



General Assembly

January Session, 2009

Raised Bill No. 6593

LCO No. 3721

03721_____PD_

Referred to Committee on Planning and Development

Introduced by:
(PD)

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 Section 7-344 of the general statutes is repealed and the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 towns, if any, as may be appropriated, not
50 only 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 and expenditures of the year prior
100 to the year in which the budget is being prepared, and (3) an estimate
101 of the [receipts] revenues and expenditures for the ensuing year. Each
102 such municipality shall [absorb any deficit] levy a property tax that,
103 when added to the estimated yearly revenue of such municipality and
104 to the surplus balance available in the general fund of such
105 municipality, if any, as may be appropriated, shall be sufficient to pay
106 the expenses for the fiscal year in which the tax is being levied, and
107 absorb any cumulative deficit, as defined in section 7-391, as amended
108 by this act, and in accordance with the provisions of section 8 of this
109 act, which exists at the beginning of the fiscal year in which the budget
110 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, unless the context otherwise requires,
114 the following terms shall have the meanings herein specified:

115 (1) "Secretary" means the Secretary of the Office of Policy and
116 Management; "municipality" includes each town, consolidated town
117 and city, consolidated town and borough, city and borough; ["audited
118 agency"]

119 (2) "Audited agency" includes each district, as defined in section 7-
120 324, or other municipal utility, the Metropolitan District of Hartford
121 County, each regional planning agency, any other political subdivision
122 of similar character which is created and any other agency created or
123 designated by a municipality to act for such municipality whose
124 annual receipts from all sources exceed one million dollars; ["reporting
125 agency"]

126 (3) "Reporting agency" includes each district, as defined in section 7-
127 324, or other municipal utility, each regional planning agency, any
128 other political subdivision of similar character which is created and
129 any other agency created or designated by a municipality to act for
130 such municipality whose annual receipts from all sources do not
131 exceed one million dollars; ["appointing authority"]

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

140 (5) "Audit report" means the report of the independent auditor and
141 the annual financial statements of the municipality or audited agency;
142 ["independent auditor"]

143 (6) "Independent auditor" means a public accountant who is
144 licensed to practice in the state of Connecticut and who meets the
145 independence standards included in generally accepted government

146 auditing standards; ["public accountant"]

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

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

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

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

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

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

170 (13) "Reportable noncompliance" means any instance of
171 noncompliance required to be reported under generally accepted
172 government auditing standards.

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

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

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

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

243 appointing authority, if such authority approved the plan.

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

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

276 agency or regional school district. If a chief executive officer of a
277 municipality or audited agency or the superintendent of a regional
278 school upon whom a penalty has been imposed submits a request, the
279 secretary may waive all or a portion of such penalty if [he] the
280 secretary determines that a reasonable cause exists for [not having
281 provided] the failure to provide the requested information or report.
282 The secretary may, as a condition of such waiver, require compliance
283 by a date set by the secretary.

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

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

307 Sec. 7. Section 7-395 of the general statutes is repealed and the

308 following is substituted in lieu thereof (*Effective from passage*):

309 The secretary shall review each audit report filed with said secretary
310 as provided in section 7-393, as amended by this act, except said
311 secretary shall review the audit reports on each audited agency
312 biennially and may review the audit reports on any municipality or
313 regional school district biennially, provided such secretary shall, in any
314 year in which [he] the secretary does not review the report of any such
315 municipality or regional school district, review the comments and
316 recommendations of the independent auditor who made such audit. If,
317 upon such review of the audit report, evidence of fraud or
318 embezzlement is found, [he] the secretary shall report such
319 information to the state's attorney for the judicial district in which such
320 municipality, regional school district or audited agency is located. If, in
321 the review of such audit report said secretary finds that such audit has
322 not been prepared in compliance with the provisions of subsection (a)
323 of section 7-394a, as amended by this act, or said secretary finds
324 evidence of any unsound or irregular financial practice in relation to
325 commonly accepted standards in municipal finance, said secretary
326 shall prepare a report concerning such finding, including necessary
327 details for proper evaluation of such finding and recommendations for
328 corrective action and shall refer such report to the Municipal Finance
329 Advisory Commission established under section 7-394b, as amended
330 by this act. A copy of such report shall be filed with: (1) The chief
331 executive officer of such municipality or audited agency or the
332 superintendent of such school district and, in the case of a town, city or
333 borough, with the clerk of such town, city or borough; and (2) the
334 Auditors of Public Accounts.

335 Sec. 8. (NEW) (*Effective from passage*) (a) Upon determining the
336 existence of a cumulative deficit, as defined in section 7-391 of the
337 general statutes, as amended by this act, in the general fund of a
338 municipality for the most recently completed fiscal year or upon
339 determining that the existence of an operating deficit in the current
340 fiscal year will result in such a cumulative deficit based upon

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

375 this act.

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

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

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

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

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

408 The selectmen of each town [, in their annual report to be submitted]
409 shall submit a report at the annual town meeting [,] that shall include
410 an itemized estimate of the current expenses of the departments of the
411 town for the ensuing fiscal year. [, which] Such estimate shall be
412 altered or approved as the voters determine at such town meeting.
413 Upon completion of the work of the board of assessment appeals and
414 of the final assessment list for the first day of October preceding the
415 date of the annual town meeting, the town shall levy a tax on such list,
416 payable not later than forty days prior to the end of the fiscal year for
417 which the tax [was] is levied. No town shall levy a tax which, in
418 addition to the other estimated yearly income of the town and the
419 surplus balance in the general fund of such town, if any, as may be
420 appropriated, shall be insufficient to pay the estimated expenses of the
421 town for the [current year. If the estimated income, including taxes,
422 proves insufficient to pay the current expenses of the town, the
423 selectmen, in their next annual estimate of current expenses, shall
424 include a sum sufficient to pay the deficit in such expenses of the
425 previous year] fiscal year for which such tax is levied and to absorb a
426 cumulative deficit, as defined in section 7-390, as amended by this act,
427 in the town's general fund, pursuant to the requirements of section 8 of
428 this act. The provisions of this section shall [not] apply to towns,
429 [which have boards or departments of finance] notwithstanding the
430 provisions of any special act, charter, ordinance or home rule
431 ordinance. As used in this section, "town" means any town, city,
432 borough, consolidated town and city or consolidated town and
433 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 Purpose:

To (1) clarify statutory provisions regarding cumulative general fund deficit of a municipality; (2) revise the process by which municipalities address cumulative general fund deficits; (3) encourage municipalities, audited agencies and regional school districts to take corrective action regarding financial management and internal control weaknesses that independent audits may identify; and (4) ensure the timely submission of such audits.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]