**A** **BILL**

TO AMEND CHAPTER 7, TITLE 11, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE AUDITOR, SO AS TO CREATE THE SOUTH CAROLINA ADVISORY BOARD OF AUDIT REVIEW TO CONSIST OF FIVE MEMBERS TO BE APPOINTED BY THE STATE FISCAL ACCOUNTABILITY AUTHORITY, TO PROVIDE FOR THE DUTIES AND FUNCTIONS OF THE ADVISORY BOARD WHICH INCLUDE AN OVERSIGHT AND ASSISTANCE FUNCTION WITH REGARD TO THE OFFICE OF THE STATE AUDITOR, TO PROVIDE FOR WHEN FINANCIAL AUDITS OF STATE AGENCIES MUST BE CONDUCTED, TO PROVIDE FOR THE MANNER IN WHICH PERFORMANCE REVIEWS OF EXECUTIVE BRANCH AGENCIES SHALL BE CONDUCTED; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO DEPARTMENTS OF STATE GOVERNMENT AND THEIR ORGANIZATION AND GENERAL RESPONSIBILITIES, SO AS TO PROVIDE THAT CERTAIN ANNUAL EFFICIENCY REPORTS AFTER THE FIRST YEAR MAY BE SUBMITTED AS PART OF THE DEPARTMENT’S ACCOUNTABILITY REPORT; AND TO AMEND SECTION 2‑2‑60, AS AMENDED, RELATING TO THE OVERSIGHT OF EXECUTIVE BRANCH AGENCIES BY THE GENERAL ASSEMBLY, SO AS TO PROVIDE THAT THE CHAIRMAN OF THE INVESTIGATING COMMITTEE ALSO MAY REQUEST THE STATE AUDITOR TO ACT AS AN INDEPENDENT VERIFIER OF PERFORMANCE MEASURES DEVELOPED BY AN EXECUTIVE BRANCH AGENCY IN CONJUNCTION WITH THE EXECUTIVE BUDGET OFFICE IN ORDER TO ASSIST THE INVESTIGATING COMMITTEE IN ITS OVERSIGHT FUNCTION.

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

SECTION 1. Chapter 7, Title 11 of the 1976 Code is amended to read:

“CHAPTER 7

~~State Auditor~~ South Carolina Advisory Board of

Audit Review

Article 1

General Provisions

Section 11‑7‑5. (A) There is created the South Carolina Advisory Board of Audit Review. The advisory board is created to help improve efficiency, effectiveness, and accountability in the Office of the State Auditor and to advise the State Auditor regarding his functions under this chapter and to act as an independent verifier of financial or performance benchmarks required of agencies or entities under review by the State Auditor upon referral by the General Assembly or either house thereof.

(B) The Advisory Board of Audit Review shall consist of five members appointed by the State Fiscal Accountability Authority, one of whom must be a licensed practicing certified public accountant or a licensed public accountant, one of whom must be an attorney at law licensed to practice in this State, and three members from the general public who are qualified electors of this State. Members must be appointed by the State Fiscal Accountability Authority for terms of four years each and until their successors are appointed and qualify. Vacancies must be filled for the remainder of the unexpired term by appointment in the same manner of original appointment. The advisory board is directly responsible to the State Fiscal Accountability Authority.

Section 11‑7‑10. Beginning July 1, 2015, the State Fiscal Accountability Authority shall select the State Auditor, who shall select necessary assistants in conformity with the appropriations for the office. The State Auditor shall serve for a term of four years and until his successor is appointed and qualifies and only may be removed during his term for those reasons specified in Section 1‑3‑240(C)(1).

The State Auditor, as and if selected, serving in office on the effective date of this paragraph shall continue to serve until July 1, 2015, and may be selected by the State Fiscal Accountability Authority to serve as the State Auditor beginning on July 1, 2015.

Section 11‑7‑20. (A) All state agencies and entities supported partially or entirely by public funds are subject to audit by or under the oversight of the State Auditor, except as otherwise specifically provided by law. The State Auditor, to the extent practicable and consistent with his overall responsibility, shall audit or cause to be audited each state agency and entity ~~annually~~ as provided in subsection (E).

(B) ~~Annually~~ As provided in this section, the State Auditor shall audit or cause to be audited the State’s basic financial statements prepared by the Comptroller General of South Carolina.

(C) ~~Annually~~ As provided in this section, the State Auditor shall audit or cause to be audited the compliance of the State of South Carolina with the U. S. Office of Management and Budget (OMB) Circular A133 Compliance Supplement as applicable to major Federal programs.

(D) Audits must be conducted in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; and OMB Circular A133, Audits of States, Local Governments, and Nonprofit Organizations.

(E) The State Auditor, with input from the board, shall determine a schedule which must be published of which agencies are to receive a financial audit. To the degree that an annual financial audit is not practical, the State Auditor shall determine a rotating schedule that takes into account the size and scope of each agency, recognizing a mix of agency subject areas, along with a mix of large and small agencies. However, every agency must receive a financial audit no less than every other year.

Section 11‑7‑25. To the extent practicable and consistent with his overall responsibility, the State Auditor periodically shall audit or cause to be audited the financial records of the county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts to report if fines and assessments imposed pursuant to Sections 14‑1‑205 through 14‑1‑208 are collected properly and remitted to the State Treasurer. Upon the issuance of an audit report, the State Auditor immediately shall notify the State Treasurer, Division of Court Administration, and the chief administrator of the affected agency, department, county, or municipality.

Section 11‑7‑30. Reports of audit findings must be available to the Governor, State Fiscal Accountability Authority, General Assembly, and the general public. The State Auditor shall notify the Governor, the General Assembly, and the State Fiscal Accountability Authority immediately upon the issuance of an audit report.”

Section 11‑7‑35. In order to carry out his duties, the State Auditor and his assistants or designees must have access to all records and facilities of every state agency during normal operating hours. The State Auditor and his assistants or designees shall have access to all relevant records and facilities of a private organization receiving appropriated state monies, relating to the management and expenditures of these state monies, during the organization’s normal operating hours. In the performance of his official duties, the State Auditor and his assistants or designees are subject to the statutory provisions and penalties regarding the confidentiality of records of the agency or organization under review. All audit working papers and memoranda of the State Auditor, except final audit reports, are confidential and not subject to public disclosure.

Section 11‑7‑40. The State Auditor shall bill the South Carolina Department of Health and Human Services monthly for fifty percent of the costs incurred by the State Auditor in conducting the medical assistance audit. The amount billed by the State Auditor must include those appropriated salary adjustments and employer contributions allowable under the Medicaid program. The Department of Health and Human Services shall remit the amount billed to the credit of the general fund of the State.

Section 11‑7‑45. As required by professional auditing standards, the State Auditor shall maintain independence in the performance of his authorized duties. Neither the Governor nor an agency or entity of the executive or judicial branches of state government has the authority to limit the scope, direction, or report content of an audit undertaken by the State Auditor.

Section 11‑7‑50. (A) To preserve the independence and objectivity of the audit function, the State Auditor or his employees may not serve in any capacity on an administrative board, commission, or other organization that they have the responsibility or authority to audit, and they may not have a material, direct or indirect, financial or other economic interest in the transactions of a state agency.

(B) The State Auditor or a member of his staff may not conduct an audit of a program, activity, or agency for which he had management responsibility or by which he has been employed during the last two years.

Section 11‑7‑55. The State Auditor may obtain the services of independent public accountants as he considers necessary to carry out his duties and responsibilities. The State Auditor may use funds appropriated for personal services to contract with private firms, using a request for proposals, to perform audits.

Section 11‑7‑60. Each State agency shall remit to the State Auditor an amount representing an equitable portion of the expense of contracting with a certified public accounting firm to conduct a portion of the audit of the State’s Comprehensive Annual Financial Report prepared by the Comptroller General’s Office. Each state agency’s equitable portion of the expense must be determined by a schedule developed by the State Auditor. The remittance must be based upon invoices provided by the State Auditor upon completion of the ~~annual~~ audit. The audit must be rebid using a request for proposals no less frequently than every five years.

Section 11‑7‑65. (A) The State Auditor, where there is reasonable cause to believe that a misuse of state monies has occurred, may conduct an audit of financial compliance of any entity that receives public monies through contract or by grant in return for services. This authority includes examinations of nonprofit corporations who provide personal services to a state agency or to clients of a state agency. Such a financial audit must be performed in a manner consistent with this chapter, and may be performed according to an agreed upon procedures engagement in compliance with existing standards of the American Institute of Certified Public Accountants.

(B) The State Auditor may charge the contracting agency, whether state or local, for the costs of an audit of a nonprofit corporation that receives public monies through contract or by grant in return for services. A contracting agency that is responsible to the State Auditor for these costs shall use due diligence to recover costs from the audited entity.

Section 11‑7‑70. The Office of the State Auditor shall cause to be conducted periodic external peer reviews to ensure that audits satisfy government‑auditing standards. The State Auditor shall conduct business in a manner that best enables the highest level of approval from the peer review process.

Article 3

Performance Audits

Section 11‑7‑300. For purposes of this article:

(1) ‘Final audit report’ means a written document jointly released by the auditing entity that includes the findings and comments from the preliminary performance audit report.

(2) ‘Performance audit’ means an objective and systematic assessment of a state agency or any of its programs, functions, or activities in order to help public officials improve efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits.

(3) ‘Preliminary performance audit report’ means a written document prepared after the completion of a performance audit to be submitted for comment before the final performance audit report. The preliminary performance audit report must contain the audit findings and any proposed recommendations to improve the efficiency, effectiveness, or accountability of the state agency being audited.

(4) ‘State agency’ or ‘agency’ means a state agency, department, office, officer, board, commission, bureau, division, or institution in the executive branch, or institution of higher education. ‘State agency’ includes all offices of executive branch state government‑elected officials.

Section 11‑7‑310. (A) The General Assembly or either house thereof under its oversight responsibility to review executive branch agencies, or alternatively the Governor, may request an appropriate agency or entity of this State, including the Executive Budget Office, to conduct an independent, comprehensive performance audit of an executive branch agency of state government and each of its divisions, accounts, and programs. For purposes of this article, executive branch agencies include state education governmental entities and each of their divisions, accounts, and programs.

(B) The auditing entity conducting the performance audit shall review and analyze the economy, efficiency, and effectiveness of the policies, management, fiscal affairs, and operations of the executive branch agency. These performance audits must be conducted in accordance with the United States general accounting office government‑auditing standards. The scope for each performance audit must not be limited and must include nine specific elements:

(1) identification of cost savings;

(2) identification of services that can be reduced or eliminated;

(3) identification of programs or services that can be transferred to the private sector;

(4) analysis of gaps or overlaps in programs or services and recommendations to correct gaps or overlaps;

(5) feasibility of pooling information technology systems within the department;

(6) analysis of the roles and functions of the department, and recommendations to change or eliminate departmental roles or functions;

(7) recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions;

(8) analysis of departmental performance data, performance measures, and self‑assessment systems; and

(9) identification of best practices.

(C) Each audit report must be submitted to the requesting entity, to members of the governing body of the agency concerned, if any, and to its director or officer in charge. No public official or employee may impede or restrict the authority or the actions of the auditing entity to conduct independent, comprehensive performance audits. To the greatest extent possible, the auditing entity shall instruct and advise the appropriate governmental body on a step‑by‑step remedy to whatever ineffectiveness and inefficiency is discovered in the audited entity.

Section 11‑7‑320. An audited agency is responsible for follow‑up and corrective action on all performance audit findings and recommendations. The audited agency’s plan for addressing each audit finding and recommendation must be included in the final audit report. The plan must provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan must include an explanation and specific reasons.”

SECTION 2. Section 1‑30‑10(G)(1) of the 1976 Code, as last amended by Act 121 of 2014, is further amended to read:

“(1) Department and agency governing authorities must, no later than the first day of the 2015 Legislative Session and every twelve months thereafter, submit to the Governor and General Assembly reports giving detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services. If an agency or department has no recommendations for restructuring of divisions, programs, or personnel, its report must contain a statement to that effect. Upon their receipt by the President of the Senate and the Speaker of the House of Representatives, these reports must be referred as information to the standing committees of the respective bodies most jurisdictionally related in subject matter to each agency. Alternatively, the House and Senate may provide by rule for the referral of these reports. The Governor periodically must consult with the governing authorities of the various departments and upon such consultation, the Governor must submit a report of any restructuring recommendations to the General Assembly for its review and consideration. Notwithstanding the above provisions of this item, after an agency submits its efficiency plan required by this item on the first day of the 2015 session of the General Assembly, these reports or plans required annually thereafter must be submitted as part of the agency’s accountability report on the due date of the accountability report and are not required to be submitted separately on the first day of the annual session of the General Assembly.”

SECTION 3. Section 2‑2‑60(D) of the 1976 Code, as added by Act 121 of 2014, is amended to read:

“(D) The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report and report its findings to the investigating committee. The chairman also may direct the Legislative Audit Council to perform its own audit of the program or operations being studied or investigated by the investigating committee.

The chairman of the investigating committee also may request the State Auditor to act as an independent verifier of performance measures developed by an executive branch agency in conjunction with the Executive Budget Office in order to assist the investigating committee in its oversight function.”

SECTION 4. This act takes effect upon approval by the Governor.

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