

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3778

By: Roberts (Sean)

AS INTRODUCED

An Act relating to audits of nonappropriated agencies; amending 74 O.S. 2021, Section 212, which relates to the State Auditor and Inspector; modifying requirements for frequency of audits of nonappropriated agencies; requiring schedule for audits; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 212, is amended to read as follows:

Section 212. A. STATE TREASURER AND OKLAHOMA TAX COMMISSION

1. The State Treasurer shall prepare annual financial statements in accordance with the reporting requirements set forth by the Governmental Accounting Standards Board (GASB). The State Treasurer 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 shall be delivered by the State Treasurer to the State Auditor and

1 Inspector within ninety (90) calendar days after the close of the
2 state fiscal year.

3 3. The State Auditor and Inspector shall perform an audit of
4 the annual financial statements of the State Treasurer for each
5 state fiscal year. Such audits shall be conducted in accordance
6 with auditing standards generally accepted in the United States and
7 the standards applicable to financial audits contained in Government
8 Auditing Standards, latest revised edition, issued by the
9 Comptroller General of the United States. The State Auditor and
10 Inspector shall complete the audits not later than ninety (90)
11 calendar days after the financial statements are delivered to the
12 State Auditor and Inspector. The annual audit reports and related
13 financial statements shall be delivered by the State Auditor and
14 Inspector to the Governor, President Pro Tempore of the Senate, and
15 Speaker of the House of Representatives. The annual audit report
16 and related financial statements of the State Treasurer shall also
17 be delivered to the Attorney General and the members of the Cash
18 Management and Investment Oversight Commission created by Section
19 71.1 of Title 62 of the Oklahoma Statutes. The State Auditor and
20 Inspector shall conduct unannounced cash audits of the State
21 Treasury at least once each quarter.

22 4. The audit of the Tax Commission shall be an operational
23 audit performed annually. To the extent of the amount included in
24 the Tax Commission's appropriation, the Tax Commission shall pay the

1 expenses of the audit including personal services, equipment and
2 supplies, from the appropriation.

3 B. STATE AGENCIES

4 1. Except as otherwise provided by law, and except as provided
5 by paragraph 5 of this subsection, the State Auditor and Inspector
6 shall audit at least once every two (2) fiscal years the books and
7 accounts of all state agencies whose duty it is to collect, disburse
8 or manage funds of the state. The State Auditor and Inspector shall
9 audit a state agency each fiscal year if that state agency is
10 required to be audited on an annual basis pursuant to the federal
11 Single Audit Act of 1984, as amended, 31 U.S.C., Section 7501 et
12 seq. If the state agency is audited only once every two (2) fiscal
13 years, the audit shall cover both fiscal years.

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

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

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 be, conducted in accordance
17 with applicable Government Auditing Standards, and

18 e. any other type of engagement conducted in accordance
19 with Government Auditing Standards.
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21 5. Every nonappropriated state governmental entity shall be
22 audited at least once every four (4) years. The State Auditor and
23 Inspector shall determine the total number of nonappropriated state
24 governmental entities and shall establish an audit schedule so that

1 approximately twenty-five percent (25%) of the nonappropriated
2 agencies are audited each year.

3 C. GUBERNATORIAL REQUEST

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

9 D. COUNTY TREASURER

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

13 E. DISTRICT ATTORNEYS

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

22 2. The State Auditor and Inspector shall examine and file a
23 report of the accounts established within the office of each
24 district attorney for bogus check programs, drug task force

1 programs, child support collection programs, and any other programs
2 receiving any nonstate funds. The reports shall be filed with the
3 President Pro Tempore of the Senate, the Speaker of the House of
4 Representatives, and the Executive Coordinator of the District
5 Attorneys Council.

6 F. DEPARTMENT OF CORRECTIONS

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

17 G. OKLAHOMA EMPLOYEES INSURANCE AND BENEFITS BOARD

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

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

3 H. DISTRICT ATTORNEY REQUEST

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

9 I. COUNTY OFFICERS BY REQUEST

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

15 J. AUDITORS

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

23 K. EXAMINATION OF LEVIES

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1 It shall be the duty of the State Auditor and Inspector to
2 examine all levies to raise public revenue to see that they are made
3 according to law and constitutional provisions. The State Auditor
4 and Inspector shall have the power to order all excessive or
5 erroneous lines (levies) to be corrected by the proper officers, and
6 shall report any irregularities to the Governor, the Speaker of the
7 House of Representatives and the President Pro Tempore of the
8 Senate.

9 L. PETITION AUDITS

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

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

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

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

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

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

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

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

6 M. PENALTIES FOR NONPAYMENT

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

15 SECTION 2. This act shall become effective November 1, 2022.

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