

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1605

By: Blackburn

AS INTRODUCED

An Act relating to audits and examinations; stating legislative purposes; providing for payment of audit expense for emergency medical service districts; prescribing procedures; amending 74 O.S. 1991, Sections 18f, 212, as amended by Section 1, Chapter 92, O.S.L. 1994 and 213, as last amended by Section 33, Chapter 1, O.S.L. 1995 (74 O.S. Supp. 1996, Sections 212 and 213), which relate to certain audits and examinations; authorizing Attorney General to request certain personnel from the State Auditor and Inspector's office; requiring payment of costs; modifying provisions related to audits and examinations; authorizing requests for audits by district attorneys; modifying provisions for audits requested by petition; prescribing procedures; requiring payment of costs; prescribing penalties for nonpayment; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1706.1 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. It is hereby declared to be the purpose and intention of the Legislature to strengthen the system of checks and balances upon receipt and disbursement of emergency medical service district funds through audit by the State Auditor and Inspector and to that end, mandatorily require the appropriation and dedication of certain funds to that purpose in order to provide more nearly adequate and sufficient means for complete annual audit and report thereof.

B. The net proceeds of the one-tenth mill annual ad valorem levy upon the net total assessed valuation in any emergency medical service district for any year which shall be authorized and mandatorily required to be appropriated and dedicated to emergency medical service district audit shall henceforth be restricted to and used only for audit survey and reporting receipt, disbursement and management of emergency medical service district affairs financed by ad valorem levy and miscellaneous revenues other than ad valorem taxation accruing to the general fund of the emergency medical service district, whether such audit be in the performance of duties charged to the State Auditor and Inspector and instigated at the State Auditor and Inspector's own initiative and directive, on request of the board of trustees of the emergency medical service district, on request of the board of county commissioners of such county or on order of the Governor as provided by Section 212 of Title 74 of the Oklahoma Statutes. If, after completion of audit of all emergency medical service district accounts so financed, and report thereof, including report of audit of cash funds where possible, as provided by this section, unless there be directive from the Governor for other and/or further inquiry, the board of trustees of the emergency medical service district may, upon certificate of completion by the State Auditor and Inspector,

request that any unexpended and unencumbered balance of appropriation therein be, by the board of trustees of the emergency medical service district, lapsed and canceled and the revenues restricted thereby revert to surplus, available for appropriation to any lawful emergency medical service district purpose.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 18f, is amended to read as follows:

Section 18f. The Attorney General shall have authority to conduct investigations and it shall be the duty of the Department of Public Safety of the State of Oklahoma, when so directed by the Governor of the State of Oklahoma, to furnish him with investigators from the personnel of said Department, to assist in such investigations and to assemble evidence for the Attorney General in any cases to be tried or in any matters to be investigated. Likewise, it shall be the duty of the State Auditor and Inspector, upon request of the Attorney General, to furnish him with experienced auditors and/or accountants from the personnel of his department to make audits and check records for the Attorney General in any case to be tried or in any matter being investigated by the Attorney General. The cost of such services shall be borne by the entity audited.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 212, as amended by Section 1, Chapter 92, O.S.L. 1994 (74 O.S. Supp. 1996, Section 212), is amended to read as follows:

Section 212. A. STATE TREASURER

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.

B. STATE OFFICERS

The State Auditor and Inspector shall examine at least once each year the books and accounts of ~~the~~ all state officers whose duty it

is to collect, disburse or manage funds of the state, ~~at least once~~  
~~each year.~~

C. GUBERNATORIAL REQUEST

Whenever called upon to do so by the Governor, it shall be ~~his~~  
~~or her~~ the duty of the State Auditor and Inspector to examine the  
books and accounts of any officer of the state or any of the  
officer's predecessors. The cost of the audit shall be borne by the  
entity to be audited.

D. COUNTY TREASURER

The State Auditor and Inspector shall examine without notice all  
books and accounts of each county treasurer of the state twice each  
year.

E. DISTRICT ATTORNEY REQUEST

Whenever called upon to do so by any of the several district  
attorneys of the state, it shall be the duty of the State Auditor  
and Inspector to examine the books and accounts of any officer of  
any public entity. The cost of the audit shall be borne by the  
entity audited.

F. COUNTY OFFICERS BY REQUEST

~~In addition to the above prescribed duties, upon~~ Upon request of  
the county commissioners of any county, or ~~upon request of~~ by 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~~ by the county so examined ~~at the same~~  
~~salary and expenses provided herein for deputy examiners.~~

G. AUDITORS

The State Auditor and Inspector shall have power to ~~appoint~~  
~~additional special deputies for this purpose; provided, that no~~  
~~deputy~~ employ auditors. No auditor shall examine the books or  
records of the county of the ~~deputy's~~ auditor's residence in

counties of under two hundred thousand (200,000) population according to the most recent Federal Decennial Census.

H. EXAMINATION OF LEVIES

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. The State Auditor and Inspector 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.

~~B. 1. Any subdivision of the State of Oklahoma shall have its books audited by the State Auditor and Inspector upon petition of ten percent (10%) of its registered voters or, as provided in paragraph 2 of this subsection, upon petition of twenty-five percent (25%) of the total number of voters voting in the last subdivision-wide general election held by the subdivision. Upon collection of the required number of signatures, the person desiring the audit shall present the signed petitions to the State Auditor and Inspector. If the petitions bear the statement of cost required pursuant to paragraph 3 of this subsection, within thirty (30) days of receipt of the petitions the State Auditor and Inspector shall present the petitions to the county election board located in the county in which supervision of the subdivision is located. The county election board shall determine whether the petition has the requisite number of signatures. A petition having the required number of signatures shall be certified as valid and adequate by the county election board.~~

~~2. Upon request from persons desiring to petition for an audit, the county election board located in the county in which supervision of the subdivision is located shall certify in advance the number of signatures required on such petition. If the county election board~~

~~determines that the number of registered voters in the subdivision cannot be determined due to boundary lines not conforming to precinct lines, the required number of petitioners shall be twenty-five percent (25%) of the total number of persons voting in the last subdivision-wide general election held by 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.~~

~~3. Any person desiring to petition for an audit shall request from the State Auditor and Inspector a statement of the anticipated total amount the State Auditor and Inspector will charge for the audit. Within thirty (30) days of receipt of the request the State Auditor and Inspector shall mail a statement of the charge for the audit to the person requesting the information. The anticipated total amount to be charged for the audit must be included in the petition prior to circulation of the petition.~~

~~4. The State Auditor and Inspector shall have power to appoint additional special deputies for the purpose of completing the audit. The cost of said examination shall be borne by the subdivision of the state being audited.~~

~~5. 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 subdivision of the state treasury from any funds not otherwise specifically appropriated or allocated.~~

#### I. PETITION AUDITS

1. The State Auditor and Inspector shall audit the books and records of any subdivision of the State of Oklahoma upon petition signed by the requisite number of voters registered in the subdivision and meeting the requirements set out in this subsection.

2. The petition must contain the number of signatures equivalent to ten percent (10%) of the registered voters of the

subdivision as determined by the county election board or, if the county election board determines that the number of registered voters in the subdivision cannot be determined due to boundary lines not conforming to precinct lines, the required number of petitioners shall be twenty-five percent (25%) of the total number of persons voting in the last subdivision-wide general election held in 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. The appropriate county election board shall provide the number of signatures so required upon request.

3. The petition shall include the signature of the individual, the name of the signer in printed form and the signer's address. It shall be in the form of an affidavit and it shall clearly state that falsely signing shall constitute perjury.

4. Any person desiring to petition for an audit shall list the areas, items or concerns they want to be audited, and request from the State Auditor and Inspector the anticipated range of cost of the audit. Within thirty (30) days from the receipt of the request, the State Auditor and Inspector shall mail a petition form to the person requesting the information which shall state the anticipated range of the cost and the items or concerns to be audited. The circulators of the petition shall have thirty (30) days from the date the petition is mailed by the State Auditor and Inspector to obtain the requisite number of signatures and return it to the State Auditor and Inspector.

5. Upon collection of the required number of signatures, the person desiring the audit shall present the signed petitions to the State Auditor and Inspector. Within thirty (30) days of receipt of the petitions the State Auditor and Inspector shall present the petitions to the county election board located in the county in which the subdivision is located.

6. The county election board shall determine whether the signers of the petition are registered voters of the county in which the subdivision to be audited is located and whether the petition has the requisite number of signatures. The county election board shall certify any petition having the required number of signatures. After certifying the petition the county election board shall forward the petition and certificate to the county treasurer along with a statement of the number of required signatures.

7. The county treasurer shall determine whether those registered voters certified by the county election board are residents of the subdivision to be audited and certify to such finding. For this service the county treasurer shall be paid One Dollar (\$1.00) per name reviewed up to the total number required for certification.

8. The cost of the audit and the certification of the petition shall be borne by the public entity audited. Upon notification by the State Auditor and Inspector of receipt of a petition certified by the county election board and the county treasurer, the public entity shall encumber funds in an amount specified by the State Auditor and Inspector which shall be within the anticipated range of cost stated on the petition from any funds not otherwise specifically appropriated or allocated. Payment for the audit shall be made as work progresses and final payment shall be made upon its publication.

9. The names of the signers of any petition shall be confidential and neither the State Auditor and Inspector, the county election board nor the county treasurer shall have authority to release them to any other person or entity except upon an order from a court of competent jurisdiction.

J. PENALTIES FOR NONPAYMENT

The cost of any services provided by the State Auditor and Inspector shall be due and payable upon the publication of the

audit. Any such costs not paid within ninety (90) days of the date of publication shall incur a penalty of Ten Dollars (\$10.00) per day for each day from the date of publication.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 213, as last amended by Section 33, Chapter 1, O.S.L. 1995 (74 O.S. Supp. 1996, 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 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 a reasonable time shall be guilty of a misdemeanor.

B. If requested in accordance with subsection C of 70 O.S. 3909, the State Auditor and Inspector shall perform a quality control review of the internal audit functions required by each board of regents of institutions of higher education at least once every three (3) years. This review shall be in accordance with the "Quality Assurance Review Manual for Internal Auditing" developed by the Institute of Internal Auditors or any successor organization thereto.

C. No later than July 1, 1997, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall appoint a special joint interim committee, the sole purpose of which shall be to review and evaluate the effectiveness of the quality control reviews specified in subsection B of this section for the

fiscal years ending on June 30, 1995, 1996, and 1997. A copy of the final report of the interim committee, including any recommendations for modification of the Oklahoma Statutes, shall be distributed to each member of the Legislature no later than December 1, 1997.

D. The State Auditor and Inspector shall perform a special audit on common school districts and area vocational-technical districts upon receiving a written request to do so by any of the following: the Governor, Attorney General, President Pro Tempore of the Senate, Speaker of the House of Representatives, ~~or~~ State Board of Education, or the vocational-technical district board. The State Auditor and Inspector shall perform a special audit on any institution of higher education within The Oklahoma State System of Higher Education whenever the State Auditor and Inspector deems it appropriate or upon receiving a written request to do so by any of the following: the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the governing board of the institution of higher education, or the president of the institution of higher education. 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, rules, policies and internal control procedures or other items applicable to each entity. 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. This act shall become effective July 1, 1997.

SECTION 6. 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.

46-1-6001

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