

1 HB378
2 197350-2
3 By Representative Chestnut
4 RFD: State Government
5 First Read: 09-APR-19

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8 SYNOPSIS: Under existing law, the Department of
9 Examiners of Public Accounts is required to perform
10 periodic audits of books, records, vouchers, and
11 accounts of every state and county office, officer,
12 bureau, board, commission, corporation,
13 institution, department, and agency.

14 This bill would create the Municipal Audit
15 Accountability Act.

16 This bill would authorize the department,
17 upon suspecting fraud or mismanagement of funds, to
18 perform an audit on any municipality.

19 This bill would provide for instances in
20 which the governing body of a municipality may
21 request an audit by the department.

22 This bill would require the department to
23 establish and maintain a repository of independent
24 audit reports received from municipalities.

25 This bill would authorize the department to
26 perform an audit, at the expense of the

1 municipality, on any municipality that fails to
2 have an audit conducted as required.

3 This bill would also provide for financial
4 penalties against municipal officials who fail or
5 refuse to have an audit performed as required or to
6 submit an independent audit report as required.

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8 A BILL
9 TO BE ENTITLED
10 AN ACT

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12 Relating to the Department of Examiners of Public
13 Accounts; to create the Municipal Audit Accountability Act; to
14 authorize the department to perform an audit of a municipality
15 when fraud or mismanagement of funds is suspected; to
16 authorize the governing body of a municipality to request an
17 audit by the department under certain circumstances; to
18 require the department to establish and maintain a repository
19 of independent audit reports received from municipalities; to
20 authorize the department to perform an audit, at the expense
21 of the municipality, on any municipality that fails to have an
22 audit conducted as required; and to impose financial penalties
23 against municipal officials who fail or refuse to have an
24 audit performed or to submit an independent audit report as
25 required.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. (a) This section shall be known and may
2 be cited as the Municipal Audit Accountability Act.

3 (b) Any provision of law to the contrary
4 notwithstanding, if the Department of Examiners of Public
5 Accounts suspects fraud or mismanagement of funds by a
6 municipality, the department may examine the books, records,
7 vouchers, and accounts of the municipality.

8 (c) If the mayor of a municipality does not provide
9 for an audit or examination to be conducted on a municipality
10 as required by law, or when fraud or mismanagement of funds by
11 a municipality is suspected, a majority of the members of the
12 governing body of the municipality, by resolution, may submit
13 a written request to the department for an examination by the
14 department of the books, records, vouchers, and accounts of
15 the municipality. The department, pursuant to a cursory
16 review, shall determine whether an in-depth audit by the
17 department is necessary as required by law or by evidence of
18 fraud or mismanagement, and, if warranted by the department,
19 shall conduct a formal audit or examination during the six
20 month period following that determination.

21 (d) If a municipality has an independent audit or
22 examination of the books, records, vouchers, and accounts of
23 the municipality conducted, the governing body of the
24 municipality, upon receipt of the final report of the
25 independent audit or examination, shall provide a copy of the
26 report to the department within 60 days after completion. The
27 department shall establish a repository of independent audit

1 reports received, provide, on a weekly basis, notice to the
2 public of reports received, and, upon request, provide copies
3 of reports received to the public.

4 (e) Any municipality in which the municipal officer
5 or municipal governing body fails or willfully refuses to have
6 a financial audit conducted, or to comply with subsection (d),
7 shall be subject to an audit by the department. The department
8 shall assess the costs of the audit against the municipality.
9 Before performing an audit under this subsection, the
10 department shall notify the municipality of its intent to
11 perform an audit, and the municipality shall have 30 days,
12 from the date of the notice, to either file a completed audit
13 report or, if an audit is currently pending, provide the
14 department with the name and address of the independent public
15 accountant retained to perform the audit and an estimated time
16 for completion.

17 (f) If the department determines that a municipal
18 officer or municipal governing body has failed or willfully
19 refused to have a financial audit conducted or to comply with
20 subsection (e), unless the municipal officer or municipal
21 governing body can demonstrate to the department that it has
22 made a good faith effort to perform as required by this
23 section, the department shall levy a penalty of up to two
24 hundred fifty dollars (\$250) per week, for each week the
25 failure or refusal continues. Any penalties imposed and
26 collected pursuant to this subsection shall be paid into the
27 State General Fund.

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.