STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3217 By: Hickman

COMMITTEE SUBSTITUTE

An Act relating to state government; amending 74 O.S. 2011, Section 212, as amended by Section 842, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 212), which relates to the State Auditor and Inspector; modifying petition audits; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 212, as amended by Section 842, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 212), is amended to read as follows:

Section 212. A. STATE TREASURER AND OKLAHOMA TAX COMMISSION

1. The State Treasurer and the Oklahoma Tax Commission shall prepare annual financial statements in accordance with the reporting requirements set forth by the Governmental Accounting Standards Board (GASB). The State Treasurer and the Tax Commission shall prescribe and implement sound internal control, accounting and recordkeeping practices consistent with and to facilitate compliance with all reporting requirements as set forth by law.

2. The annual financial statements of the State Treasurer and the Tax Commission shall be delivered by the State Treasurer and the Tax Commission to the State Auditor and Inspector within ninety (90) calendar days after the close of the state fiscal year.

3. The State Auditor and Inspector shall perform an audit of the annual financial statements of the State Treasurer and the Tax Commission for each state fiscal year. Such audits shall be conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards, latest revised edition, issued by the Comptroller General of the United States. The State Auditor and Inspector shall complete the audits not later than ninety (90) calendar days after the financial statements are delivered to the State Auditor and Inspector. The annual audit reports and related financial statements shall be delivered by the State Auditor and Inspector to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives. The annual audit report and related financial statements of the State Treasurer shall also be delivered to the Attorney General and the members of the Cash Management and Investment Oversight Commission created by Section 71.1 of Title 62 of the Oklahoma Statutes. The annual audit report and related financial statements of the Tax Commission shall also be delivered to the Director of the Office of Management and Enterprise Services and the Legislative Service

Bureau. The State Auditor and Inspector shall conduct unannounced cash audits of the State Treasury at least once each quarter.

4. The audit of the Tax Commission shall be continuous in nature. The Tax Commission shall furnish the necessary office space for the employees of the State Auditor and Inspector making the audit and, to the extent of the amount included in the Tax Commission's appropriation therefor, the Tax Commission shall pay the expenses of the audits, including personal services, equipment and supplies, from the appropriation.

B. STATE AGENCIES

1. Except as otherwise provided by law, the State Auditor and Inspector shall audit at least once every two (2) fiscal years the books and accounts of all state agencies whose duty it is to collect, disburse or manage funds of the state. The State Auditor and Inspector shall audit a state agency each fiscal year if that state agency is required to be audited on an annual basis pursuant to the federal Single Audit Act of 1984, as amended, 31 U.S.C., Section 7501 et seq. If the state agency is audited only once every two (2) fiscal years, the audit shall cover both fiscal years.

2. Except as otherwise provided by law, the scope of audits performed by the State Auditor and Inspector shall include all funds collected, disbursed, or managed by a state agency including, but not limited to, all special, revolving, depository, canteen, or other nonstate funds.

3. As used in this section, "state agency" means every agency, board, or commission included in the primary government of the State of Oklahoma. For purposes of this paragraph, the primary government of the State of Oklahoma includes all agencies, boards, and commissions included in the primary government in the State of Oklahoma Comprehensive Annual Financial Report. The agencies, boards, and commissions included in the primary government of the State of Oklahoma shall be determined using criteria set by the Governmental Accounting Standards Board.

4. As used in this subsection, "audit" means any of the following:

a. "financial audit", which means an audit of financial statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles or any other comprehensive basis of accounting, as defined by the American Institute of Certified Public Accountants' Professional Standards, latest revised edition. Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards, latest revised edition, issued by the Comptroller General of the United States,

b. "operational audit", which means an audit conducted in accordance with applicable Government Auditing Standards, the purpose of which is to evaluate management's performance in administering assigned responsibilities in accordance with applicable laws, administrative rules, and other policies and guidelines and to determine the extent to which the internal control, as designed and placed in operation, promotes and encourages the achievement of management's control objectives in the categories of compliance, reliability of financial records and reports, and safeguarding of assets,

c. "performance audit", which means an audit of a program, activity, or function of a state agency conducted in accordance with applicable Government Auditing Standards. The term includes, but is not limited to, an audit to assess program, activity, or function effectiveness, economy and efficiency, internal control, or compliance,

d. "special or investigative audit", which means an audit with respect to a particular situation which may be, but is not required to be, conducted in accordance with applicable Government Auditing Standards, and

e. any other type of engagement conducted in accordance with Government Auditing Standards.

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

1. The State Auditor and Inspector shall annually audit the books and accounts of the several offices of the district attorneys of this state. 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 state or federal 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.

2. The State Auditor and Inspector shall examine and file a report 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 nonstate funds. The reports shall be filed with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Executive Coordinator of the District Attorneys Council.

F. DEPARTMENT OF CORRECTIONS

The State Auditor and Inspector shall perform an annual audit, as defined in paragraph 4 of subsection B of this section, of the books and accounts of the Department of Corrections. The scope of the audit shall be determined by the State Auditor and Inspector using a risk-based approach. The audit may include, but shall not be limited to, the audit of the financial records, performance measures, and compliance with any state or federal statutes and rules, and compliance with any regulations of state or federal programs. The expense of the audits shall be paid by the Department of Corrections.

G. OKLAHOMA EMPLOYEES INSURANCE AND BENEFITS BOARD

The State Auditor and Inspector shall cause to be audited the books and accounts of the office of the Oklahoma Employees Insurance and Benefits Board. The audit may include, but shall not be limited to, the audit of the financial records, performance measures, compliance with any state or federal statutes and rules, and compliance with any regulations of state programs. The audit shall be contracted out to private audit firms. The cost of the audit

shall be borne by the Oklahoma Employees Insurance and Benefits Board.

H. 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.

I. COUNTY OFFICERS BY REQUEST

Upon request of the county commissioners of any county or 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.

J. 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. The State Auditor and Inspector may employ on an as-needed basis only, legal counsel to carry out the statutory duties of the Office of the State Auditor and Inspector.

K. 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.

L. 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 may release them to any other person or entity except upon an order from a court of competent jurisdiction.

M. PENALTIES FOR NONPAYMENT

Except as otherwise provided by law, the cost of any services provided by the State Auditor and Inspector or as specified in an audit contract shall be borne by the entity or fund audited and shall be due and payable upon receipt of progress billing during the course of an audit. Any such costs not paid within ninety (90) days of the date of receipt of billing shall incur a penalty of Ten Dollars ($10.00) per day for each day from the date of receipt of billing.

SECTION 2. This act shall become effective November 1, 2014.

54-2-10466 LRB 02/27/14