

House Bill 1149 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Mainor of the 56th, Sainz of the 180th, and Thomas of the 21st

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 **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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2.

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