

ENROLLED SENATE
BILL NO. 178

BY: WEEDN of the SENATE

and

YORK of the HOUSE

AN ACT RELATING TO STATE GOVERNMENT; AMENDING SECTION 6, CHAPTER 229, O.S.L. 1987 (70 O.S. SUPP. 1990, SECTION 3909) AND 74 O.S. 1981, SECTIONS 212, AS AMENDED BY SECTION 8, CHAPTER 276, O.S.L. 1988, 213, AS LAST AMENDED BY SECTION 26, CHAPTER 337, O.S.L. 1990, 227.8 AND 227.9, AS AMENDED BY SECTION 10, CHAPTER 304, O.S.L. 1985 (74 O.S. SUPP. 1990, SECTIONS 212, 213, AND 227.9), WHICH RELATE TO THE STATE AUDITOR AND INSPECTOR; REQUIRING STATE AUDITOR AND INSPECTOR TO PERFORM SPECIAL AUDITS AT THE REQUEST OF CERTAIN PUBLIC OFFICIALS; EXPANDING CERTAIN DUTIES OF STATE AUDITOR AND INSPECTOR; MODIFYING PROCEDURE FOR CERTAIN PETITION; AUTHORIZING STATE AUDITOR AND INSPECTOR TO APPOINT ADDITIONAL SPECIAL DEPUTIES; REQUIRING ALL PUBLICLY FUNDED ENTITIES TO PREPARE CERTAIN FINANCIAL STATEMENT AUDIT; STATING PROCEDURES; REQUIRING CERTAIN QUALIFICATIONS FOR ACCOUNTANTS; STATING REQUIREMENTS; REQUIRING COMPLIANCE WITH CERTAIN STANDARDS; REQUIRING CERTAIN APPROVAL OF INDEPENDENT AUDITORS; PROHIBITING CERTAIN AUDIT REPORTING REQUIREMENTS WITHOUT APPROVAL BY STATE AUDITOR AND INSPECTOR; REQUIRING STATE AUDITOR AND INSPECTOR TO PROVIDE CONTINUING PROFESSIONAL EDUCATION FOR CERTAIN STATE EMPLOYEES; AUTHORIZING THE STATE AUDITOR AND INSPECTOR TO BE PAID FOR PROVIDING CERTAIN SERVICES; PROVIDING FOR CERTAIN FUNDS TO BE PAID TO REVOLVING FUND; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 6, Chapter 229, O.S.L. 1987 (70 O.S. Supp. 1990, Section 3909), is amended to read as follows:

Section 3909. (a) In addition to such other audits as may be required of or desired by the various boards of regents responsible for the institutions of The Oklahoma State System of Higher Education, each board shall annually obtain the services of an independent accounting firm or individual holding a permit to practice public accounting in this state to perform a complete financial audit for the preceding fiscal year of each institution for which the board is responsible. The Oklahoma State Regents for Higher Education shall likewise annually obtain the services of an independent accounting firm or individual holding a permit to practice public accounting in this state to perform a complete financial audit of all the offices, operations, and accounts of the

State Regents which are not subject to the control of other boards of regents.

(b) Each board of regents shall appoint a standing Audit Committee of the board consisting of not fewer than three (3) board members. The Audit Committee shall be responsible for establishing the qualifications of any accounting firm or individual seeking to be hired to perform an audit for the board and shall recommend to the board the firms or individuals whom the board shall invite to submit competitive bids. The full board shall select the auditor from among the competitive bidders. Audit committees shall not recommend any firm or individual unwilling to meet the following specifications. Said specifications shall be among the terms and conditions of any contract awarded:

(1) All revolving fund accounts, special accounts, special agency accounts, auxiliary enterprise accounts, and technical area school district accounts, if any, shall be included within the scope of the audit;

(2) Where operations of constituent agencies or technical area school districts are relevant to the complete financial audit of the institution, records of those enterprises shall be included within the scope of the audit;

(3) To the extent required by subsection (d) of Section 4306 of Title 70 of the Oklahoma Statutes, records of college- or university-related foundations shall be included within the scope of the audit;

(4) At the conclusion of the audit, the auditor shall meet with the President of the institution and the Audit Committee to review the audit report to be issued, the management letter or other comments or suggestions to be issued, and any other findings; and

(5) Findings of material weaknesses, qualifications of the auditor's report other than those deriving from inadequate plant records, and of defalcations, or a report of lack of such findings, shall be communicated in writing to the board, the State Auditor and Inspector, the Legislative Service Bureau, and the Oklahoma State Regents for Higher Education with or in advance of the filing of the audit report required by Section 452.10 of Title 74 of the Oklahoma Statutes; and such written communications shall include any responses or other comments which the President or the Audit Committee wishes to have included.

(c) The State Auditor and Inspector, whenever he deems it appropriate, and at least once each five (5) years, or upon receiving written requests to do so by the Governor, Attorney General, President Pro Tempore of the Senate or the Speaker of the House of Representatives, shall conduct a special audit of the Oklahoma State Regents for Higher Education and of each other component of The Oklahoma State System of Higher Education. The special audit shall include, but not necessarily be limited to, a compliance audit. The State Auditor and Inspector shall have the power to take custody of any records he deems necessary to the performance of the audit but shall minimize actual physical removal of or denial of access to such records. At the conclusion of the audit, the State Auditor and Inspector shall meet with the President of the institution and the Audit Committee of the board which governs the component audited to review the audit report to be issued. The report, when issued, shall include any responses to the audit which the President or the Audit Committee wishes to have included and shall be presented to the full board, the Legislative Service Bureau, and the Oklahoma State Regents for Higher Education with or in advance of the filing required by Section 452.10 of Title 74 of the Oklahoma Statutes.

(d) Each board of regents shall require the employment of a sufficient number of internal auditors to meet the board's fiduciary responsibilities. The internal auditors shall submit a report directly and simultaneously to the audit committee of the board and the President of the institution; all members of the board of regents governing the institution, however, shall receive all internal audit reports and the board of regents shall, at least annually, review and prescribe the plan of work to be performed by the internal auditors.

(e) Any person who alters or destroys records needed for the performance of an audit or causes or directs a subordinate to do such acts shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a period of not more than five (5) years or by a fine of not more than Twenty Thousand Dollars (\$20,000.00), or by both such fine and imprisonment. Such person shall also be subject to immediate removal from office or employment.

SECTION 2. AMENDATORY 74 O.S. 1981, Section 212, as amended by Section 8, Chapter 276, O.S.L. 1988 (74 O.S. Supp. 1990, Section 212), is amended to read as follows:

Section 212. The State Auditor and Inspector shall examine without notice, all books and accounts of the State Treasurer, and the books and accounts of each county treasurer of the state, twice each year. He shall examine the books and accounts of the state officers whose duty it is to collect, disburse or manage funds of the state, at least once each year. Whenever called upon to do so by the Governor, it shall be his duty to examine the books and accounts of any officer of the state or any of his predecessors. In addition to the above prescribed duties, upon request of the county commissioners of any county, or upon request of the Governor, ~~signed by five percent (5%) of the legal voters of any county, and by order of the Governor,~~ the State Auditor and Inspector shall examine or cause to be examined by duly appointed deputy or deputies, the books and accounts of all or any of the officers, or custodians of the various funds of the county; and payment for such examination shall be made out of the contingent fund of the county so examined at the same salary and expenses provided herein for deputy examiners. The State Auditor and Inspector shall have power to appoint additional special deputies for this purpose; provided, that no deputy shall examine the books or records of the county of his residence in counties of under two hundred thousand (200,000) population according to the most recent Federal Decennial Census. It shall be the duty of the State Auditor and Inspector to examine all levies to raise public revenue, to see that they are made according to law and constitutional provisions. He shall have the power to order all excessive or erroneous lines (levies) to be corrected by the proper officers, and shall report any irregularities to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate: Provided, any city or town subdivision of the State of Oklahoma shall have its books audited and examined by the State Auditor and Inspector, upon petition of ~~twenty-five percent (25%)~~ ten percent (10%) of its registered voters, the requisite number to be determined by ascertaining one-fourth (1/4) of the number of persons voting at the last general election for city or town office, and using as a criterion the office receiving the highest number of votes of signatories to be certified as valid and adequate by the county election board. The State Auditor and Inspector shall have power to appoint additional special deputies for this purpose. Provided, the cost of said examination ~~and inspection~~ shall be borne by the ~~city or town requesting the same~~ subdivision of the state being audited. The cost of such audit to

be ascertained prior to the petitioning for the audit by the said ~~twenty-five percent (25%)~~ ten percent (10%) of the registered voters and the amount to be charged therefor to be ~~named and set up~~ included in the petition by the voters for such audit.

When such audit has been made in strict compliance with the provisions of this act, Section 212 et seq. of this title, a warrant for the cost of the same as provided herein shall be drawn and delivered to the State Auditor and Inspector, as the case may be, and paid by the ~~city or town~~ subdivision of the state treasury from any funds not otherwise specifically appropriated or allocated.

A county election board, upon request from persons desiring to petition for an audit, shall certify in advance the number of signatures required on such petition.

Where the number of a subdivision's registered voters can not be determined due to boundary lines not conforming to precinct lines, the required number of petitioners hereunder shall be twenty-five percent (25%) of the total number of persons voting in the last general election held by the subdivision in all districts of the subdivision.

If the subdivision is a public trust, the required number of petitioners shall be the same as those required for an audit of its beneficiary.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 212A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. All public entities receiving public funds shall cause to be prepared by the State Auditor and Inspector or an independent licensed public accountant, or a certified public accountant, a financial statement audit in accordance with generally accepted auditing standards and generally accepted government auditing standards, as of the end of each fiscal year. Copies shall be filed with the State Auditor and Inspector. The expense of the audit shall be paid by the public entity.

B. All accountants or partnerships of accountants, before entering into audit contracts required under this article, shall satisfy the State Auditor and Inspector that such accountant or at least one partner of a partnership of accountants is a resident of the State of Oklahoma with at least two (2) years of public accounting experience and is currently maintaining an office in the State of Oklahoma. Accountants or partnerships of accountants shall make application for approval by the State Auditor and Inspector for the ensuing year on or before the first day of March of each calendar year. Each accountant or partnership of accountants shall also satisfy the State Auditor and Inspector that such accountants or partnership of accountants has been licensed by the State Board of Public Accountancy before being placed on the list of approved auditors.

C. Independent Auditor's Reports on schedules of federal financial assistance will be in a form consistent with the Auditor's reports in audits of state and local governmental units, which is prepared by "The American Institute of Certified Public Accountants" and recognized by government auditing standards of the Comptroller General of the United States. State agencies or other pass through grantors of Federal Financial Assistance will not place audit reporting requirements on a grantee or sub-recipients in addition to the required federal compliance reports and schedules of Federal Financial Assistance, without approval of the State Auditor and Inspector.

SECTION 4. AMENDATORY 74 O.S. 1981, Section 213, as last amended by Section 26, Chapter 337, O.S.L. 1990 (74 O.S. Supp. 1990, Section 213), is amended to read as follows:

Section 213. A. It shall be the duty of the State Auditor and Inspector to examine and report upon the books and financial accounts of the several public, educational, charitable, penal and reformatory institutions belonging to the state; to prescribe and enforce correct methods of keeping financial accounts of the state institutions, by himself or duly appointed deputy, and instruct the proper officers thereof in the performance of their duties concerning the same; to examine the books and accounts of all public institutions under the control of the state at least once each year. Any officer of such public, educational, charitable, penal and reformatory institutions who shall refuse or willfully neglect to comply with such direction of the State Auditor and Inspector within such reasonable time as he may prescribe, shall be guilty of a misdemeanor.

B. The State Auditor and Inspector shall perform ~~an~~ investigative a special audit on each institution of higher education at least once every five (5) years. ~~Investigative audits of common school districts and area vocational-technical school districts shall be performed by the State Auditor and Inspector upon receiving written requests to do so by the Governor, Attorney General, President Pro Tempore of the Senate or the Speaker of the House of Representatives. Such investigative audits~~ The State Auditor and Inspector shall perform a special audit on common school districts, area vocational-technical districts, and institutions of higher education upon receiving written requests to do so by the Governor, Attorney General, President Pro Tempore of the Senate and the Speaker of the House of Representatives. The special audit shall include, but not necessarily be limited to, a compliance audit. The special audit shall be conducted according to the American Institute of Certified Public Accountants' "Statements on Auditing Standards". Such audits shall be designed to review items for management's compliance with statutes, regulations, policies and internal control procedures or other items applicable to each institution. The special audit shall be in lieu of the audit required by Section 22-103 of Title 70 of the Oklahoma Statutes, for the year in which the ~~investigative~~ special audit is performed. The costs of any such audit shall be borne by the audited entity and may be defrayed, in whole or in part, by any federal funds available for that purpose.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 219A of Title 74, unless there is created a duplication in numbering, reads as follows:

The State Auditor and Inspector shall provide adequate continuing professional education for all staff members necessary to comply fully with federal requirements to ensure the acceptability of all audits performed under Section 2 of this act. Such training may take the form of courses presented by competent state and federal employees, the American Institute of Certified Public Accountants and other organizations recognized by the Office of Management and Budget as competent to provide such training. Employees of other state entities who can demonstrate they are mandated to participate in continuing professional education because of their assignment may be included in relevant training sessions if, within available resources, the State Auditor and Inspector is reimbursed for the costs of their participation.

SECTION 6. AMENDATORY 74 O.S. 1981, Section 227.8, is amended to read as follows:

Section 227.8 Notwithstanding the provisions of any other law, any state agency may pay the State Auditor and Inspector ~~all or a part of~~ the cost of auditing the books and accounts or the provisions of accounting, financial management or investigative consultant services of such state agency; and state agencies and the State Auditor and Inspector may enter into agreements for such purpose. Payments made by the state agency shall be deposited in the State Treasury to the credit of the State Auditor and Inspector Revolving Fund created by Section 227.9 of this title. Expenses incurred in auditing such books and accounts, including compensation of necessary personnel, including consultants, or causing the books and accounts to be audited, may be paid from said fund in the same manner as now provided by law for other disbursements.

SECTION 7. AMENDATORY 74 O.S. 1981, Section 227.9, as amended by Section 10, Chapter 304, O.S.L. 1985 (74 O.S. Supp. 1990, Section 227.9), is amended to read as follows:

Section 227.9 Effective July 1, 1970, there is hereby created in the State Treasury a revolving fund for the Office of the State Auditor and Inspector to be designated the "State Auditor and Inspector Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all money paid to and received by the State Auditor and Inspector from state agencies, boards and commissions authorized by statute to pay the expense of audits and consulting services, money received for performance of audits and consulting services pursuant to contract entered into under the authority of Section 227.8 of this title, funds received from state agencies, boards and commissions receiving federal grants of funds which require periodic audits under said grants or any federal regulations, all money received from counties, cities, towns and public trusts in payment of audit expense, funds appropriated to state agencies, boards and commissions for payment of audit expense, and fees received by the State Auditor and Inspector pursuant to the Oklahoma Abstractors Law, Section 227.10 et seq. of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of the State Auditor and Inspector for expenses necessary for the performance of duties imposed upon the Office of the State Auditor and Inspector by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. The State Auditor and Inspector shall at the close of each fiscal year pay into the General Revenue Fund of the state any unencumbered balance remaining in said revolving fund in excess of Five Hundred Thousand Dollars (\$500,000.00).

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 20th day of May, 1991.

President of the Senate

Passed the House of Representatives the 28th day of May, 1991.

Speaker

of the House of
Representatives