

House Bill 561 (AS PASSED HOUSE AND SENATE)

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

To amend Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated, relating to local government budgets and audits, so as to change certain provisions relating to grant certification; to provide for a definition; to provide for procedures, conditions, and limitations; to provide for duties and responsibilities; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"36-81-8.1.

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

(b) ~~On and after January 1, 1999, each~~ Each grant of state funds to a recipient local government from the Governor's emergency fund or from a special project appropriation in an amount greater than \$5,000.00 shall be conditioned upon the receipt by the state auditor of a properly completed grant certification form. The form shall be designed by the state auditor and shall be distributed with each covered grant as required by this Code section. The grant certification form shall require the certification by the recipient local government and by the local government auditor that the grant funds were used solely for the express purpose or purposes for which the grant was made. Such form shall be filed with the state auditor in conjunction with the annual audit required under Code Section 36-81-7 for each year in which such grant funds are expended or remain unexpended by 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 or paragraph (1) of subsection (d) of this Code section shall be
5 an eligible expense of the grant. However, the amount charged shall not exceed 2 percent
6 of the amount of the grant or \$250.00 per required audit, whichever is less. The local
7 government to whom the grant is made may deduct the cost of any such audit from the
8 funds disbursed to the subrecipient.

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

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

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

33 (e) The failure to comply with the requirements of this Code section shall result in a
34 forfeiture of such a state grant and the return to the state of any such grant funds which
35 have been received by the local government. In the case of a state grant awarded to a
36 subrecipient, the subrecipient shall be responsible for the return to the state of any such
37 grant funds if it is determined that the funds were not used for the express purpose or

purposes for which the grant was made. A grant recipient or subrecipient shall be ineligible to receive funds from the Governor's emergency fund or from a special project appropriation until all unallowed expenditures are returned to the state, except that a recipient local government shall not be ineligible for such funds where a subrecipient has not used funds it received for the express purpose or purposes for which the grant was made.

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

SECTION 2.

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

SECTION 3.

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