**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 10 TO TITLE 11 SO AS TO PROVIDE FOR THE MANNER IN WHICH AND PROCEDURES UNDER WHICH AUDITS OF STATE AGENCY EXPENDITURES TO RECOVER OVERPAYMENT AND LOST DISCOUNTS SHALL BE CONDUCTED BY OUTSIDE CONSULTANTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 11 of the 1976 Code is amended by adding:

“CHAPTER 10

Recovery Audits

Section 11‑10‑10. As used in this chapter:

(1) ‘Overpayment’ includes a duplicate payment made to a vendor for a single invoice and a payment made to a vendor:

(a) when an available discount from the vendor was not applied;

(b) for a late payment penalty that was improperly applied by the vendor;

(c) for shipping costs that were computed incorrectly or incorrectly included in an invoice;

(d) for improper taxes charged; or

(e) for a good or service the vendor did not provide.

(2) ‘State agency’ means a department, commission, board, office, or other agency, including an institution of higher learning.

Section 11‑10‑20. (A) The State Budget and Control Board shall contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. The audits must be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations.

(B) A contract under this section:

(1) may provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered because of the consultant’s audit activities or recommendations as a fee for services;

(2) may permit or require the consultant to pursue a judicial action in a court inside or outside this state to recover an overpaid amount; and

(3) to allow time for the performance of existing state payment auditing procedures, may not allow a recovery audit of a payment during the one hundred eighty‑day period after the date the payment was made.

(C) The State Budget and Control Board or a state agency whose payments are being audited may provide a person acting under a contract authorized by this chapter with any confidential information in the custody of the board or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the board and state agency are not prohibited from sharing the information. A person acting under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the board or applicable state agency or an employee of the board or applicable state agency. A person acting under a contract authorized by this chapter or an employee or agent of the person who discloses confidential information in violation of the prohibition under this section is subject to the same sanctions and penalties that would apply to the board or applicable state agency or an employee of the board or applicable state agency for that disclosure.

Section 11‑10‑30. (A) The State Budget and Control Board shall require that recovery audits be performed in regard to state agencies which have total expenditures during a fiscal year in an amount that exceeds one hundred million dollars. Each state agency described by this subsection shall provide the recovery audit consultant with all information necessary for the audit.

(B) The State Budget and Control Board may exempt from the mandatory recovery audit process a state agency that has a low proportion of its expenditures made to vendors, according to criteria the board adopts after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

(C) The State Budget and Control Board in its discretion may require similar recovery audits of state agencies with expenditures of less than one hundred million dollars during a fiscal year.

Section 11‑10‑40. (A) A state agency shall pay, from recovered monies received, the recovery audit consultant responsible for obtaining for the agency a reimbursement from a vendor.

(B) A state agency shall expend or return to the federal government any federal money that is recovered through a recovery audit conducted under this chapter. The state agency shall expend or return the federal money in accordance with the requirements of the federal program through which the agency received the federal money.

Section 11‑10‑50 (A) The State Budget and Control Board shall provide copies, including electronic form copies, of any reports received from a consultant contracting pursuant to this chapter to:

(1) the governor;

(2) the state auditor’s office;

(3) the Chairman of the House Ways and Means Committee; and

(4) the Chairman of the Senate Finance Committee.

(B) The board shall provide the copies required by subsection (A) not later than the tenth day after the date the board receives the consultant’s report.

(C) Not later than January first of each year, the board shall issue a report to the General Assembly summarizing the contents of all reports received under this chapter during the prior fiscal year.

Section 11‑10‑60. Any consultant contracting to conduct state agency recovery audits under this chapter as a condition of the contract also must agree to conduct recovery audits under the same terms, conditions and fees for local entities, including counties, municipalities and school districts.”

SECTION 2. This act takes effect upon approval by the Governor.

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