STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 750 By: Rozell

AS INTRODUCED

An Act relating to corrections; amending 74 O.S. 1991, Section 212, as last amended by Section 3, Chapter 136, O.S.L. 1997 (74 O.S. Supp. 1998, Section 212), which relates to duties and power of the State Auditor and Inspector; requiring audit of certain agencies; directing separate reports; providing for payment of audit expense; amending 74 O.S. 1991, Section 212A, as last amended by Section 14, Chapter 290, O.S.L. 1996 (74 O.S. Supp. 1998, Section 212A), which relates to audits of governmental entities; requiring audit of certain funds; requiring report within certain time; providing for expense of certain audits; amending 74 O.S. 1991, Section 213, as last amended by Section 1, Chapter 13, O.S.L. 1998 (74 O.S. Supp. 1998, Section 213), which relates to examination of institutions and special audits; authorizing special audits without notice of certain agencies; authorizing certain persons to request special audits; establishing certain audit standards; amending 74 O.S. 1991, Section 226, as amended by Section 1, Chapter 31, O.S.L. 1992 (74 O.S. Supp. 1998, Section 226),which relates to annual audit of non-state funds; requiring audit and report of certain accounts of the Department of Corrections and certain district attorney programs; directing report be filed with certain persons; providing for response to audit report from certain directors; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 212, as last amended by Section 3, Chapter 136, O.S.L. 1997 (74 O.S. Supp. 1998, 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 twice each year.

B. STATE OFFICERS

The State Auditor and Inspector shall examine at least once each year the books and accounts of all state officers whose duty it is to collect, disburse or manage funds of the state.

C. GUBERNATORIAL REQUEST

Whenever called upon to do so by the Governor, it shall be 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 ATTORNEYS

The State Auditor and Inspector shall make continuous examination and audit of the books and accounts of the several offices of the district attorneys of this state and the District Attorneys Council. The audits shall be reported in separate reports for each entity. The audit may include but shall not be limited to the audit of the financial records, performance measures, and compliance with statutes and rules, and compliance with any regulations of state or federal programs. The expense of the audits shall be paid by the entity audited.

F. DEPARTMENT OF CORRECTIONS

The State Auditor and Inspector shall make continuous examination and audit of the books and accounts of the several divisions of the Department of Corrections. The audits shall be reported in separate reports for each division. The audit may include but shall not be limited to the audit of the financial records, performance measures, and compliance with any statutes and rules, and compliance with any regulations of state or federal

programs. The expense of the audits shall be paid by the entity audited.

G. 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.~~ H. COUNTY OFFICERS BY REQUEST

Upon request of the county commissioners of any county, or by the Governor, the State Auditor and Inspector shall examine 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 by the county so examined.

~~G.~~ I. AUDITORS

The State Auditor and Inspector shall have power to employ auditors. No auditor shall examine the books or records of the county of the auditor's residence in counties of under two hundred thousand (200,000) population according to the most recent Federal Decennial Census.

~~H.~~ J. 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.

~~I.~~ K. 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 be in the form of an affidavit wherein the signatory shall declare upon oath or affirmation that the information given is true and correct and that he or she is a citizen of the entity to be audited. The petition shall clearly state that falsely signing shall constitute perjury. It shall include the signature of the individual, the name of the signatory in printed form, the individual's residential address, the date of signing, the public entity to be audited and the anticipated range of the cost of the audit provided by the State Auditor and Inspector.

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 of such registered voters. The county election board shall certify the petition as having the required number of signatures or as failing to have the required number of signatures and return it to the State Auditor and Inspector.

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

8. 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.~~ L. 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 2. AMENDATORY 74 O.S. 1991, Section 212A, as last amended by Section 14, Chapter 290, O.S.L. 1996 (74 O.S. Supp. 1998, Section 212A), is amended to read as follows:

Section 212A. A. 1. All government entities, as defined by the Governmental Accounting Standards Board, shall have an audit ~~prepared~~ in accordance with generally accepted auditing standards and Government Auditing Standards. Copies of any audit performed by a person other than the State Auditor shall be filed with the State Auditor and Inspector by ~~the auditor that prepared the audit~~ that person. The expense of the audit shall be paid by the government entity. For fiscal years ending after December 31, 1995, all government entities receiving public funds that are included in the reporting entity of the State of Oklahoma shall file a copy of the audit required by this paragraph with the Director of State Finance no later than four (4) months after the end of the fiscal year of the government entity. For purposes of this paragraph, the reporting entity of the State of Oklahoma includes all government entities included in the State of Oklahoma Comprehensive Annual Financial Report. The government entities included in the State of Oklahoma reporting entity shall be determined by the Director of State Finance using criteria set by the Governmental Accounting Standards Board.

2. Any public accountant or certified public accountant filing a report with the State Auditor and Inspector pursuant to this section shall be required to pay a filing fee of Forty Dollars ($40.00) for the purposes of processing such reports and ensuring

compliance with the provisions of this section. Such payments shall be deposited in the State Auditor and Inspector Revolving Fund, created pursuant to Section 227.9 of this title.

B. All registrants, as defined in the Oklahoma Accountancy Act, before entering into audit contracts required under this section, shall satisfy the Oklahoma Accountancy Board and the State Auditor and Inspector that such registrant meets Government Auditing Standards and has a current permit to practice issued by the Oklahoma Accountancy Board.

The State Auditor and Inspector shall receive annual reports from the Oklahoma Accountancy Board of all registrants meeting the requirements of this subsection. The Oklahoma Accountancy Board shall provide changes and updates to the annual report to the State Auditor and Inspector at least quarterly.

C. Schedules of federal financial assistance will be in a form consistent with the guidance 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 issued by the Comptroller General of the United States. State agencies or other pass through grantors of Federal Financial Assistance will not place 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.

D. All governmental entities shall have an audit prepared of grant funds received, administered, used, or under the direct or indirect control of the governmental entity or any of its employees. A copy of the audit report shall be filed with the State Auditor and Inspector and the Director of the Office of State Finance within three (3) months after the end of the fiscal year of the governmental entity by the auditor that prepared the report. The

expense of the audit shall be paid by the governmental entity unless the grant provides for the cost of audits.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 213, as last amended by Section 1, Chapter 13, O.S.L. 1998 (74 O.S. Supp. 1998, 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. Each board of regents of institutions in The Oklahoma State System of Higher Education shall require a quality control review of the internal audit function required pursuant to subsection D of Section 3909 of Title 70 of the Oklahoma Statutes for each institution under its governance 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. A copy of the report on the quality control review shall be filed with the State Auditor and Inspector.

C. 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, 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.

D. The State Auditor and Inspector shall perform a special audit without notice on the office of any district attorney or on any division of the Department of Corrections 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, or the Speaker of the House of Representatives. The State Auditor and Inspector shall perform a special audit without notice on any penal institution, corrections program, contract for service or prison bed space provided to the Department of Corrections, or any program administered by a district attorney office or staff of such office 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, or 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 compliance with statutes, rules, policies and internal control procedures or other items applicable to each entity. The costs of any such audit shall be paid by the audited entity and may be defrayed, in whole or in part, by any federal funds available for that purpose.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 226, as amended by Section 1, Chapter 31, O.S.L. 1992 (74 O.S. Supp. 1998, Section 226), is amended to read as follows:

Section 226. A. The State Auditor and Inspector shall make an annual audit of all special, revolving, depository, canteen or other nonstate funds existing within any state agency, department, institution or subdivision of state government and shall file a report of such audit with the Director of the Office of State Finance and the Governor of the State of Oklahoma.

B. 1. In addition to the filing requirements set forth in subsection A of this section, the State Auditor and Inspector shall file a report of audits of all special agency accounts established within the Department of Human Services, pursuant to subsection C of Section 7.2 of Title 62 of the Oklahoma Statutes, with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Commission for Human Services, the Director of the Department of Human Services and the Ombudsman Program within the Department of Human Services Office of Client Advocacy.

2. In addition to the filing requirements set forth in subsection A of this section, the State Auditor and Inspector shall file a report of audits of the accounts established within the Department of Corrections pursuant to paragraph G of Section 987.16

of Title 22 of the Oklahoma Statutes with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Director of the Department of Corrections, and the Board of Corrections.

3. In addition to the filing requirements set forth in subsection A of this section, the State Auditor and Inspector shall file a report of audits of the accounts established within the office of each district attorney for bogus check programs, drug task force programs, child support collection programs and any other programs receiving any non-state funds with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Director of the District Attorneys Council.

4. No later than ninety (90) days after receipt of such report of audits by the Director of the Department of Human Services or the Director of the Department of Corrections or the Director of the District Attorneys Council as provided in this subsection, the Director receiving the report shall file a report with the Governor of the State of Oklahoma, the President Pro Tempore of the Senate and the Speaker of the House of Representatives which shall list all actions taken by the Director in response to the audit.

SECTION 5. 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.

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