

1 ENGROSSED SENATE
2 BILL NO. 895

By: Rosino of the Senate

3 and

4 Kannady of the House

5
6 An Act relating to state audits; amending Section 74
7 O.S. 2011, Section 212, as last amended by Section 1,
8 Chapter 187, O.S.L. 2014 (74 O.S. Supp. 2020, Section
9 212), which relates to the duties and powers of the
10 State Auditor and Inspector; allowing state agencies
11 to choose public audit; providing that the state
12 agency director has sole discretion to utilize a
13 public audit and to request cost estimate from the
14 State Auditor and Inspector; requiring submission of
15 acquisition and contract to State Purchasing Director
16 for review; requiring certain notification upon
17 decision; relieving State Auditor and Inspector of
18 statutory duties upon notification; requiring
19 agencies utilizing a public audit to submit
20 information to Office of Management and Enterprise
21 Services and State Auditor and Inspector for
22 statewide audit; requiring information to be
23 submitted to OMES by certain date; modifying
24 definition; amending 74 O.S. 2011, Section 212A, as
amended by Section 843, Chapter 304, O.S.L. 2012 (74
O.S. Supp. 2020, Section 212A), which relates to
audits of governmental entities; adding provision for
state agencies; 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 last
amended by Section 1, Chapter 187, O.S.L. 2014 (74 O.S. Supp. 2020,
Section 212), is amended to read as follows:

Section 212. A. STATE TREASURER AND OKLAHOMA TAX COMMISSION

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

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

12 3. The State Auditor and Inspector shall perform an audit of
13 the annual financial statements of the State Treasurer and the Tax
14 Commission for each state fiscal year. Such audits shall be
15 conducted in accordance with auditing standards generally accepted
16 in the United States and the standards applicable to financial
17 audits contained in Government Auditing Standards, latest revised
18 edition, issued by the Comptroller General of the United States.
19 The State Auditor and Inspector shall complete the audits not later
20 than ninety (90) calendar days after the financial statements are
21 delivered to the State Auditor and Inspector. The annual audit
22 reports and related financial statements shall be delivered by the
23 State Auditor and Inspector to the Governor, President Pro Tempore
24 of the Senate, and Speaker of the House of Representatives. The

1 annual audit report and related financial statements of the State
2 Treasurer shall also be delivered to the Attorney General and the
3 members of the Cash Management and Investment Oversight Commission
4 created by Section 71.1 of Title 62 of the Oklahoma Statutes. The
5 annual audit report and related financial statements of the Tax
6 Commission shall also be delivered to the Director of the Office of
7 Management and Enterprise Services and the Legislative Service
8 Bureau. The State Auditor and Inspector shall conduct unannounced
9 cash audits of the State Treasury at least once each quarter.

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

17 B. STATE AGENCIES

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

1 Section 7501 et seq. If the state agency is audited only once every
2 two (2) fiscal years, the audit shall cover both fiscal years.

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

8 3. State agencies may choose to have the required audit
9 performed by a public accountant or certified public accountant
10 registered to do business with this state. Use of a public
11 accountant or certified public accountant shall follow the
12 procedures and standards established for government entities in
13 Section 212A of this title.

14 4. The decision to procure the services of a public accountant
15 or certified public accountant instead of the State Auditor and
16 Inspector shall be at the discretion of the agency director. The
17 agency director may request a cost estimate from the State Auditor
18 and Inspector to assist him or her in deciding which entity shall
19 perform the audit. Prior to an agency making an award of a contract
20 for audit services, the acquisition documentation and proposed
21 contract shall be reviewed and approved by the State Purchasing
22 Director.

1 5. The agency director shall notify the State Auditor and
2 Inspector if he or she chooses to have the agency's audit performed
3 by a public accountant or certified public accountant.

4 6. Upon notification by a state agency to use a public
5 accountant or certified public accountant, the State Auditor and
6 Inspector is relieved of his or her statutory duty to perform that
7 audit.

8 7. If a public accountant or certified public accountant is
9 chosen to perform an agency audit, state agencies shall still
10 provide the information required by the Office of Management and
11 Enterprise Services and the State Auditor and Inspector in order to
12 prepare and audit the statewide Comprehensive Annual Financial
13 report and the statewide Single Audit.

14 8. Any audit reports that are prepared by a public accountant
15 or certified public accountant shall be finalized and submitted to
16 the Office of Management and Enterprise Service by October 15 for
17 preparation and final review of the Comprehensive Annual Financial
18 Report.

19 ~~3.~~ 9. As used in this section, "state agency" means every
20 agency, board~~7~~ or commission included in the primary government of
21 the State of Oklahoma. For purposes of this paragraph, the primary
22 government of the State of Oklahoma includes all agencies, boards~~7~~
23 and commissions included in the primary government in the State of
24 Oklahoma Comprehensive Annual Financial Report. The agencies,

boards~~7~~ 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.~~ 10. 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~~7~~ and other policies and

1 guidelines and to determine the extent to which the
2 internal control, as designed and placed in operation,
3 promotes and encourages the achievement of
4 management's control objectives in the categories of
5 compliance, reliability of financial records and
6 reports, and safeguarding of assets,

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

14 d. "special or investigative audit", which means an audit
15 with respect to a particular situation which ~~may be,~~
16 ~~but is not required to~~ shall be, conducted in
17 accordance with applicable Government Auditing
18 Standards, and shall include a management response
19 that is limited in length to the same number of pages
20 as the special or investigative audit report, and

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

23 C. GUBERNATORIAL REQUEST
24

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

6 D. COUNTY TREASURER

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

10 E. DISTRICT ATTORNEYS

11 1. The State Auditor and Inspector shall annually audit the
12 books and accounts of the several offices of the district attorneys
13 of this state. The audits shall be reported in separate reports for
14 each entity. The audit may include, but shall not be limited to,
15 the audit of the financial records, performance measures, and
16 compliance with state or federal statutes and rules, and compliance
17 with any regulations of state or federal programs. The expense of
18 the audits shall be paid by the entity audited.

19 2. The State Auditor and Inspector shall examine and file a
20 report of the accounts established within the office of each
21 district attorney for bogus check programs, drug task force
22 programs, child support collection programs, and any other programs
23 receiving any nonstate funds. The reports shall be filed with the
24 President Pro Tempore of the Senate, the Speaker of the House of

1 Representatives⁷ and the Executive Coordinator of the District
2 Attorneys Council.

3 F. DEPARTMENT OF CORRECTIONS

4 The State Auditor and Inspector shall perform an annual audit,
5 as defined in paragraph 4 8 of subsection B of this section, of the
6 books and accounts of the Department of Corrections. The scope of
7 the audit shall be determined by the State Auditor and Inspector
8 using a risk-based approach. The audit may include, but shall not
9 be limited to, the audit of the financial records, performance
10 measures⁷ and compliance with any state or federal statutes and
11 rules⁷ and compliance with any regulations of state or federal
12 programs. The expense of the audits shall be paid by the Department
13 of Corrections.

14 G. OKLAHOMA EMPLOYEES INSURANCE AND BENEFITS BOARD

15 The State Auditor and Inspector shall cause to be audited the
16 books and accounts of the office of the Oklahoma Employees Insurance
17 and Benefits Board. The audit may include, but shall not be limited
18 to, the audit of the financial records, performance measures,
19 compliance with any state or federal statutes and rules⁷ and
20 compliance with any regulations of state programs. The audit shall
21 be contracted out to private audit firms. The cost of the audit
22 shall be borne by the Oklahoma Employees Insurance and Benefits
23 Board.

24 H. DISTRICT ATTORNEY REQUEST

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

6 I. COUNTY OFFICERS BY REQUEST

7 Upon request of the county commissioners of any county or the
8 Governor, the State Auditor and Inspector shall examine the books
9 and accounts of all or any of the officers or custodians of the
10 various funds of the county; and payment for such examination shall
11 be made by the county so examined.

12 J. AUDITORS

13 The State Auditor and Inspector shall have power to employ
14 auditors. No auditor shall examine the books or records of the
15 county of the auditor's residence in counties of under two hundred
16 thousand (200,000) population according to the most recent Federal
17 Decennial Census. The State Auditor and Inspector may employ on an
18 as-needed basis only, legal counsel to carry out the statutory
19 duties of the Office of the State Auditor and Inspector.

20 K. EXAMINATION OF LEVIES

21 It shall be the duty of the State Auditor and Inspector to
22 examine all levies to raise public revenue to see that they are made
23 according to law and constitutional provisions. The State Auditor
24 and Inspector shall have the power to order all excessive or

1 erroneous lines (levies) to be corrected by the proper officers, and
2 shall report any irregularities to the Governor, the Speaker of the
3 House of Representatives and the President Pro Tempore of the
4 Senate.

5 L. PETITION AUDITS

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

10 2. The petition must contain the number of signatures
11 equivalent to ten percent (10%) of the registered voters of the
12 subdivision as determined by the county election board or, if the
13 county election board determines that the number of registered
14 voters in the subdivision cannot be determined due to boundary lines
15 not conforming to precinct lines, the required number of petitioners
16 shall be twenty-five percent (25%) of the total number of persons
17 voting in the last general election. If the subdivision is a public
18 trust, the required number of petitioners shall be the same as those
19 required for an audit of its beneficiary. The appropriate county
20 election board shall provide the number of signatures so required
21 upon request.

22 3. The petition shall be in the form of an affidavit wherein
23 the signatory shall declare upon oath or affirmation that the
24 information given is true and correct and that he or she is a

1 citizen of the entity to be audited. The petition shall clearly
2 state that falsely signing shall constitute perjury. It shall
3 include the signature of the individual, the name of the signatory
4 in printed form, the individual's residential address, the date of
5 signing, the public entity to be audited and the anticipated range
6 of the cost of the audit provided by the State Auditor and
7 Inspector.

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

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

1 6. The county election board shall determine whether the
2 signers of the petition are registered voters of the county in which
3 the subdivision to be audited is located and whether the petition
4 has the requisite number of signatures of such registered voters.
5 The county election board shall certify the petition as having the
6 required number of signatures or as failing to have the required
7 number of signatures and return it to the State Auditor and
8 Inspector.

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

19 8. The names of the signers of any petition shall be
20 confidential and neither the State Auditor and Inspector, the county
21 election board nor the county treasurer may release them to any
22 other person or entity except upon an order from a court of
23 competent jurisdiction.

24 M. PENALTIES FOR NONPAYMENT

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

9 SECTION 2. AMENDATORY 74 O.S. 2011, Section 212A, as
10 amended by Section 843, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
11 2020, Section 212A), is amended to read as follows:

12 Section 212A. A. 1. Except as otherwise provided by law, all
13 government entities, as defined by the Governmental Accounting
14 Standards Board, shall and, pursuant to the provisions of Section
15 212 of this title, any state agency is authorized to have an audit
16 conducted in accordance with auditing standards generally accepted
17 in the United States of America and Government Auditing Standards.
18 Copies of any audit, performance audit, agreed-upon-procedures
19 report, or other attestation engagement report produced by a person
20 other than the State Auditor shall be filed with the State Auditor
21 and Inspector by that person. The expense of the audit shall be
22 paid by the government entity. For fiscal years ending after
23 December 31, 1995, all government entities receiving public funds
24 that are included in the reporting entity of the State of Oklahoma

1 shall file a copy of the audit required by this paragraph with the
2 Director of the Office of Management and Enterprise Services no
3 later than four (4) months after the end of the fiscal year of the
4 government entity. For purposes of this paragraph, the reporting
5 entity of the State of Oklahoma includes all government entities
6 included in the State of Oklahoma Comprehensive Annual Financial
7 Report. The government entities included in the State of Oklahoma
8 reporting entity shall be determined by the Director of the Office
9 of Management and Enterprise Services using criteria set by the
10 Governmental Accounting Standards Board.

11 2. Any public accountant or certified public accountant filing
12 an audit, performance audit, agreed-upon-procedures report or other
13 attestation engagement report with the State Auditor and Inspector
14 pursuant to this section shall be required to pay a filing fee of
15 One Hundred Dollars (\$100.00) for the purposes of processing such
16 reports and ensuring compliance with the provisions of this section.
17 Such payments shall be deposited in the State Auditor and Inspector
18 Revolving Fund, created pursuant to Section 227.9 of this title.

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

1 The State Auditor and Inspector shall receive annual reports
2 from the Oklahoma Accountancy Board of all registrants meeting the
3 requirements of this subsection. The Oklahoma Accountancy Board
4 shall provide changes and updates to the annual report to the State
5 Auditor and Inspector upon request.

6 C. Schedules of federal awards expended will be in a form
7 consistent with the guidance in the most recent audit guide for
8 state and local governments prepared by "The American Institute of
9 Certified Public Accountants". State agencies or other pass-through
10 grantors of federal awards expended will not place reporting
11 requirements on a grantee or subrecipients in addition to the
12 required federal compliance reports and schedules of federal awards
13 expended, without approval of the State Auditor and Inspector.

14 D. All governmental entities shall report grant funds received,
15 administered or used by the entity and all grant funds under the
16 direct or indirect control of the governmental entity or any of its
17 employees in their employment capacity. A copy of the report shall
18 be filed with the State Auditor and Inspector and the Director of
19 the Office of Management and Enterprise Services within four (4)
20 months after the end of the fiscal year of the governmental entity.
21 The State Auditor and Inspector may audit any funds reported. The
22 cost of the audit shall be paid by the governmental entity unless
23 the grant provides for the cost of audits from grant funds.

24 SECTION 3. This act shall become effective November 1, 2021.

1 Passed the Senate the 9th day of March, 2021.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

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8 _____
9 Presiding Officer of the House
10 of Representatives