House of Representatives

General Assembly

File No. 85

February Session, 2012

Substitute House Bill No. 5316

House of Representatives, March 22, 2012

The Committee on Planning and Development reported through REP. GENTILE of the 104th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT REQUIRING A TWO-THIRDS VOTE OF THE GENERAL ASSEMBLY TO ENLARGE MUNICIPAL MANDATES AND AUTHORIZING A REVIEW OF CERTAIN MUNICIPAL BUDGETS.

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

Section 1. Subsection (d) of section 2-32b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(d) On and after January 1, 1985, (1) any bill reported by a joint standing committee of the General Assembly which may create or enlarge a state mandate to local governments, as defined in subsection (a) of this section, shall be referred by such committee to the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, unless such reference is dispensed with by a vote of at least two-thirds of each house of the General Assembly, and (2) any bill amended by either house of the General Assembly or by the report of a committee on conference in such a manner as to create or enlarge a state mandate shall be referred to said committee, unless such reference is dispensed with by a vote of at least two-thirds of each house of the General Assembly. Any such bill which is favorably reported by said committee shall contain a determination by said committee concerning the following: (A) Whether or not such bill creates or enlarges a state mandate, and, if so, which type of mandate is created or enlarged; (B) whether or not the state shall reimburse local governments for costs resulting from such new or enlarged mandate, and, if so, which costs are eligible for reimbursement, the level of reimbursement, the timetable for reimbursement and the duration of reimbursement. <u>On and after October 1, 2012, no bill creating or enlarging a state mandate to local governments shall be enacted except upon approval by a vote of at least two-thirds of the members of each house of the General Assembly.</u>

Sec. 2. Subsection (a) of section 7-392 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) All municipalities shall have all their financial statements audited at least once annually and shall provide for audits in accordance with the provisions of sections 4-230 to 4-236, inclusive. Each audited agency, except a local housing authority, shall have all its accounts audited at least once annually. **[**Such**]** <u>Except as provided by subsection (d) of section 2-90, as amended by this act, such</u> audit shall be made by an independent auditor, as defined in section 7-391, who shall be designated in accordance with the provisions of section 7-396. Any independent auditor so retained to render such an annual or biennial audit shall have his duties and powers defined by said secretary. Any audit rendered under the provisions of this chapter shall be performed in accordance with standards adopted by the secretary by regulation and approved by the Auditors of Public Accounts.

Sec. 3. Section 2-90 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) The Auditors of Public Accounts shall organize the work of their office in such manner as they deem most economical and efficient and shall determine the scope and frequency of any audit they conduct.

(b) Said auditors, with the Comptroller, shall, at least annually and as frequently as they deem necessary, audit the books and accounts of the Treasurer, including, but not limited to, trust funds, as defined in section 3-13c, and certify the results to the Governor. The auditors shall, at least annually and as frequently as they deem necessary, audit the books and accounts of the Comptroller and certify the results to the Governor. They shall examine and prepare certificates of audit with respect to the financial statements contained in the annual reports of the Treasurer and Comptroller, which certificates shall be made part of such annual reports. In carrying out their responsibilities under this section, said auditors may retain independent auditors to assist them.

(c) Said auditors shall audit, on a biennial basis if deemed most economical and efficient, or as frequently as they deem necessary, the books and accounts of each officer, department, commission, board and court of the state government, all institutions supported by the state and all public and quasi-public bodies, politic and corporate, created by public or special act of the General Assembly and not required to be audited or subject to reporting requirements, under the provisions of chapter 111. Each such audit may include an examination of performance in order to determine effectiveness in achieving expressed legislative purposes. The auditors shall report their findings and recommendations to the Governor, the State Comptroller, the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, and the Legislative Program Review and Investigations Committee.

<u>(d) Said auditors shall, on an annual basis, audit the books and accounts of any municipality having a population of thirty thousand or more that received more than thirty-five per cent of its annual operating budget in the previous fiscal year as state grants-in-aid. The</u>

auditors shall prepare a report of their review that shall include recommendations on programmatic savings, efficiencies, financial improvements and reforms in the municipality. Such report shall be submitted to the joint standing committees of the General Assembly having cognizance of matters relating to municipalities, appropriations and the budgets of state agencies and finance, revenue and bonding.

[(d)**]** (e) The Auditors of Public Accounts may enter into such contractual agreements as may be necessary for the discharge of their duties. Any audit or report which is prepared by a person, firm or corporation pursuant to any contract with the Auditors of Public Accounts shall bear the signature of the person primarily responsible for the preparation of such audit or report. As used in this subsection, the term "person" means a natural person.

[(e)**]** (f) If the Auditors of Public Accounts discover, or if it should come to their knowledge, that any unauthorized, illegal, irregular or unsafe handling or expenditure of state funds or any breakdown in the safekeeping of any resources of the state has occurred or is contemplated, they shall forthwith present the facts to the Governor, the State Comptroller, the clerk of each house of the General Assembly, the Legislative Program Review and Investigations Committee and the Attorney General. Any Auditor of Public Accounts neglecting to make such a report, or any agent of the auditors neglecting to report to the Auditors of Public Accounts any such matter discovered by him or coming to his knowledge shall be fined not more than one hundred dollars or imprisoned not more than six months or both.

[(f)**]** (g) All reports issued or made pursuant to this section shall be retained in the offices of the Auditors of Public Accounts for a period of not less than five years. The auditors shall file one copy of each such report with the State Librarian.

[(g)**]** (h) Each state agency shall keep its accounts in such form and by such methods as to exhibit the facts required by said auditors and, the provisions of any other general statute notwithstanding, shall make all records and accounts available to them or their agents, upon demand.

[(h)**]** (i) Where there are statutory requirements of confidentiality with regard to such records and accounts or examinations of nongovernmental entities which are maintained by a state agency, such requirements of confidentiality and the penalties for the violation thereof shall apply to the auditors and to their authorized representatives in the same manner and to the same extent as such requirements of confidentiality and penalties apply to such state agency. In addition, the portion of any audit or report prepared by the Auditors of Public Accounts that concerns the internal control structure of a state information system shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2012*	2-32b(d)
Sec. 2	*October 1, 2012*	7-392(a)
Sec. 3	*October 1, 2012*	2-90

Statement of Legislative Commissioners:
In section 2(a), "section 3 of" was deleted for consistency of style.

PD *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 $	FY 14 $
Auditors	GF - Cost	1,027,531	1,796,310
Comptroller Misc. Accounts (Fringe Benefits)[1]	GF - Cost	263,212	510,780

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 13 $	FY 14 $
Various Municipalities	Savings	Potential	Potential

Explanation

The bill would result in costs of $1,290,743 in FY 13 (six months) and $2,307,090 in FY 14 as it requires the Auditors of Public Accounts (APA) to conduct annual audits of seven municipalities.

To conduct annual audits of these seven municipalities and to make recommendations on programmatic savings, efficiencies, financial improvements, and reforms in these municipalities APA would require 21 new auditor positions. A detailed cost breakout is presented in the table below:

[1] The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with most personnel changes is 29.22% of payroll in FY 13 and FY 14.

Item:	FY 13 ($)	FY 14 ($)
Personal Services for 21 Staff	900,795	1,748,048
Fringe Benefits	263,212	510,780
Other Expenses	48,262	48,262
Equipment	78,474	0
Total State Costs	**1,290,743**	**2,307,090**

For each municipality audited, an audit supervisor, senior auditor, and junior auditor would be required for this new program. In addition, there would be costs associated with mileage reimbursements and other expenses (including professional education, software maintenance, supplemental information technology expenses, and equipment leasing costs). One-time equipment costs would occur in FY 13.

The bill also requires a two-thirds majority vote by the General Assembly for any bill that creates or enlarges a state mandate to local governments. This provision may result in a savings to municipalities if bills with state mandates are not passed by two-thirds.

The Out Years

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

OLR Bill Analysis

HB 5316

AN ACT REQUIRING A TWO-THIRDS VOTE OF THE GENERAL ASSEMBLY TO ENLARGE MUNICIPAL MANDATES AND AUTHORIZING A REVIEW OF CERTAIN MUNICIPAL BUDGETS.

SUMMARY:

This bill requires a two-thirds majority vote by members of each house of the General Assembly to pass any bill that creates or enlarges a state mandate on local governments. Under current law, any bill or amendment that creates or enlarges a state mandate on local governments must be referred to the Appropriations Committee, unless the General Assembly, by a two-thirds majority of each house, votes to waive the requirement.

The bill requires the Auditors of Public Accounts to (1) annually audit the books and accounts of municipalities whose populations are at least 30,000 and that received more than 35% of their annual operating budgets in the previous fiscal year in state grants and (2) report their findings to the legislature. Under current law, all municipalities must have their financial statements and accounts audited by an independent auditor at least once every year. The auditors' audit for the municipalities covered by the bill replaces this annual independent municipal audit.

EFFECTIVE DATE: October 1, 2012

STATE MANDATES ON MUNICIPALITIES

Under current law, the legislature must follow certain procedures for bills, amendments, and conference committee reports creating or enlarging state mandates on municipalities. They must be accompanied by an Office of Fiscal Analysis fiscal note estimating the cost to local governments and, unless there is a two-thirds majority vote otherwise in each house of the General Assembly, they must be referred to the Appropriations Committee.

Beginning October 1, 2012, the bill prohibits the legislature from enacting a bill into law that would create or enlarge a state mandate on local governments unless two-thirds of the members of each house of the General Assembly approve it.

The law defines "state mandate" as an action by the state government that requires local governments to "establish, expand or modify [their] activities in such a way as to necessitate additional expenditures from local revenues." The statutory definition excludes court orders and legislation necessary to comply with federal mandates (CGS § 2-32b(a)).

STATE AUDIT OF CERTAIN MUNICIPALITIES

The bill requires the Auditors of Public Accounts to annually audit the books and accounts of municipalities with populations of 30,000 or more that received more than 35% of their annual operating budgets in state grants for the previous fiscal year. (This includes grants covering education costs.) Under the bill, the auditors must prepare a report on their reviews of these municipalities, which must include recommendations on programmatic savings, efficiencies, financial improvements, and reforms in the municipality. They must submit the report to the Planning and Development; Appropriations; and Finance, Revenue and Bonding committees.

Based on the Office of Policy and Management's (OPM) _Municipal Fiscal Indicators_ FY 10 data, and each town's FY 12 budget, the municipalities currently subject to the audit under the bill are:

1. Hartford,
2. New Haven,
3. New Britain,
4. Waterbury,

5. Bridgeport,

6. West Haven, and

7. Norwich.

By law, all municipalities, regional school districts and other regional bodies, and some special taxing districts must have their financial statements and accounts audited by an independent auditor at least once every year and submit the audit reports to various local officials and the Office of Policy and Management secretary. These entities must also notify the secretary about the auditors they selected to conduct the audits.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable
Yea 13 Nay 7 (03/07/2012)