

House Bill 561

By: Representatives Henson of the 55th, Smith of the 129th, Post 2, Ashe of the 42nd, Post 2, Royal of the 140th and Crawford of the 91st

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 change certain provisions relating
3 to grant certification; to provide for a definition; to provide for procedures, conditions, and
4 limitations; to provide for duties and responsibilities; to provide an effective date; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated, relating to
9 local government budgets and audits, is amended by striking Code Section 36-81-8.1,
10 relating to grant certification, and inserting in its place a new Code Section 36-81-8.1 to read
11 as follows:

12 "36-81-8.1.

13 (a) As used in this Code section, the term 'subrecipient' means an entity that receives a
14 grant of state funds from the Governor's emergency fund or from a special project
15 appropriation through a contract with a local government.

16 (b) ~~On and after January 1, 1999, each~~ Each grant of state funds to a recipient local
17 government from the Governor's emergency fund or from a special project appropriation
18 in an amount greater than \$5,000.00 shall be conditioned upon the receipt by the state
19 auditor of a properly completed grant certification form. The form shall be designed by the
20 state auditor and shall be distributed with each covered grant as required by this Code
21 section. The grant certification form shall require the certification by the recipient local
22 government and by the local government auditor that the grant funds were used solely for
23 the express purpose or purposes for which the grant was made. Such form shall be filed
24 with the state auditor in conjunction with the annual audit required under Code Section
25 36-81-7 for each year in which such grant funds are expended or remain unexpended by
26 the local government. For grant funds to subrecipients, the certification by the local

1 government auditor required by this subsection may also be made by an in-house or
 2 internal auditor of the local government who meets the education requirements contained
 3 in subparagraph (a)(3)(A) of Code Section 43-3-6. The cost of performing any audit
 4 required by this subsection shall be an eligible expense of the grant. However, the amount
 5 charged shall not exceed 2 percent of the amount of the grant or \$250.00 per required audit,
 6 whichever is less. The local government to whom the grant is made may deduct the cost
 7 of any such audit from the funds disbursed to the subrecipient.

8 (c) Where the grant of state funds is for \$5,000.00 or less, the grant shall be conditioned
 9 upon receipt by the state auditor of a properly completed grant certification form as
 10 required by subsection (b) of this Code section except that only the local government shall
 11 certify that the grant funds were used solely for the express purpose or purposes for which
 12 the grant was made. Where the grant is to a subrecipient, the grant shall be conditioned
 13 upon receipt by the local government of a notarized affidavit executed by the executive
 14 director, president, chairperson, chief executive officer, or other responsible party
 15 representing the subrecipient, by whatever name or title, to whom the grant funds are
 16 disbursed. The affidavit shall certify under oath that the funds were used solely for the
 17 express purpose or purposes for which the grant was made. Such affidavit shall be made
 18 on a form designed by the state auditor and shall be distributed with each covered grant as
 19 required by this Code section.

20 (d)(1) Notwithstanding subsections (b) or (c) of this Code section, the Governor, the
 21 Appropriations Committee of the House of Representatives, or the Appropriations
 22 Committee of the Senate shall have the right and authority to direct and require any
 23 recipient local government to obtain or perform an audit of any grant of state funds from
 24 the Governor's emergency fund or from a special project appropriation, regardless of the
 25 amount thereof.

26 (2) Notwithstanding subsections (b) or (c) of this Code section, a recipient local
 27 government shall have the right or authority to obtain or perform an audit of any grant of
 28 state funds to a subrecipient from the Governor's emergency fund or from a special
 29 project appropriation, regardless of the amount thereof.

30 (e) The failure to comply with the requirements of this Code section shall result in a
 31 forfeiture of such a state grant and the return to the state of any such grant funds which
 32 have been received by the local government. In the case of a state grant awarded to a
 33 subrecipient, the subrecipient shall be responsible for the return to the state of any such
 34 grant funds if it is determined that the funds were not used for the express purpose or
 35 purposes for which the grant was made. A grant recipient or subrecipient shall be
 36 ineligible to receive funds from the Governor's emergency fund or from a special project
 37 appropriation until all unallowed expenditures are returned to the state, except that a

1 recipient local government shall not be ineligible for such funds where a subrecipient has
2 not used funds it received for the express purpose or purposes for which the grant was
3 made.

4 (f) No subrecipient shall be considered an agent of the local government or be indemnified
5 or held harmless by the local government for any negligence, misfeasance, or malfeasance
6 of the subrecipient, and a recipient local government shall not be liable for any expenditure
7 of state grant funds by a subrecipient."

8 **SECTION 2.**

9 This Act shall become effective upon its approval by the Governor or upon its becoming law
10 without such approval.

11 **SECTION 3.**

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