any liability applying to such government.~~

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

105 (3) As used in ~~For the purpose of~~ this subsection, the term 'supplemental official income'
106 means all funds from any source other than funds appropriated by a county or
107 consolidated government that an individual or his or her office derives from performing
108 duties that are within his or her official capacity as a county officer.

109 (d)(1) Each annual audit report of a local unit of government shall be completed and a
110 copy of the report forwarded to the state auditor within 180 days after the close of the
111 unit's fiscal year. In addition to the audit report, the local unit of government shall
112 forward to the state auditor, within 30 days after the audit report due date, written
113 comments on the findings and recommendations in the report, including a plan for
114 corrective action taken or planned and comments on the status of corrective action taken
115 on prior findings. If corrective action is not necessary, the written comments should
116 include a statement describing the reason it is not. ~~In the case of units provided for in~~
117 ~~paragraph (2) of subsection (a) of this Code section, the audit reports for both fiscal~~
118 ~~periods shall be submitted within 180 days after the close of each second fiscal year and~~
119 ~~the written comments shall be submitted within 30 days after the audit report due date.~~

120 (2) The state auditor shall review the audit report and written comments submitted to the
121 auditor's office to ensure that it meets the requirements for audits of local governments.
122 If the state auditor finds the requirements for audits of local governments have not been
123 complied with, the state auditor shall within 60 days of receipt of the audit or the written

124 comments notify the governing authority and the auditor who performed the audit and
125 shall submit to them a list of deficiencies to be corrected. A copy of this notification shall
126 also be sent by the state auditor to each member of the General Assembly whose
127 senatorial or representative district includes any part of the unit of local government.

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

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

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

141 (d.1)(1) Public officers and employees serving a given county or consolidated
142 government, including county officers listed in Article IX, Section I, Paragraph III(a) of
143 the Constitution and state officers and employees specifically assigned to such local
144 government, shall be obligated to cooperate with the county or consolidated government
145 in the preparation of financial statements and audit reports required by this Code section
146 and shall provide such government with all documentation deemed necessary by the
147 government to prepare such financial statements or audit reports.

148 (2) The failure of any such public officer or employee to cooperate with or provide
149 required documentation to a county or consolidated government shall not result in any

150 liability applying to such government, and the state auditor for good cause shown may
151 waive the requirements of this Code section for either:

152 (A) A period of 90 days following a 180 day waiver granted pursuant to paragraph (4)
153 of subsection (d) of this Code section; or

154 (B) In the event that a 180 day waiver granted pursuant to paragraph (4) of subsection
155 (d) of this Code section was granted to such county or consolidated government in the
156 previous two years, a period of 90 days following the deadline provided for in
157 paragraph (1) of subsection (d) of this Code section.

158 The waiver provided for in this paragraph shall only be granted if the county or
159 consolidated government's failure to timely file an audit is the result of the failure of one
160 or more such public officers or employees to cooperate or provide documentation as
161 required by this paragraph.

162 (3) In the event that a county or consolidated government fails to forward a copy of an
163 audit or report to the state auditor within the time frame provided for in this Code section,
164 and such failure is the result of the failure of a county officer listed in Article IX,
165 Section I, Paragraph III(a) of the Constitution, other than judges of the probate court, to
166 cooperate with such county or consolidated government in the preparation of such audit
167 or report, the governing authority of such county or consolidated government,
168 notwithstanding any other provision of law to the contrary, shall temporarily withhold 50
169 percent of the compensation paid to such officer from county funds until such time as
170 such officer has provided all cooperation and information necessary for the filing of the
171 audit or report. Within 14 days of such an audit or report being completed and forwarded
172 to the state auditor, the governing authority of the county or consolidated government
173 shall pay all such withheld compensation to the officer; provided, however, that such
174 officer shall not be entitled to receive any interest or additional compensation related to
175 such withheld funds.

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

182 (f) Upon a failure, refusal, or neglect to have an annual audit made, or a failure to file a
183 copy of the annual audit report with the state auditor, or a failure to correct auditing
184 deficiencies noted by the state auditor, the state auditor shall cause a prominent notice to
185 be published in the legal organ of, and any other newspapers of general circulation within,
186 the unit of local government. Such notice shall be a prominently displayed advertisement
187 or news article and shall not be placed in that section of the newspaper where legal notices
188 appear. Such notice shall be published twice and shall state that the governing authority
189 of the unit of local government has failed or refused, as the case may be, to file an audit
190 report or to correct auditing deficiencies, as the case may be, for the fiscal year or years in
191 question. Such notice shall further state that such failure or refusal is in violation of state
192 law.

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

198 **SECTION 2.**

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