



Memo

To: Florida Redevelopment Association

From: Clifford B. Shepard

Date: March 2, 2020

Re: CRA Audit Requirement Changes under Florida Laws Ch. 2019-163

I have been asked as general counsel to the FRA to provide this memo on the effect of Florida Laws Chapter 2019-163 (the “Bill”) on CRA audit requirements. The Auditor General’s position is that due to the changes in the Bill, CRAs must procure a completely separate audit from that of the local government entity that created the CRA.

In our opinion, nothing in the Bill indicates that CRAs may no longer include their audit as part of their local government’s larger financial audit. In fact, the Bill changes the language of the CRA statute to bring it more in line with Section 218.39, which specifically allows dependent special districts (such as CRAs) to include their audits with their larger local government audit. While the Bill does require more CRA-specific information in the audit, nothing in the language of the Bill or its legislative history suggests that this information cannot be included in the larger local government audit.

Legal Background

Section 218.39, *Florida Statutes*, sets out the general financial audit requirements of local government entities. Certain local government entities must have an independent CPA perform a financial audit each fiscal year. Dependent special districts, such as CRAs, must obtain an audit if their revenues or total expenditures and expenses exceed \$100,000 for the year. However, Section 218.39(3)(b) authorizes such dependent special districts to provide their financial audit by being included in the audit of the local government entity upon which they are dependent.

Prior to the Bill's passage, F.S. § 163.387(8) required that all CRAs provide for an audit of the CRA trust fund each fiscal year and a report of such audit by an independent CPA or firm. The Section required detailed financial information in the audit report as follows:

Such report shall describe the amount and source of deposits into, and the amount and purpose of withdrawals from, the trust fund during such fiscal year and the amount of principal and interest paid during such year on any indebtedness to which increment revenues are pledged and the remaining amount of such indebtedness.

The Bill amended the Section by specifying that the audit requirement applies only to CRAs which have revenues or total expenditures and expenses in excess of \$100,000 and amending the language regarding the contents of the audit report to read as follows:

(b) The audit report must:

1. Describe the amount and source of deposits into, and the amount and purpose of withdrawals from, the trust fund during such fiscal year and the amount of principal and interest paid during such year on any indebtedness to which increment revenues are pledged and the remaining amount of such indebtedness.
2. Include financial statements identifying the assets, liabilities, income, and operating expenses of the community redevelopment agency as of the end of such fiscal year.
3. Include a finding by the auditor as to whether the community redevelopment agency is in compliance with subsections (6) and (7).

(c) The audit report for the community redevelopment agency must accompany the annual financial report submitted by the county or municipality that created the agency to the Department of Financial Services as provided in s. 218.32, regardless of whether the agency reports separately under that section.

The Bill also amended Section 218.32(3), separately requiring local governments to provide this CRA audit report alongside the larger financial report:

Failure of a county or municipality required under s. 163.387(8) to include with its annual financial report to the department a financial audit report for each community redevelopment agency created by that county or municipality constitutes a failure to report under this section.

The Bill did not amend Section 218.39 or its provision allowing dependent special districts to submit their audits by being included with the larger government entity.

Analysis

I can find no basis for a reading that the Bill placed a new requirement on CRAs to get a standalone financial audit. If anything, the Bill indicates the opposite, as the CRA statute was brought in line with the general financial audit statute which explicitly allows dependent special districts to piggyback on the larger local government audit. While the changes did add new requirements for the CRA financial audit reports, CRAs were already subject to special audit report requirements and that did not prevent those reports from being supplied with their larger local government audit.

The new section now only requires audits of CRAs with revenues or total expenditures and expenses in excess of \$100,000—the exact same threshold for dependent special districts to perform financial audits under Section 218.39. The Bill also changed the language in Section 163.387(8)(a) from “an audit” to “a financial audit,” showing the intent to bring this Section’s language in line with 218.39’s language which discusses “financial audit reports.”

The legislative history reflects that both the senate and the house believed they were expanding the existing audit requirement, not creating a new one. The House Bill underwent three analyses, the Senate companion underwent four, and each of the analyses described the bill as expanding the requirements for the existing audit report. Each of the legislative analyses state explicitly that the bill “expands the current reporting requirements for the audit report” and include no discussion of a standalone audit requirement.

The sentence cited by the Auditor General’s office does not imply a new standalone audit requirement. The Auditor General appears to have read Section 163.387(8)(c)’s requirement to submit the audit report with the local government’s financial report as an indication that the audit must be standalone. But nothing in Sections 163.387(8)(c) or 218.32 indicate that the financial audit report must be standalone, only that it must be provided with the financial statement.

I can see no reasonable reading of the statutes such that they now require a standalone CRA audit where none was required before. Certainly, the audit of the CRA has additional requirements and the auditor must make the individualized findings regarding the CRA’s compliance with Sections 163.387(6) and (7). However, there is no reason to believe that the CRA audit report cannot be included as a part of the local government entity’s larger audit because of those individualized findings.