



House of Representatives

General Assembly

File No. 436

January Session, 2009

Substitute House Bill No. 6593

House of Representatives, April 2, 2009

The Committee on Planning and Development reported through REP. SHARKEY of the 88th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING FINANCIAL PRACTICES AND AUDITS OF MUNICIPALITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-344 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 Not less than two weeks before the annual town meeting, the board
4 shall hold a public hearing, at which itemized estimates of the
5 expenditures of the town for the ensuing fiscal year shall be presented
6 and at which all persons shall be heard in regard to any appropriation
7 which they are desirous that the board should recommend or reject.
8 The board shall, after such public hearing, hold a public meeting at
9 which it shall consider the estimates so presented and any other
10 matters brought to its attention and shall thereupon prepare and cause
11 to be published in a newspaper in such town, if any, otherwise in a
12 newspaper having a substantial circulation in such town, a report in a
13 form prescribed by the Secretary of the Office of Policy and

14 Management containing: (1) An itemized statement of all actual
15 [receipts] revenues from all sources of such town during its last fiscal
16 year; (2) an itemized statement by classification of all actual
17 expenditures during the same year; (3) an itemized estimate of
18 anticipated revenues during the ensuing fiscal year from each source
19 other than from local property taxes and an estimate of the amount
20 which should be raised by local property taxation for such ensuing
21 fiscal year; (4) an itemized estimate of expenditures of such town for
22 such ensuing fiscal year; and (5) the amount of [revenue surplus or
23 deficit] (A) cumulative deficit, as defined in section 7-391, as amended
24 by this act, in the general fund of the town, or (B) any balance in such
25 fund at the beginning of the fiscal year for which estimates are being
26 prepared; provided any town which, according to the most recent
27 federal census, has a population of less than five thousand may, by
28 ordinance, waive such publication requirement, in which case the
29 board shall provide for the printing or mimeographing of copies of
30 such report in a number equal to ten per cent of the population of such
31 town according to such federal census, which copies shall be available
32 for distribution five days before the annual budget meeting of such
33 town. The board shall submit such estimate with its recommendations
34 to the annual town meeting next ensuing, and such meeting shall take
35 action upon such estimate and recommendations, and make such
36 specific appropriations as appear advisable, but no appropriation shall
37 be made exceeding in amount that for the same purpose recommended
38 by the board and no appropriation shall be made for any purpose not
39 recommended by the board. Such estimate and recommendations may
40 include, if submitted to a vote by voting machine, questions to indicate
41 whether the budget is too high or too low. The vote on such questions
42 shall be for advisory purposes only, and not binding upon the board.
43 Immediately after the board of assessment appeals has finished its
44 duties and the grand list has been completed, the board of finance shall
45 meet and, with due provision for estimated uncollectible taxes,
46 abatements and corrections, shall lay such tax on such list as shall be
47 sufficient, in addition to the other estimated yearly income of such
48 town and in addition to [such revenue] the surplus balance available in

49 the general fund of such town, if any, as may be appropriated, not only
50 to pay the expenses of the town for such current year, but also to
51 absorb [the revenue] any cumulative deficit, as defined in section 7-
52 391, as amended by this act, in the general fund of such town, [if any,
53 at the beginning of such current year] pursuant to the provisions of
54 section 8 of this act. The board shall prescribe the method by which
55 and the place where all records and books of accounts of the town, or
56 of any department or subdivision thereof, shall be kept. The provisions
57 of this section shall not be construed as preventing a town from
58 making further appropriations upon the recommendation of its board
59 of finance at a special town meeting held after the annual town
60 meeting and prior to the laying of the tax for the current year, and any
61 appropriations made at such special town meeting shall be included in
62 the amount to be raised by the tax laid by the board of finance under
63 the provisions of this section.

64 Sec. 2. Section 7-346 of the general statutes is repealed and the
65 following is substituted in lieu thereof (*Effective from passage*):

66 Wherever used in this section, the phrase "recurring expenditure"
67 means an expenditure for a purpose for which an appropriation was
68 made in each of the three preceding fiscal years. If any expenditure,
69 other than a recurring expenditure, authorized in the budget or by the
70 town meeting is of so large an amount that the tax laid to pay it would
71 make the total tax so high as, in the judgment of the board, to be
72 inconsistent with the public welfare, the board may apportion the tax
73 for such expenditure over a period of not more than five years, and the
74 amount apportioned each year shall be thereafter included in the
75 budget as a fixed charge until such time as the total amount of such
76 expenditure has been paid. If the electors of such town, at a legal
77 meeting held for such purpose, vote to issue bonds, the interest on
78 such bonds and an annual appropriation for a sinking fund sufficient
79 to pay the same at maturity shall be included in the budget as a fixed
80 charge. The provisions of this section shall not apply to any
81 expenditure which is to be met by the proceeds of a bond issue and
82 which has been authorized by vote of any town at any meeting thereof.

83 Any charter provision of any municipality authorizing the
84 apportionment of the tax laid for any recurring expenditure over a
85 period of years is repealed. The provisions of this section shall apply to
86 any town having a board of finance created by special act and shall
87 become a part of such special act upon the adoption of the provisions
88 of this section by a town at any annual or special meeting of the
89 electors of such town called for that purpose. The provisions of this
90 section shall not be applicable to funding or absorbing a cumulative
91 deficit, as defined in section 7-391, as amended by this act.

92 Sec. 3. Section 7-390 of the general statutes is repealed and the
93 following is substituted in lieu thereof (*Effective from passage*):

94 Each municipality adopting the provisions of this chapter shall
95 publish, as provided in section 7-344, as amended by this act, a budget
96 statement which shall show, in addition to the items set forth in said
97 section 7-344: [(1) an] (1) An estimate of the [receipts] revenues and
98 expenditures of the year during which the budget is being prepared,
99 (2) a statement of the actual [receipts] revenues and expenditures of
100 the year prior to the year in which the budget is being prepared, and
101 (3) an estimate of the [receipts] revenues and expenditures for the
102 ensuing year. Each such municipality shall [absorb any deficit] levy a
103 property tax that, when added to the estimated yearly revenue of such
104 municipality and to the surplus balance available in the general fund
105 of such municipality, if any, as may be appropriated, shall be sufficient
106 to pay the expenses for the fiscal year in which the tax is being levied,
107 and absorb any cumulative deficit, as defined in section 7-391, as
108 amended by this act, in accordance with the provisions of section 8 of
109 this act, which exists at the beginning of the fiscal year in which the
110 budget is being prepared.

111 Sec. 4. Section 7-391 of the general statutes is repealed and the
112 following is substituted in lieu thereof (*Effective from passage*):

113 When used in this chapter and section 8 of this act, unless the
114 context otherwise requires, the following terms shall have the
115 meanings herein specified:

116 (1) "Secretary" means the Secretary of the Office of Policy and
117 Management;

118 (2) ["municipality"] "Municipality" includes each town, consolidated
119 town and city, consolidated town and borough, city and borough;
120 ["audited agency"]

121 (3) "Audited agency" includes each district, as defined in section 7-
122 324, or other municipal utility, the Metropolitan District of Hartford
123 County, each regional planning agency, any other political subdivision
124 of similar character which is created and any other agency created or
125 designated by a municipality to act for such municipality whose
126 annual receipts from all sources exceed one million dollars; ["reporting
127 agency"]

128 (4) "Reporting agency" includes each district, as defined in section 7-
129 324, or other municipal utility, each regional planning agency, any
130 other political subdivision of similar character which is created and
131 any other agency created or designated by a municipality to act for
132 such municipality whose annual receipts from all sources do not
133 exceed one million dollars; ["appointing authority"]

134 (5) "Appointing authority" means the legislative body of a
135 municipality or the board, committee or other governing body of such
136 audited agency, except in any town where the authority to adopt a
137 budget rests with a town meeting or a representative town meeting
138 "appointing authority" means the board of finance or other board,
139 committee or body charged with preparing the budget, or in a town
140 which has no board of finance or other such board, committee or body,
141 means the board of selectmen or the town council; ["audit report"]

142 (6) "Audit report" means the report of the independent auditor and
143 the annual financial statements of the municipality or audited agency;
144 ["independent auditor"]

145 (7) "Independent auditor" means a public accountant who is
146 licensed to practice in the state of Connecticut and who meets the

147 independence standards included in generally accepted government
148 auditing standards; ["public accountant"]

149 (8) "Public accountant" means an individual who meets standards
150 included in generally accepted government auditing standards for
151 personnel performing government audits and the licensing
152 requirements of the State Board of Accountancy; ["receipts"]

153 (9) "Receipts" means amounts accrued or received by a municipality,
154 audited agency or reporting agency and reportable as revenues in
155 accordance with generally accepted accounting principles; ["municipal
156 utility"]

157 (10) "Municipal utility" means every Connecticut municipality or
158 department or agency thereof, or Connecticut district, manufacturing,
159 selling or distributing gas or electricity to be used for light, heat or
160 power or water;

161 (11) "Cumulative deficit" means the amount by which liabilities
162 exceed assets of a fund, as reported on the balance sheet prepared in
163 accordance with generally accepted accounting principles;

164 (12) "Operating deficit" means the amount by which expenditures
165 and other financing uses exceed revenues and other financing sources
166 of a fund for a fiscal year of an entity, as reported on the operating
167 statement prepared in accordance with generally accepted accounting
168 principles;

169 (13) "General fund" means the chief operating fund of a
170 municipality, audited agency or regional school district, as defined
171 under generally accepted accounting principles; and

172 (14) "Reportable noncompliance" means any instance of
173 noncompliance required to be reported under generally accepted
174 government auditing standards.

175 Sec. 5. Section 7-393 of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective from passage*):

177 (a) Upon the completion of an audit, the independent auditor shall
178 file certified copies of the audit report [with] (1) with the appointing
179 authority, (2) in the case of a town, city or borough, with the clerk of
180 such town, city or borough, (3) in the case of a regional school district,
181 with the clerks of the towns, cities or boroughs in which such regional
182 school district is located and with the board of education, (4) in the
183 case of an audited agency, with the clerks of the towns, cities or
184 boroughs in which such audited agency is located, and (5) in each case,
185 with the Secretary of the Office of Policy and Management. Such
186 copies shall be filed [within] not later than six months [from] after the
187 end of the fiscal year of the municipality, regional school district or
188 audited agency, but the secretary may grant an extension of not more
189 than thirty days, provided the auditor making the audit and the chief
190 executive officer of the municipality, regional school district or audited
191 agency shall jointly submit a request in writing to the secretary stating
192 the reasons for such extension at least thirty days prior to the end of
193 such six-month period. If the reason for the extension relates to
194 deficiencies in the accounting system of the municipality, regional
195 school district or audited agency the request must be accompanied by
196 a corrective action plan. The secretary may [, after a hearing with the
197 auditor and officials of the municipality, regional school district or
198 audited agency,] request additional information in substantiation of
199 any request for an additional extension or require a hearing with the
200 auditor and appropriate officials of the municipality, regional school
201 district or audited agency. After reviewing the extension request and
202 any additional information obtained, the secretary may grant an
203 additional extension if conditions warrant. [Said] The independent
204 auditor shall preserve all [of his] working papers employed in the
205 preparation of any such audit until the expiration of [three] five years
206 [from] after the date of filing a certified copy of the audit with the
207 secretary and such working papers shall be available, upon written
208 request and upon reasonable notice from the secretary, during such
209 time for inspection by the secretary or his authorized representative, at
210 the office or place of business of the auditor, during usual business
211 hours. [Any] If the secretary determines that the work papers related

212 to an audit are substandard, the secretary shall transmit a report
213 regarding such determination to the Municipal Finance Advisory
214 Commission. A municipality, regional school district [,] or audited
215 agency or the auditor of a municipality, regional school district or
216 audited agency who fails to have the audit report filed [on its behalf
217 within six months from the end of the fiscal year or within the time
218 granted by the secretary] within the time period or extended time
219 period allowed under this section, shall be assessed a civil penalty of
220 not less than one thousand dollars but not more than ten thousand
221 dollars. The secretary may waive such penalty if, in [his] the opinion of
222 the secretary, there appears to be reasonable cause for [not having
223 completed or provided] the failure to complete or provide the required
224 audit report, provided an official of the municipality, regional school
225 district or audited agency or the auditor submits a written request for
226 such waiver.

227 (b) Not later than thirty days after the receipt of a certified copy of
228 an audit report filed in accordance with subsection (a) of this section
229 that includes any findings by the auditor of reportable noncompliance
230 with applicable laws, regulations and grant or contract provisions, or
231 any significant deficiencies or material weaknesses with respect to the
232 internal controls of the municipality, audited agency or regional school
233 district, the chief executive officer of the municipality or audited
234 agency or the superintendent of the regional school district shall
235 submit to the secretary a plan for corrective action to eliminate such
236 reportable noncompliance, significant deficiency or material weakness.
237 If any significant deficiency, material weakness or reportable
238 noncompliance in the same or substantially the same form is cited in
239 an audit report for the most current fiscal year and in each audit report
240 for the preceding two fiscal years, the appointing authority shall
241 approve said corrective action plan prior to its submittal to the
242 secretary. The secretary shall send a response with respect to the
243 corrective action plan to the chief executive officer of the municipality,
244 audited agency or regional school district and to the appointing
245 authority, if such authority approved the plan.

246 Sec. 6. Section 7-394b of the general statutes is repealed and the
247 following is substituted in lieu thereof (*Effective from passage*):

248 (a) There is established a Municipal Finance Advisory Commission
249 which shall (1) review and submit any recommendations as may be
250 deemed appropriate with respect to any regulations concerning the
251 provisions of section 7-394a, submitted by the Secretary of the Office of
252 Policy and Management for purposes of such review; [and] (2)
253 promulgate, as it deems appropriate and in consultation with
254 appropriate professional and municipal associations, best practice
255 guidelines to promote sound municipal financial management
256 practices; and (3) work with any municipality, regional school district
257 or audited agency referred to it pursuant to the provisions of section 7-
258 395, as amended by this act, or section 8 of this act to improve the fiscal
259 condition of such [municipality] entity. Upon receipt of the secretary's
260 report pursuant to said section 7-395, the commission shall, in
261 determining the level of financial distress of such [municipality] entity,
262 review audits, budgets, accounting and fiscal management practices
263 and any other information relevant to the [municipality's] fiscal
264 condition of the entity. The commission may require the chief
265 executive officer of the municipality or audited agency or the
266 superintendent of the regional school district to (A) provide such
267 information and appear before the commission to discuss the financial
268 condition of the municipality, audited agency or regional school
269 district and the implementation of remedial measures to improve its
270 financial condition; and (B) submit a written report to the commission
271 on implementation of the recommendations of the commission and
272 other remedial measures. If a chief executive officer of a municipality
273 or audited agency or a superintendent of a regional school district fails
274 to provide the information requested or fails to submit the report
275 [within] not later than thirty days [of] after the date of the request, the
276 commission may assess a civil penalty of not less than one thousand
277 but not more than ten thousand dollars on the municipality, audited
278 agency or regional school district. If a chief executive officer of a
279 municipality or audited agency or a superintendent of a regional
280 school district upon whom a penalty has been imposed submits a

281 request, the secretary may waive all or a portion of such penalty if [he]
282 the secretary determines that a reasonable cause exists for [not having
283 provided] the failure to provide the requested information or report.
284 The secretary may, as a condition of such waiver, require compliance
285 by a date set by the secretary.

286 (b) Said commission shall consist of eight members appointed by
287 the Governor as follows: (1) Four members who are fiscal or executive
288 officers of municipalities, with one such member from a municipality
289 in each of the following categories of population at the time of such
290 appointment: (A) A municipality with a population under ten
291 thousand, (B) a municipality with a population of at least ten thousand
292 but under twenty-five thousand, (C) a municipality with a population
293 of at least twenty-five thousand but under seventy-five thousand, and
294 (D) a municipality with a population of seventy-five thousand or over;
295 (2) three members who are not officers of municipalities but whose
296 experience and knowledge, in the discretion of the Governor, would be
297 valuable for the purposes of said commission; [] and (3) a
298 representative from the Office of Policy and Management. Members
299 shall be appointed for four-year terms coterminous with the term of
300 the Governor or until a successor is appointed and qualified,
301 whichever is longer, provided the term of any such member shall be
302 contingent upon holding the office, when applicable, which qualified
303 such member for appointment. Vacancies other than by expiration of
304 terms shall be filled by appointment by the Governor for the unexpired
305 term. All members of said commission shall serve without
306 compensation, except for reimbursement for their necessary expenses
307 incurred in the performance of their duties as members.

308 (c) Repealed by P.A. 83-321, S. 2, 3.

309 Sec. 7. Section 7-395 of the general statutes is repealed and the
310 following is substituted in lieu thereof (*Effective from passage*):

311 The secretary shall review each audit report filed with said secretary
312 as provided in section 7-393, as amended by this act, except said
313 secretary shall review the audit reports on each audited agency

314 biennially and may review the audit reports on any municipality or
315 regional school district biennially, provided such secretary shall, in any
316 year in which [he] the secretary does not review the report of any such
317 municipality or regional school district, review the comments and
318 recommendations of the independent auditor who made such audit. If,
319 upon such review of the audit report, evidence of fraud or
320 embezzlement is found, [he] the secretary shall report such
321 information to the state's attorney for the judicial district in which such
322 municipality, regional school district or audited agency is located. If, in
323 the review of such audit report said secretary finds that such audit has
324 not been prepared in compliance with the provisions of subsection (a)
325 of section 7-394a, or said secretary finds evidence of any unsound or
326 irregular financial practice in relation to commonly accepted standards
327 in municipal finance, said secretary shall prepare a report concerning
328 such finding, including necessary details for proper evaluation of such
329 finding and recommendations for corrective action and shall refer such
330 report to the Municipal Finance Advisory Commission established
331 under section 7-394b, as amended by this act. A copy of such report
332 shall be filed with: (1) The chief executive officer of such municipality
333 or audited agency or the superintendent of such school district and, in
334 the case of a town, city or borough, with the clerk of such town, city or
335 borough; and (2) the Auditors of Public Accounts.

336 Sec. 8. (NEW) (*Effective from passage*) (a) Upon determining the
337 existence of a cumulative deficit, as defined in section 7-391 of the
338 general statutes, as amended by this act, in the general fund of a
339 municipality for the most recently completed fiscal year or upon
340 determining that the existence of an operating deficit in the current
341 fiscal year will result in such a cumulative deficit based upon
342 documented information, the chief executive officer of the
343 municipality shall make reasonable efforts to mitigate or avoid such
344 deficit. Not later than five business days after a determination under
345 this section, the chief executive officer of the municipality shall notify
346 the Secretary of the Office of Policy and Management, in writing, of
347 such determination. Any such cumulative deficit, determined to exist
348 based on available or audited data for the most recently-completed

349 fiscal year or projected in the current fiscal year based upon
350 documented information, shall be absorbed in the budget adopted by
351 such municipality for the ensuing fiscal year through an increase in
352 revenues, a decrease in expenditures, the issuance of deficit
353 obligations, in accordance with section 7-568 of the general statutes, or
354 any combination thereof. The amount needed to absorb such
355 cumulative deficit in the budget for said fiscal year may reflect
356 documented efforts to mitigate the cumulative deficit taken during the
357 fiscal year in which the budget is being prepared. Not later than three
358 business days after the approval date of the budget of the municipality
359 for such ensuing fiscal year, the chief executive officer thereof shall
360 submit a written notice to the secretary, which shall (1) provide
361 detailed information about how the adopted budget, together with any
362 other actions the municipality is undertaking, will fully absorb the
363 cumulative deficit in the municipality's general fund, or (2) provide a
364 written notification, approved by the municipality's legislative body,
365 of the intent of the municipality to fully absorb the cumulative deficit
366 over a period of not more than three fiscal years, with the first of these
367 fiscal years being that for which the budget was adopted. If the
368 secretary determines, on the basis of such information, that the
369 adopted budget is insufficient to absorb such cumulative deficit, or if a
370 notice of intent to fully absorb the defect over three fiscal years is
371 submitted, the secretary shall refer the municipality to the Municipal
372 Finance Advisory Commission established under section 7-394b of the
373 general statutes, as amended by this act. Any such referral under this
374 section shall include a report of the secretary's findings, in the manner
375 provided under section 7-395 of the general statutes, as amended by
376 this act.

377 (b) Any municipality the secretary refers to the commission
378 pursuant to this section shall provide to the commission, for its review
379 and approval, a plan to fully absorb the cumulative deficit in its
380 general fund over not more than a three-year period, as specified in
381 subsection (a) of this section. The municipality shall submit such plan
382 in the form and manner and within the time period the commission
383 may require. If the municipality fails to submit a plan to eliminate such

384 cumulative deficit that is acceptable to the commission, the secretary
385 shall, in consultation with the commission, develop such plan.

386 Sec. 9. Section 7-577 of the general statutes is repealed and the
387 following is substituted in lieu thereof (*Effective from passage*):

388 (a) The Attorney General may apply for a writ of mandamus on
389 behalf of the commission, acting through its chairperson, requiring any
390 official, employee or agent of the municipality to carry out and give
391 effect to any determination of the commission authorized by
392 [subsection (a) of] section 7-394b, as amended by this act, and sections
393 7-560 to 7-579, inclusive, and any obligation by a municipality to repay
394 to the state any amounts the state pays into a special capital reserve
395 fund and compliance by a municipality with any agreements or
396 indenture pertaining to a special capital reserve fund or tax intercept
397 procedure or debt service payment fund related thereto. Each such
398 application shall be filed in superior court for the judicial district of
399 Hartford.

400 (b) The superior court for the judicial district of Hartford may, by
401 application of the secretary, the commission or the Attorney General,
402 enforce, by appropriate decree or process, any provisions of
403 [subsection (a) of] section 7-394b, as amended by this act, and sections
404 7-560 to 7-579, inclusive, or any act or determination of the commission
405 rendered pursuant to [subsection (a) of] section 7-394b, as amended by
406 this act, section 8 of this act and sections 7-560 to 7-579, inclusive.

407 Sec. 10. Section 12-122 of the general statutes is repealed and the
408 following is substituted in lieu thereof (*Effective from passage*):

409 The selectmen of each town [, in their annual report to be submitted]
410 shall submit a report at the annual town meeting [,] that shall include
411 an itemized estimate of the current expenses of the departments of the
412 town for the ensuing fiscal year. [, which] Such estimate shall be
413 altered or approved as the voters determine at such town meeting.
414 Upon completion of the work of the board of assessment appeals and
415 of the final assessment list for the first day of October preceding the

416 date of the annual town meeting, the town shall levy a tax on such list,
 417 payable not later than forty days prior to the end of the fiscal year for
 418 which the tax [was] is levied. No town shall levy a tax which, in
 419 addition to the other estimated yearly income of the town and the
 420 surplus balance in the general fund of such town, if any, as may be
 421 appropriated, shall be insufficient to pay the estimated expenses of the
 422 town for the [current year. If the estimated income, including taxes,
 423 proves insufficient to pay the current expenses of the town, the
 424 selectmen, in their next annual estimate of current expenses, shall
 425 include a sum sufficient to pay the deficit in such expenses of the
 426 previous year] fiscal year for which such tax is levied and to absorb a
 427 cumulative deficit, as defined in section 7-391, as amended by this act,
 428 in the town's general fund, pursuant to the requirements of section 8 of
 429 this act. The provisions of this section shall [not] apply to towns,
 430 [which have boards or departments of finance] notwithstanding the
 431 provisions of any special act, charter, ordinance or home rule
 432 ordinance. As used in this section, "town" means any town, city,
 433 borough, consolidated town and city or consolidated town and
 434 borough.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	7-344
Sec. 2	<i>from passage</i>	7-346
Sec. 3	<i>from passage</i>	7-390
Sec. 4	<i>from passage</i>	7-391
Sec. 5	<i>from passage</i>	7-393
Sec. 6	<i>from passage</i>	7-394b
Sec. 7	<i>from passage</i>	7-395
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	7-577
Sec. 10	<i>from passage</i>	12-122

Statement of Legislative Commissioners:

In section 3(2) "receipts" was changed to "revenues" for consistency with the intent of the bill and other changes were made throughout the bill for accuracy.

PD *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Policy & Mgmt., Off.	GF - None	None	None
Policy & Mgmt., Off.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipalities	STATE MANDATE - See Below	See Below	See Below

Explanation

The bill mandates that when a chief executive officer of a municipality determines the existence of a cumulative deficit in the most recently completed fiscal year, or an operating deficit in the current fiscal year which will result in a cumulative deficit, the chief executive officer must: 1) notify the Office of Policy and Management (OPM); 2) make reasonable efforts to mitigate or avoid such deficit; and 3) absorb the deficit in the budget adopted by the municipality for the ensuing fiscal year through an increase in revenues, a decrease in expenditures, the issuance of debt obligations, or some combination of these solutions. It is uncertain which combination of deficit mitigation options a municipality may employ, thus the fiscal impact is unknown.

Additionally, the bill permits OPM to refer regional school districts, special taxing districts, municipal utilities, the Metropolitan District Commission, and regional planning agencies to the Municipal Finance Advisory Commission. This could result in a cost to municipalities associated with paying civil penalties (between \$1,000 and \$10,000) to the extent that such entities fail to comply.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 6593

AN ACT CONCERNING FINANCIAL PRACTICES AND AUDITS OF MUNICIPALITIES.

SUMMARY:

This bill establishes new requirements for mitigating municipal deficits. It requires municipalities to identify actual and potential general fund deficits and take specified steps to address them. These include setting tax rates that will generate enough funds to absorb deficits developed during previous fiscal years and mitigating deficits as they occur during a fiscal year.

By law, municipalities and other specified entities must submit their annual audits to the Office of Policy and Management (OPM) secretary within six months after the fiscal year ends. The bill requires these audits to identify weak internal controls and noncompliance with law, regulations, and rules (i.e., reportable noncompliance). Audits identifying reportable noncompliance must include a plan to address these findings. Current law allows the secretary to extend the filing deadline. The bill allows him to request supporting information before acting on an extension request.

The bill requires auditors to keep their working papers for five years instead of three, as required under current law.

Lastly, the bill requires the Municipal Finance Advisory Commission (MFAC) to develop auditing guidelines based on best practices and review the audits of more entities that must comply with the Municipal Auditing Act.

EFFECTIVE DATE: Upon passage

DEFICITS

Types

The bill specifies the steps a municipality must take when it identifies or projects a cumulative deficit in its general fund. These deficits result when the municipality's operating costs and "other financing uses" (a term the bill does not define) exceed the municipality's revenues, including tax and fee revenues and federal and state aid (i.e., operating deficit). An operating deficit in one fiscal year could become a cumulative deficit if it is not resolved and is carried over into the next fiscal year.

Under the bill, cumulative and operating deficits are those reported on a municipality's balance sheet and operating statements, respectively, that were prepared according to generally accepted accounting principles (§ 4).

Steps to be Taken after Uncovering a Cumulative Deficit (§ 8)

The bill requires a municipality to address any cumulative general fund deficit in its most recently completed fiscal year and any operating deficit that will result in a cumulative deficit in the subsequent fiscal year. The municipality's chief executive officer must notify the OPM secretary in writing within five business days after the municipality identifies the deficit. In either case, he or she must take reasonable steps to reduce or avoid the deficit.

The municipality must absorb the actual or projected cumulative deficit in the subsequent fiscal year by increasing revenues, decreasing expenditures, issuing deficit reduction bonds, or any combination of these measures. The amounts needed to absorb the deficit may reflect documented efforts the municipality took to reduce the cumulative deficit while it prepared the subsequent fiscal year's budget.

Three business days after the municipality approves the new fiscal year's budget, the chief executive officer must send a written notice to the secretary about how the municipality intends to address the cumulative deficit. The notice must:

1. detail how the budget will fully absorb the cumulative general

fund deficit, or

2. state that the municipality intends to fully absorb the deficit over a period of up to three fiscal years, the first being the year in which the budget was adopted. The municipality's legislative body must approve taking this option

If the municipality chooses the first option, the secretary must determine if the budget sufficiently absorbs the deficit. If it does not, he must refer the municipality to MFAC, delineating his findings.

Any municipality referred to MFAC must prepare a plan that shows how the municipality intends to eliminate the cumulative deficit over a three-year period. The municipality must prepare these plans according to MFAC's format and time limits.

If the MFAC does not accept the municipality's plans, the secretary must prepare them, in consultation with MFAC. In this case, MFAC must approve the revenue projections the municipality will use to prepare its annual budget and three-year financial plan. The projections encompass state aid and property tax revenue.

Setting Tax Rates to Absorb a Cumulative Deficit (§§ 1, 2, 3 & 10)

The bill requires municipalities to absorb any cumulative deficits in their operating general fund when they prepare their budgets. They must do by raising enough taxes, together with other income and any surplus budget balances to absorb the deficit as well as estimated expenses.

Current law allows them to do this with respect to the taxes needed to cover large nonrecurring expenses. If a board of finance decides the cost is so high as to be inconsistent with the public welfare, the municipality can spread the tax out for up to five years. The bill explicitly bars municipalities from treating a cumulative deficit as a non recurring expense.

The bill's requirements apply to all towns regardless of whether

they govern themselves under a charter or the statutes (§§ 1 and 10). A town that governs itself under the statutes may require the board of selectmen to prepare the budget and propose the tax rate for the town meeting's consideration (§ 10). Or it may assign that task to a board of finance, which is also governed under the statutes (§ 1).

In these towns, the boards' budget documents must identify the cumulative deficit or balance in the general fund. By law, these documents must show the money the town received and spent for different purposes during the prior fiscal year, the amounts it expects to receive and spend during the next fiscal year, and the amount of any revenue surplus or deficit. The bill explicitly requires the boards to identify any cumulative deficit and anticipated fund balance (§ 1).

MUNICIPAL AUDITING REQUIREMENTS

Reportable Noncompliance (§§ 4 & 5)

By law municipalities and other specified entities must have their financial statements audited annually by an independent auditor according to generally accepted accounting principles. Those done for municipalities, regional school districts, special taxing districts, municipal utilities, the Metropolitan District Commission, and regional planning agencies must identify:

1. instances of noncompliance with applicable laws, regulations, and grant or contract provisions, and
2. significantly deficient or materially weak internal controls (§ 4).

Audit reports containing these findings must trigger certain actions. Within 30 days after receiving the audit report, the executive in charge of the audited entity must submit a plan to eliminate the problems to the OPM secretary. He or she must approve the plan before submitting it to the secretary if the findings are the same or substantially the same as those reported for the preceding two fiscal years. The secretary must respond to the executive officer and any authority that appointed this officer when he receives the approved plans (§ 5).

Extending Audit Submission Deadlines (§ 4)

The bill changes the conditions for extending the deadline for submitting audits. By law, independent auditors must submit a copy of their audit reports to the OPM secretary within six months after the entity's fiscal year ends, but they may ask for extensions. They, jointly with the audited entity's chief executive officer, must do so in writing at least 30 days before the six-month period ends. The request must explain the need for the extension.

Current law also allows the secretary to grant one additional extension after holding a hearing on the matter with the auditor and agency officials, but does not specify the period for this additional extension. Under the bill, the secretary may either hold a hearing or request additional supporting information before deciding whether to re-extend the deadline.

The bill retains the \$1,000 to \$10,000 civil penalty imposed on the auditor or the audited entity for failing to meet any of the above deadlines. As under current law, the secretary may waive the penalty for reasonable cause if the auditor or an official of the audited entity requests it in writing.

Recordkeeping (§ 5)

The bill extends, from three to five years, the period during which an auditor must keep all working papers. As under current law, the retention period begins when the auditor submits the audit report to the secretary. The secretary may review those papers any time during that period. He must notify MFAC if he determines these papers are substandard.

MFAC (§§ 6 & 9)

The bill expands MFAC's duties. Under current law, MFAC reviews OPM regulations establishing municipal auditing standards. The bill requires MFAC to develop guidelines based on best practices that promote sound municipal financial management practices. MFAC must do this as it deems appropriate and in consultation with

appropriate professional and municipal associations.

The bill requires MFAC to assist more types of entities that need help meeting auditing standards or improving financial practices. Under current law, it may help only a municipality the secretary refers to it after reviewing its audit report. As noted above, he must do so if the audit did not meet commonly accepted standards or showed signs of unsound or irregular financial practices.

The bill extends the MFAC’s duty to regional school districts, special taxing districts, municipal utilities, the Metropolitan District Commission, and regional planning agencies the secretary refers to the commission. In doing so, it requires these entities to comply with the existing MFAC information submission and reporting requirements and subjects them to the existing \$1,000 to \$10,000 civil penalty for noncompliance.

BACKGROUND

MFAC

MFAC is an eight-member commission that advises the OPM secretary about standards and practices for preparing and submitting auditing reports. Its members include the secretary and finance experts, including four municipal executive or fiscal officers.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 18 Nay 0 (03/13/2009)