

**9-3-405. Establishment of audit committee — Notice requirements — Open meetings — Confidential, nonpublic executive sessions. —**

(a) Local governments are encouraged to consider establishing an audit committee. The comptroller may require that an audit committee be established in any local government in this state that:

(1) Is in noncompliance with the accounting and financial reporting standards required by the Governmental Accounting Standards Board (GASB) on or after the prescribed date of June 30, 2008; or

(2) Has recurring findings from the annual audit for three (3) or more consecutive years as determined by the comptroller to be a material weakness in internal control or material noncompliance under government auditing standards.

(b) The governing body of the local government shall create the audit committee. The audit committee members shall be external to management and may be members of the governing body, citizens from within the boundaries of the local government, or a combination of both. Members of the audit committee shall be selected by the legislative body. The audit committee shall establish responsibilities and duties that are stated in a resolution approved by the legislative body. The responsibilities and duties, at a minimum, shall address financial and other reporting practices, internal control, compliance with laws and regulations, and ethics. The resolution creating the duties and responsibilities of the audit committee shall be submitted to the comptroller prior to approval by the legislative body. The comptroller shall review the proposed resolution and report back to the local government on whether the resolution follows recommended guidelines for an audit committee. The resolution adopted by the legislative body must conform to the report issued by the comptroller.

(c) Except as provided in subsection (d), all meetings of an audit committee created pursuant to this chapter shall abide by the notice requirements adhered to by the local government to which the audit committee is attached.

(d) All meetings of an audit committee created pursuant to this chapter shall be subject to the open meetings provisions of title 8, chapter 44, except, upon a majority vote of those members in attendance for the public portion of the meeting, the audit committee may hold confidential, nonpublic executive sessions to discuss the following items:

(1) Items deemed not subject to public inspection under §§ 10-7-503 and 10-7-504, and all other matters designated as confidential or privileged under this code;

(2) Current or pending litigation and pending legal controversies;

(3) Pending or ongoing audits or audit related investigations;

(4) Information protected by federal law; and

(5) Matters involving information under § 9-3-406 where the informant has requested anonymity.

(e) The presiding officer shall announce during the public portion of the audit committee meeting that no business, other than that described under subdivisions (d)(1)-(5), shall be considered during the confidential, nonpublic executive session by the audit committee.

(f) For purposes of providing notice of a confidential, nonpublic executive session, the agenda must disclose the general nature of the item or items to be discussed as described under subdivisions (d)(1)-(5).

(g) A meeting at which both subject matter open to the public and confidential subject matter will be discussed shall be conducted as follows:

(1) All business relating to subject matter that is public in nature shall be conducted first; and

(2) At the conclusion of the meeting relating to subject matter that is public in nature and upon a successful majority vote to enter into executive session, the chair shall announce to the members and the public assembled that the public portion of the meeting is adjourned and that the remainder of the meeting will concern matters that are confidential under subdivisions (d)(1)-(5). When everyone at the meeting who is not authorized to attend the confidential portion of the meeting has departed, the confidential portion of the meeting shall commence.

(h) Only individuals whose presence is reasonably necessary in order for the audit committee to carry out its executive session responsibilities may attend the portion of the executive session relevant to that person's presence; however, nothing contained in this section shall prohibit the comptroller of the treasury or the comptroller's designee from attending or being present during an executive session.

(i) This chapter is not intended to prevent the full governing body of the local government from going into confidential, nonpublic executive session with the audit committee at a regularly or specially scheduled meeting of the full governing body for the purpose of further discussing only those matters as described under subdivisions (d)(1)-(5). All portions of meetings of the full governing body of the local government, where matters described under subdivisions (d)(1)-(5) will be discussed, shall be exempt from the provisions of title 8, chapter 44; provided, that the full governing body of the local government shall abide by the same executive session notice requirements imposed upon the audit committee by this section, and shall not make a decision or deliberate toward a decision on any matter.

[Acts 2005, ch. 191, § 1; 2009, ch. 368, § 1.]

**Amendments.** The 2009 amendment added (c)-(i).

**Effective Dates.** Acts 2005, ch. 191, § 2. May 19, 2005.

Acts 2009, ch. 368, § 6. June 5, 2009.

**Cross-References.** Confidentiality of public records, § 10-7-504.