

APPENDIX B

LOCAL GOVERNMENT BUDGETS AND AUDITS*

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***Editor's Note** – Printed in this Appendix at the request of the city is O.C.G.A. §§36-81-1 through 36-81-10, being the local government budget and audit law.

APPENDIX B – LOCAL GOVERNMENT BUDGETS & AUDITS

36-81-1. Legislative Intent.

The intent of this article is to provide minimum budget and auditing requirements for local governments so as to provide local taxpayers with an opportunity to gain information concerning the purposes for which local revenues are proposed to be spent and are actually spent and to assist local governments in generally improving local financial management practices while maintaining, preserving, and encouraging the principle of home rule over local matters. It is the further intent of this article to provide a mechanism through which appropriate information may be collected to assist state and local policy makers in carrying out their lawful responsibilities.

36-81-2. Definitions.

As used in this article, the term:

- (1) “Budget” means proposed plan for raising and spending money for specified programs, functions, and activities during a fiscal year. The budget shall be prepared and organized so as clearly to reflect activities, programs, and functions by fund or funds.

- (2) "Budget Officer" means that local government official charged with budget preparation, administration, and fiscal control for the local government. The official title of the local government budget officer shall be as provided by local law, charter, ordinance, or appropriate resolution of the governing authority.
- (3) "Budget Ordinance" or "Resolution" means that governmental action which appropriates revenues for specified purposes, functions, or activities for a fiscal year. The budget ordinance or resolution shall appropriate revenues by fund.
- (4) "Fiscal Year" or "Budget Year" means the period for which a budget is proposed or a budget ordinance or resolution is adopted.
- (5) "Fund" means a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances and charges therein which is segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.
- (6) "Governing Authority" means that official or group of officials responsible for governance of the unit of local government.
- (7) "Unit of Local Government", "Unit", or "Local Government" means a municipality, county, consolidated city-county government, or other political subdivision of the state. Such terms do not include any local school district or board of education. For purposes of this paragraph, "county" includes any county officer who is paid in whole or in part on a salary basis and over whom the county governing authority exercises budgetary authority.

36-81-3. Establishment of Fiscal Year; Requirement of Annual Balanced Budget; Adoption of Budget Ordinance or Resolution generally; Budget Amendments.

(a) The governing authority shall establish by ordinance, local law, or appropriate resolution a fiscal year for the operation of the local government.

(b) Each unit of local government shall operate under an annual balanced budget adopted by ordinance or resolution and administered in accordance with this Article. A budget ordinance or resolution is balanced when the sum of estimated new revenues and appropriated fund balances is equal to appropriations.

(c) For each fiscal year beginning on or after January 1, 1982, each unit of local government shall adopt and utilize a budget ordinance or resolution as provided in this article.

(d) Nothing contained in this Code section shall preclude a local government from amending its budget so as to adapt to changing governmental needs during the fiscal year. Amendments shall be made as follows, unless otherwise provided by charter or local law.

- (1) Any increase in appropriation in any fund for a department of local government whether accomplished through a change in anticipated revenues in any fund or through a transfer of appropriations among departments, shall require the approval of the governing authority; and

- (2) Transfers of appropriations in any fund among the various accounts within a department of local government shall require only the approval of the budget officer, except that transfers of appropriations within a department of local government which increases the salary appropriation shall require the approval of the governing authority.

36-81-4. Appointment of Budget Officer; Performance of Duties by Governing Authority in absence of Appointment; Utilization of Executive Budget.

(a) Unless provided to the contrary by local charter or local Act each local government may appoint a budget officer to serve at the will of the governing authority.

(b) In those units of local government in which there is no budget officer, the governing authority shall perform all duties of the budget officer as set forth in Code Section 36-81-5.

(c) Nothing in this Code section shall preclude the utilization of an executive budget, under which an elected or appointed official, authorized by charter or local law and acting as the chief executive of the governmental unit, exercises the initial budgetary policy-making function, while another individual, designated as provided in this Code section as budget officer, exercises the administrative functions of budgetary preparation and control.

36-81-5. Preparation of Proposed Budget; Submission to Governing Authority; Public Review of Proposed Budget; Notice and Conduct of Budget Hearing.

(a) By the date established by each governing authority, in such manner and form as may be necessary to effect this article, and consistent with the local government's accounting system, the budget officer shall prepare a proposed budget for the local government for the ensuing fiscal year.

(b) The proposed budget shall be an estimate of the financial requirements of each department or agency, by fund, for the budget year and shall be in such form and detail, with such supporting information and justification, as may be prescribed by the budget officer or the governing authority. The budget document, at a minimum, shall provide a statement of the amount budgeted for anticipated revenues by category and the amount budgeted for expenditures by category for the current year, including budget amendments and the anticipated revenues and proposed expenditures for the proposed budget year.

(c) On the date established by each governing authority, the proposed budget shall be submitted to the governing authority for that body's review prior to enactment of the budget ordinance or resolution.

(d) On the day that the budget is submitted to the governing authority, a copy of the budget shall be placed in a public location which is convenient to the residents of the unit of local government. The governing authority shall make every effort to provide convenient access to the residents during reasonable business hours so as to accord every opportunity to the public to review the budget prior to adoption by the governing authority. A copy of the budget shall also be made available, upon request, to the news media.

- (e) (1) At the time of submission of the budget to the governing authority, a statement advising the residents of the local unit of government of the availability of the budget shall be published in a newspaper of general circulation in the local unit. The

statement may also give notice of the time and place of the budget hearing required by subsection (f) of this Code section. The statement shall be a prominently displayed advertisement or news article and shall not be placed in that section of the newspaper where legal notices appear.

(2) If the statement required by paragraph (1) of this subsection does not give notice of the time and place of the budget hearing, then the statement shall advise the residents of the local unit of government that the budget hearing shall be held at a future date and notice shall be given prior to the budget hearing. This notice shall be published at least seven days before the budget hearing is held and shall comply with the publication requirements of paragraph (1) of this subsection.

(f) At least one week prior to adoption of the budget ordinance or resolution, the governing authority shall conduct a public hearing at which time any persons wishing to be heard on the budget may appear.

(g) Nothing in this Code section shall be deemed to preclude the conduct of further budget hearings if the governing body deems such hearings necessary and complies with the requirements of subsection (e) of this Code section.

36-81-6. Adoption of Budget Ordinance or Resolution: Form of Budget.

(a) On a date after the conclusion of the hearing required in subsection (f) of Code section 36-81-5, the governing authority shall adopt a budget ordinance or resolution making appropriations for the fiscal year in such sums as the governing authority may deem sufficient, whether greater or less than the sums presented in the proposed budget. The budget ordinance or resolution shall be adopted at a public meeting which shall be advertised in accordance with the procedures set forth in subsection (e) of Code Section 36-81-5 at least one week prior to the meeting.

(b) The budget may be prepared in any form that the governing authority deems most efficient in enabling it to make the fiscal policy decisions embodied in the budget, but such budget shall show anticipated revenues and appropriations by fund.

36-81-7. Requirements of Audits; Conduct of Audits; Audit Reports; Forwarding of Audits to State Auditor; Availability of Copies of Audits for Public Inspection.

(a) (1) Beginning with the local government fiscal year which ends between July 1, 1994, and June 30, 1995, the governing authority of each unit of local government having a population in excess of 1,500 persons according to the latest estimate of population by the United States Bureau of the Census or its successor agency or expenditures of \$175,000.00 or more shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the local government for each fiscal year of the local government.

(2) The governing authority of each local unit of government not included in paragraph (1) of this subsection shall provide for and cause to be made the audit required pursuant to paragraph (1) of this subsection not less often than once every two fiscal years. Audits performed pursuant to this paragraph shall be for both fiscal years.

- (3) The governing authority of each local unit of having expenditures of less than \$175,000.00 in that government's most recently ended fiscal year may elect to provide for and cause to be made, in lieu of the biennial audit otherwise required under paragraph (2) of this subsection, an annual report of agreed upon procedures for reconciliation of cash, confirmation of cash balances, a listing of bank balances by bank, a statement of cash receipts and cash disbursements, a review of compliance with state law, and a report of agreed upon procedures. This agreed upon procedure report shall be in a format prescribed by the state auditor and shall constitute an annual audit report for purposes of and within the meaning of the requirements of subsections (d) through (g) of this Code section. The Department of Community Affairs is authorized to assist requesting local governments in preparing agreed upon procedures reports required under this paragraph and in establishing record-keeping procedures needed in preparing those reports and is further authorized to charge those local governments reasonable fees for that assistance. To the extent that the state auditor is able to perform the agreed upon procedures, the governing body may contract with the state auditor.
 - (4) At the option of the governing authority, an audit may be made at a lesser interval than one year.
- (b) The audits of each local government shall be conducted in accordance with generally accepted government auditing standards. Each audit shall also contain a statement of any agreement or arrangement under which the local unit of government has assumed any actual or potential liability for the obligations of any government or private agency, authority, or instrumentality. Such statement shall include the purpose of the agreement or arrangement, shall identify the agency, authority, or instrumentality upon whose obligations the unit of local government is or may become liable, and shall state the amount of actual liability and the maximum amount of potential liability of the local government under the agreement or arrangement. To the extent that the state auditor is able to provide comparable auditing services, the governing body may contract with the state auditor.
- (c) All annual audit reports of local units of government shall contain at least the following:
- (1) Financial statements prepared in conformity with generally accepted governmental accounting principles, setting forth the financial condition and results of operation of each fund and activity of the local government and such financial statements shall be the representation of the local government; and
 - (2) The opinion of the performing auditor with respect to the financial statement; in addition to an explanation of any qualification or disclaimers contained in the opinion, such opinion shall also disclose, in accordance with generally accepted government auditing standards, any apparent material violation of state or local law discovered during the audit.
- (d) (1) Each annual audit report of a local unit of government shall be completed and a copy of the report forwarded to the state auditor within 180 days after the close of the unit's fiscal year. In addition to the audit report the local unit of government shall forward to the state auditor, within 30 days after the audit report due date, written comments on the findings and recommendations of the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, the

written comments should include a statement describing the reason it is not. In the case of units provided for in paragraph (2) of subsection (a) of this Code section, the audit reports for both fiscal periods shall be submitted within 180 days after the close of each second fiscal year and the written comments shall be submitted within 30 days after the audit report due date.

- (2) The state auditor shall review the audit report and written comments submitted to the auditor's office to ensure that it meets the requirements for audits of local governments. If the state auditor finds the requirements for audits of local governments have not been compiled with the state auditor shall within 60 days of receipt of the audit or the written comments notify the governing authority and the auditor who performed the audit and shall submit to the a list of deficiencies to be corrected. A copy of this notification shall also be sent by the state auditor to each member of the General Assembly whose senatorial or representative district includes any part of the unit of local government.
- (3) If the state auditor has not received any required audit or written comments by the date specified in paragraph (1) of this subsection, the state auditor shall within 30 days of such date notify the unit of local government that the audit has not been received as required by law. A copy of this notification shall also be sent by the state auditor to each member of the General Assembly whose senatorial or representative district includes any part of the unit of local government.
- (4) The state auditor, for good cause shown by those local units in which an audit is in the process of being conducted or will promptly be conducted, may waive the requirement for completion of the audit within 180 days. Such waiver shall be for an additional period of not more than 180 days and no such waiver shall be granted for more than two successive years to the same unit of local government.

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

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

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

36-81-8. Annual Local Government Finances Reports and Local Independent Authority Indebtedness Reports; Assistance by Department of Community Affairs; Coordination of Technical Assistance Efforts by Department.

(a) As used in this Code section, the term "local independent authority" means each local public body corporate and politic created in and for a county, municipality, consolidated government, or combination thereof, which is authorized to issue bonds under the Constitution and laws of this state.

(b) Each unit of local government shall submit an annual a report of local government finances to the Department of Community Affairs. The report shall include the revenues, expenditures, assets, and debts of all funds and agencies of the local government, and other such information as may be reasonably requested by the department. Each local government authority shall submit an annual report of indebtedness to the Department of Community Affairs. Such report shall include the revenues, expenditures, assets, and debts of all funds of the local independent authority and shall describe any actions taken by such local independent authority to incur indebtedness. The local government finances report and the local independent authority indebtedness report shall be filed on forms promulgated by the department and shall be submitted within the requested time periods established by the department.

(c) The department shall have the authority to require local governments and local independent authorities to submit the reports as provided for in subsection (b) of this Code section as a condition of such local government or local independent authority receiving state appropriated funds from the department. Upon the receipt of the report of local government finance from a local government or the report of local independent authority debt from a local independent authority, the department is authorized to release any state appropriated grant funds that may be due at such time to the local government or the local independent authority.

(d) The department's implementation of subsections (b) and (c) of this Code section shall be subject to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act", and the department is specifically directed to promulgate the forms provided for in subsection (b) of this Code section in the manner provided for promulgation of rules under Chapter 13 of Title 50.

(e) Utilizing information contained in audit reports of local governments filed with the state auditor, the report of county or municipal finances filed with the Department of Community Affairs, and other available state or federal information of public record, the Department of Community Affairs shall prepare annually a report on the local government finances. Utilizing information contained in reports of indebtedness returned to the Department of Community Affairs, the Department of Affairs shall prepare annually a report on indebtedness of local independent authorities. The local government finances report shall be filed on January 15th of each year, beginning January 15, 1985, and the local independent authority indebtedness report shall be filed on January 15th of each year, beginning January 1, 1990, with the Governor, the Speaker of the House of Representatives, the President of the Senate, the chairman of the House Ways and Means Committee, the chairman of the House State Planning and Community Affairs Committee, the chairman of the Senate Finance and Public Utilities Committee, and the chairman of the Senate Urban and County Affairs Committee, as well as with the chief elected official or chief appointed official of each local unit of government and each local independent authority and member of the General Assembly upon request.

(f) The local government finances report and the local independent authority indebtedness report shall be organized within the limits of available resources, in such a manner

as to allow for the reasonable comparative analysis of local government revenues and expenditures and for reasonable comparative analysis of local independent authority debt.

(g) The department, in addition to its other duties, shall assist local units of government and local independent authorities in fulfilling the requirements of this article. The department shall coordinate its technical assistance efforts with the state auditor, the University System of Georgia, the Association County Commissioners of Georgia, the Georgia Municipal Association, and the Georgia Society of Certified Public Accountants and should coordinate with any other organizations interested and currently active in local government financial management so as to ensure that coordination of training and assistance is maintained. The department may contract or subcontract with other public or private agencies to provide assistance to local units of government or local independent authorities.

36-81-9. Effect of Article on Other Laws Generally.

This article shall not be construed to repeal or conflict with any law providing budgetary, fiscal, or auditing procedures more restrictive than those in this article.

**36-81.10. Effect of Article on Right to make Expenditures and Raise Revenues;
Effect on Home Rule Powers.**

This article shall not be construed so as to prohibit local governments from making authorized expenditures for any lawful purpose or from raising revenues in any manner otherwise authorized by law. It is the specific intent of the General Assembly in adopting this article that local units of government shall continue to have and to exercise their home rule powers as provided by law.