

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 968

By: Anderson

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6 AS INTRODUCED

7 An Act relating to state agency auditing functions;
8 creating the State Government Auditing Consolidation
9 and Coordination Act; providing short title; stating
10 legislative intent; prohibiting state agencies from
11 performing or obtaining auditing services except
12 under certain circumstances; defining term; providing
13 exception; requiring certain information be provided
14 to State Auditor and Inspector; requiring certain
15 determination and report; requiring Office of the
16 State Auditor and Inspector to provide shared
17 auditing services to state agencies; providing
18 procedures; amending 43A O.S. 2011, Section 2-205,
19 which relates to the Department of Mental Health and
20 Substance Abuse Services; amending 64 O.S. 2011,
21 Section 1031, which relates to the Commissioners of
22 the Land Office; amending 70 O.S. 2011, Section 3909,
23 which relates to audits with the Oklahoma State
24 System of Higher Education; amending 74 O.S. 2011,
Sections 228, 908 and 2240, which relate to auditing
services, the Oklahoma Public Employees Retirement
System and the Oklahoma Tourism and Recreation
Department; subjecting certain provisions to State
Government Auditing Consolidation and Coordination
Act; providing for codification; providing an
effective date; and declaring an emergency.

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22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
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1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 230 of Title 74, unless there is
3 created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "State
5 Government Auditing Consolidation and Coordination Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 230.1 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 It is the intent of the Legislature, through enactment of the
10 State Government Auditing Consolidation and Coordination Act, to:

11 1. Reform and consolidate state agency auditing structure,
12 operations and purchasing procedures of the state to ensure that
13 state government promotes and encourages private sector growth in a
14 competitive global economy;

15 2. Ensure that the state delivers essential public services to
16 its citizens in the most efficient manner at the lowest possible
17 cost to taxpayers;

18 3. Streamline and consolidate systems for auditing services;
19 and

20 4. Coordinate and require central approval of state agency
21 auditing services purchases and projects within the Office of the
22 State Auditor and Inspector.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 230.2 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Beginning July 1, 2016, no state agency shall expend or
5 encumber any funds for the performance or purchase or other
6 procurement of any auditing services without the prior written
7 approval of the State Auditor and Inspector, unless specifically
8 authorized to do so by law. As used in this act, the term "state
9 agency" shall be defined as in Section 35.3 of Title 62 of the
10 Oklahoma Statutes.

11 B. The provisions of this section shall not apply to auditing
12 services performed or purchased by the Oklahoma Tax Commission to
13 fulfill its duties as set forth in Title 68 of the Oklahoma
14 Statutes.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 230.3 of Title 74, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Not later than August 1, 2016, each state agency shall
19 provide the following to the State Auditor and Inspector:

20 1. A copy of any contracts or other documents relating to the
21 provision of auditing services to the agency by any entity other
22 than the Office of the State Auditor and Inspector;

23 2. A list of positions of the agency whose job duties include
24 the performance of auditing services;

1 3. References to federal or state statutory or constitutional
2 provisions which require the agency to perform such auditing
3 functions; and

4 4. Such other information as may be necessary for the State
5 Auditor and Inspector to make his or her determination as required
6 in subsection B of this section.

7 B. The State Auditor and Inspector shall, for each state
8 agency, make a determination as to whether the auditing functions
9 performed or purchased by the agency, and agency employees
10 responsible for the performance of such functions, should be
11 transferred to the Office of the State Auditor and Inspector. The
12 standard for a determination that such a transfer should be made
13 shall be if consolidation of auditing services purchased or
14 performed by the agency would result in a cost savings to the
15 taxpayers of this state or improved efficiency of state government
16 operations. Such determination may include an assessment as to
17 whether the functions are integral to agency-specific applications
18 or functions.

19 C. Not later than December 1 of each year, the State Auditor
20 and Inspector shall file a report with the Governor and the
21 Legislature, which shall include the following:

22 1. The results of all determinations made pursuant to the
23 provisions of subsection B of this section since the previous report
24 was made;

1 2. A list of functions and positions of each agency which the
2 State Auditor and Inspector determines should be so transferred;

3 3. The amount of compensation and related liabilities for
4 accrued sick leave, annual leave, holidays, unemployment benefits
5 and workers' compensation benefits for the positions recommended for
6 transfer;

7 4. The amount of savings to the taxpayers of this state
8 resulting from the provisions of the State Government Auditing
9 Consolidation and Coordination Act; and

10 5. Any changes in law required or any changes to the amount of
11 state appropriations or other state funds associated with the
12 transfer of the auditing functions or positions.

13 D. The Office of the State Auditor and Inspector shall provide
14 shared auditing services to each state agency and shall bill
15 agencies for those shared services at an estimated cost to provide
16 the services. The estimated cost shall include the full cost of the
17 services, including materials, depreciation related to capital
18 costs, labor and administrative expenses. The Office shall publish
19 a schedule of costs for each available shared service and shall
20 enter into an agreement with each state agency for the shared
21 services that will be provided to the agency. The aggregated cost
22 of shared services to be provided to each state agency shall be
23 budgeted annually as a separate line item through each state agency.
24 State agencies shall process requests for payments as provided for

1 under the agreement entered into with the Office in a timely manner.
2 If payments are deemed to be delinquent for shared services provided
3 to a state agency, the Office may request the Division of Central
4 Accounting and Reporting of the Office of Management and Enterprise
5 Services to create vouchers and process payments to the Office
6 against the funds of the delinquent state agency. If the state
7 agency for which shared services were provided disputes the
8 provision of shared services in accordance with its agreement with
9 the Office, no voucher shall be processed against the funds of the
10 delinquent agency until the dispute over services has been resolved,
11 at which point a voucher may be processed in accordance with the
12 terms of the dispute resolution.

13 SECTION 5. AMENDATORY 43A O.S. 2011, Section 2-205, is
14 amended to read as follows:

15 Section 2-205. ~~The~~ Subject to the provisions of the State
16 Government Auditing Consolidation and Coordination Act, the
17 Department of Mental Health and Substance Abuse Services is hereby
18 directed to employ one or more internal auditors to establish and
19 perform an effective and comprehensive internal audit program. Such
20 program shall include, but not be limited to, reviews of accounting
21 procedures, internal control, financial management and compliance
22 with laws, regulations, policies and executive and legislative
23 directives for the Department's administrative offices,
24 institutions, community mental health centers and contractors.

1 Internal audit final reports shall be made available to the
2 Governor, the State Auditor and Inspector, the Legislative Service
3 Bureau, the Board of Mental Health and Substance Abuse Services and
4 the Commissioner of Mental Health and Substance Abuse Services.

5 SECTION 6. AMENDATORY 64 O.S. 2011, Section 1031, is
6 amended to read as follows:

7 Section 1031. For the purpose of enabling the Commissioners of
8 the Land Office to keep a correct and accurate system of accounts at
9 all times, and subject to the provisions of the State Government
10 Auditing Consolidation and Coordination Act, the Secretary of the
11 Land Office shall employ an internal auditor. The internal auditor
12 shall be a competent, qualified and experienced accountant, and have
13 had special training and experience in either county or state
14 auditing, or be thoroughly familiar with the system of accounting
15 established in state departments.

16 SECTION 7. AMENDATORY 70 O.S. 2011, Section 3909, is
17 amended to read as follows:

18 Section 3909. A. In addition to such other audits as may be
19 required of or desired by the various boards of regents responsible
20 for the institutions of The Oklahoma State System of Higher
21 Education, and subject to the provisions of the State Government
22 Auditing Consolidation and Coordination Act, each board shall
23 annually obtain the services of an independent accounting firm or
24 individual holding a permit to practice public accounting in this

1 state to perform a complete financial audit for the preceding fiscal
2 year of each institution for which the board is responsible. The
3 Oklahoma State Regents for Higher Education shall likewise annually
4 obtain the services of an independent accounting firm or individual
5 holding a permit to practice public accounting in this state to
6 perform a complete financial audit of all the offices, operations,
7 and accounts of the State Regents which are not subject to the
8 control of other boards of regents. The audits shall be filed in
9 accordance with the requirements set forth for financial statement
10 audits in Section 212A of Title 74 of the Oklahoma Statutes.

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

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

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

7 3. To the extent required by subsection (d) of Section 4306 of
8 this title, records of college- or university-related foundations
9 shall be included within the scope of the audit;

10 4. At the conclusion of the audit, the auditor shall meet with
11 the president of the institution and the Audit Committee to review
12 the audit report to be issued, the management letter or other
13 comments or suggestions to be issued, and any other findings; and

14 5. Findings of material weaknesses, qualifications of the
15 auditor's report other than those deriving from inadequate plant
16 records, and of defalcations, or a report of lack of such findings,
17 shall be communicated in writing to the board, the State Auditor and
18 Inspector, the Legislative Service Bureau, and the Oklahoma State
19 Regents for Higher Education with or in advance of the filing of the
20 audit report required by Section 452.10 of Title 74 of the Oklahoma
21 Statutes; and such written communications shall include any
22 responses or other comments which the president or the Audit
23 Committee wishes to have included.
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1 C. The State Auditor and Inspector whenever he or she deems it
2 appropriate, or upon receiving a written request to do so by the
3 Governor, Attorney General, President Pro Tempore of the Senate, the
4 Speaker of the House of Representatives, the governing board of an
5 institution of higher education, the Oklahoma State Regents for
6 Higher Education or the president of an institution of higher
7 education, shall conduct a special audit of any institution of
8 higher education within The Oklahoma State System of Higher
9 Education. The special audit shall include, but not necessarily be
10 limited to, a compliance audit as defined in subsection C of Section
11 213 of Title 74 of the Oklahoma Statutes. The State Auditor and
12 Inspector shall have the power to take custody of any records
13 necessary to the performance of the audit but shall minimize actual
14 physical removal of or denial of access to such records. At the
15 conclusion of the audit, the State Auditor and Inspector shall meet
16 with the president of the institution and the Audit Committee of the
17 board which governs the component audited to review the audit report
18 to be issued. The report, when issued, shall include any responses
19 to the audit which the president or the Audit Committee wishes to
20 have included and shall be presented to the full board, the
21 Legislative Service Bureau, and the Oklahoma State Regents for
22 Higher Education with or in advance of the filing required by
23 Section 452.10 of Title 74 of the Oklahoma Statutes. The cost of
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1 such audit shall be borne by the audited entity and may be defrayed
2 in whole or in part by any federal funds available for that purpose.

3 D. Each board of regents shall require the employment of a
4 sufficient number of internal auditors to meet the board's fiduciary
5 responsibilities. Internal audits shall be conducted in accordance
6 with the provisions of Sections 228 and 229 of Title 74 of the
7 Oklahoma Statutes. The internal auditors shall submit a report
8 directly and simultaneously to the audit committee of the board and
9 the president of the institution; all members of the board of
10 regents governing the institution, however, shall receive all
11 internal audit reports and the board of regents shall, at least
12 annually, review and prescribe the plan of work to be performed by
13 the internal auditors.

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

22 SECTION 8. AMENDATORY 74 O.S. 2011, Section 228, is
23 amended to read as follows:
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1 Section 228. ~~The~~ Subject to the provisions of the State
2 Government Auditing Consolidation and Coordination Act, the
3 administrative head and the governing body of any state agency,
4 board, department or commission having internal audit functions
5 shall have direct supervisory responsibility over all internal
6 audits conducted by the agency, board, department or commission.
7 Such supervisory responsibility shall include, but not be limited
8 to, the duty of assuring that all internal audits are conducted in
9 accordance with the "Standards for the Professional Practice of
10 Internal Auditing" developed by the Institute of Internal Auditors
11 or any successor organization thereto.

12 SECTION 9. AMENDATORY 74 O.S. 2011, Section 908, is
13 amended to read as follows:

14 Section 908. ~~(1)~~ A. The Board of Trustees of the Oklahoma
15 Public Employees Retirement System shall appoint an Executive
16 Director and shall establish his or her compensation. Subject to
17 the policy direction of the Board, ~~he~~ the Director shall be the
18 managing and administrative officer of the System and as such shall
19 have charge of the office, records, and supervision and direction of
20 the employees of the System.

21 ~~(2)~~ B. The Executive Director shall recommend to the Board the
22 administrative organization, the number and qualifications of
23 employees necessary to carry out the intent of Section 901 et seq.
24 of this act ~~title~~, and the policy direction of the Board. Upon

1 approval of the organizational plan by the Board, the Executive
2 Director may employ such persons as are deemed necessary to
3 administer Section 901 et seq. of this act title.

4 ~~(3)~~ C. The members of the Board of Trustees, the Executive
5 Director and the employees of the System shall not accept gifts or
6 gratuities from an individual organization with a value in excess of
7 Fifty Dollars (\$50.00) per year. The provisions of this section
8 shall not be construed to prevent the members of the Board of
9 Trustees, the Executive Director or the employees of the System from
10 attending educational seminars, conferences, meetings or similar
11 functions which are paid for, directly or indirectly, by more than
12 one organization.

13 ~~(4)~~ D. The Board of Trustees shall select and retain a
14 qualified actuary who shall serve at its pleasure as its technical
15 advisor or consultant on matters regarding the operation of the
16 System. The actuary shall:

17 ~~(a)~~

18 a. make an annual valuation of the liabilities and
19 reserves of the System, and a determination of the
20 contributions required by the System to discharge its
21 liabilities and administrative costs under Section 901
22 et seq. of this act title, and recommend to the Board
23 rates of employer contributions required to establish
24 and maintain the System on an adequate reserve basis.

1 ~~(b)~~

2 b. as soon after the effective date as practicable and
3 once every three (3) years thereafter, make a general
4 investigation of the actuarial experience under the
5 System, including mortality, retirement, employment
6 turnover, and interest, and recommend actuarial tables
7 for use in valuations and in calculating actuarial
8 equivalent values based on such investigation, and

9 ~~(c)~~

10 c. perform such other duties as may be assigned by the
11 Board.

12 ~~(5)~~ E. The Board may retain an attorney licensed to practice
13 law in this state. The attorney shall serve at the pleasure of the
14 Board for such compensation as specified by the Board. The attorney
15 shall advise the Board and perform legal services for the Board with
16 respect to any matters properly before the Board. In addition, the
17 attorney shall advise and perform legal services for the State and
18 Education Employees Group Insurance Board with respect to any
19 matters properly before that Board as provided in Section 1301 et
20 seq. of this title.

21 ~~(6)~~ F. The Board shall decide in each instance the membership
22 status of member employees whose membership in the System becomes a
23 matter of conjecture on account of mergers or consolidations of
24 state agencies.

1 ~~(7) The~~ G. Subject to the provisions of the State Government
2 Auditing Consolidation and Coordination Act, the Board may retain an
3 internal auditor to serve at the pleasure of the Board for such
4 compensation as specified by the Board. In addition to the duties
5 assigned by the Board, the internal auditor is authorized to audit
6 all records of any participating employer in order to ensure
7 compliance with the provisions of Section 901 et seq. of this title.

8 SECTION 10. AMENDATORY 74 O.S. 2011, Section 2240, is
9 amended to read as follows:

10 Section 2240. A. The Oklahoma Tourism and Recreation
11 Department shall establish a cost and revenue reporting system for
12 all budget activities and subactivities of the Department.

13 B. 1. The State Auditor and Inspector or a designated agent of
14 the State Auditor and Inspector shall perform an independent audit
15 of the Department annually. The audit shall be conducted in
16 accordance with the Generally Accepted Government Auditing Standards
17 as issued by the Comptroller General of the United States. The cost
18 of the audit shall be borne by the Department.

19 2. Matters to be considered in determining the types of
20 activities to be audited and the scope of the audit shall be based
21 on an analysis of:

- 22 a. the date and results of prior audits, reviews, and/or
23 independent studies,
24 b. financial exposure,

- 1 c. potential loss and risk,
- 2 d. requests by the Commission and/or executive management
- 3 of the Department,
- 4 e. major changes in operations, programs, systems, and
- 5 controls, and
- 6 f. opportunities to achieve operating benefits.

7 The audit may be conducted in accordance with Section 213.2 of
8 Title 74 of the Oklahoma Statutes.

9 3. ~~The~~ Subject to the provisions of the State Government
10 Auditing Consolidation and Coordination Act, the internal auditors
11 of the Department shall conduct internal audits of Department
12 facilities and programs pursuant to the provisions of Section 228 of
13 ~~Title 74 of the Oklahoma Statutes~~ this title.

14 4. The audits required by this section shall be completed on or
15 before December 31 of each year and shall, upon distribution, become
16 public record.

17 C. Any person who intentionally alters or destroys records
18 needed for the performance of an audit as provided for in this
19 section or intentionally causes or directs a subordinate to do such
20 acts, shall be subject to immediate removal from office or
21 employment.

22 D. The Commission shall provide notice to Department employees
23 affected by this section of the prohibited acts and the penalties
24 pursuant to the provisions of this section.

1 SECTION 11. This act shall become effective July 1, 2016.

2 SECTION 12. It being immediately necessary for the preservation
3 of the public peace, health and safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

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