

STATE GOVERNMENT
TITLE 2. GENERAL ASSEMBLY
SUBTITLE 12. STAFF AND SERVICES -- DEPARTMENT OF LEGISLATIVE SERVICES
PART IV. OFFICE OF LEGISLATIVE AUDITS

§ 2-1217. Office of Legislative Audits established.

There is an Office of Legislative Audits in the Department.

[An. Code 1957, art. 40, § 61A; 1984, ch. 284, § 1; 1992, ch. 598; 1993, ch. 5, § 1; 1997, ch. 635, § 2; ch. 636, § 2; 2006, ch. 512.]

§ 2-1218. Legislative Auditor.

(a) *Position and appointment.*- The head of the Office of Legislative Audits is the Legislative Auditor, who shall be appointed by the Executive Director, subject to the approval of the President and the Speaker.

(b) *Qualifications.*- The Legislative Auditor must:

- (1) be licensed as a certified public accountant in the State;
- (2) at the time of appointment, have at least 3 years' auditing experience; and
- (3) while in office, be covered by a surety bond in the form and amount required by law.

(c) *Tenure.*- The Legislative Auditor serves without a fixed term and may be removed by the Executive Director, subject to the approval of the President and the Speaker.

(d) *Salary.*- The Legislative Auditor is entitled to the salary provided in the State budget.

(e) *Supervisory responsibility.*- Subject to the policies and directives of the President and the Speaker, the Joint Audit Committee, and the overall supervision and control of the Executive Director, the Legislative Auditor has general administrative control of the operation of the Office of Legislative Audits.

(f) *Full-time duties; nonpartisanship.*- The Legislative Auditor shall devote full time to the duties of office and shall serve in a nonpartisan capacity.

[An. Code 1957, art. 40, §§ 59, 61A; 1984, ch. 284, § 1; ch. 311, § 1; 1992, ch. 598; 1997, ch. 635, § 2; ch. 636, § 2; 2006, ch. 512.]

§ 2-1219. Additional staff.

(a) *In general.*- With the approval of the Executive Director, the Legislative Auditor shall appoint a Deputy Legislative Auditor and other professional staff and may contract with consultants as authorized representatives.

(b) *Deputy Legislative Auditor.*-

(1) The Deputy Legislative Auditor must be licensed as a certified public accountant in the State.

(2) The Deputy Legislative Auditor:

(i) has the duties delegated by the Legislative Auditor; and

(ii) may be designated by the Executive Director to act as Legislative Auditor if the office is vacant or the Legislative Auditor is unable to perform the duties of office.

(c) *Audits of local school systems.*- With the approval of the Executive Director, the Legislative Auditor shall appoint professional staff to conduct audits of local school systems in accordance with § 2-1220(e) of this subtitle.

[An. Code 1957, art. 40, §§ 59, 61A; 1984, ch. 284, § 1; 1997, ch. 635, § 2; ch. 636, § 2; 2004, ch. 148; 2006, ch. 512.]

§ 2-1219.1. "Examination" defined.

In this subtitle, "examination" includes all authorized work and required audits under § 2-1220 of this subtitle.

[2006, ch. 512.]

§ 2-1220. Required and authorized audits.

(a) *State units.*-

(1) In this subsection, "unit" includes each State department, agency, unit, and program, including each clerk of court and each register of wills.

(2) (i) The Office of Legislative Audits shall conduct a fiscal/compliance audit of each unit of the State government, except for units in the Legislative Branch.

(ii) The audit of each unit shall be conducted at an interval ranging from 3 to 4 years unless the Legislative Auditor determines, on a case-by-case basis, that more frequent audits are required.

(iii) In determining the audit interval for a unit, the Office of Legislative Audits shall take into consideration:

1. the materiality and risk of the unit's fiscal activities with respect to the State's fiscal activities;
2. the complexity of the unit's fiscal structure; and
3. the nature and extent of audit findings in the unit's prior audit reports.

(iv) Each agency or program may be audited separately or as part of a larger organizational unit of State government.

(3) Performance audits or financial statement audits shall be conducted when authorized by the Legislative Auditor, when directed by the Joint Audit Committee or the Executive Director, or when otherwise required by law.

(4) (i) In addition to the audits required under paragraph (2) of this subsection, the Office of Legislative Audits may conduct a review when the objectives of the work to be performed can be satisfactorily fulfilled without conducting an audit as prescribed in § 2-1221 of this subtitle.

(ii) 1. The Office of Legislative Audits has the authority to conduct a separate investigation of an act or allegation of fraud, waste, or abuse in the obligation, expenditure, receipt, or use of State resources.

2. The Legislative Auditor shall determine whether an investigation shall be conducted in conjunction with an audit undertaken in accordance with this subsection or separately.

(5) If, on request of the Comptroller, the Joint Audit Committee so directs, the Office of Legislative Audits shall audit or review a claim that has been presented to the Comptroller for payment of an expenditure or disbursement and that is alleged to have been made by or for an officer or unit of the State government.

(6) The Office of Legislative Audits shall conduct an audit or review to determine the accuracy of information about or procedures of a unit of the State government, as directed by the Joint Audit Committee or the Executive Director.

(b) *Corporations and associations.*- If the General Assembly, by resolution, or the Joint Audit Committee so directs, the Office of Legislative Audits shall conduct an audit or review of a corporation or association to which the General Assembly has appropriated money or that has received funds from an appropriation from the State Treasury.

(c) *County officers and units.*- The Office of Legislative Audits may audit any county officer or unit that collects State taxes.

(d) *Taxing districts; community colleges; boards of education; library boards.*-

(1) The Office of Legislative Audits shall review any audit report prepared under the authority of:

(i) §§ 16-305 through 16-308 of the Local Government Article, with respect to a county, municipal corporation, or taxing district; or

(ii) § 16-315 of the Education Article, with respect to a community college.

(2) The results of any review made by the Office of Legislative Audits under paragraph (1) of this subsection shall be reported as provided in § 2-1224 of this subtitle.

(e) *Local school systems.*-

(1) Except as provided in paragraph (4) of this subsection, at least once every 6 years, the Office of Legislative Audits shall conduct an audit of each local school system to evaluate the effectiveness and efficiency of the financial management practices of the local school system.

(2) The audits may be performed concurrently or separately.

(3) The Office of Legislative Audits shall provide information regarding the audit process to the local school system before the audit is conducted.

(4) (i) Subject to the limitation under subparagraph (ii) of this paragraph, beginning in fiscal year 2017, a local school system shall be exempt from the audit requirement under paragraph (1) of this subsection if the county governing body, the county board of education, and the county delegation to the Maryland General Assembly consisting of the county senators and delegates each submits a letter to the Joint Audit Committee requesting an exemption on or before November 1 of fiscal year 2017, or on or before November 1 of the last year of a 6-year audit cycle under paragraph (1) of this subsection, as determined by the Office of Legislative Audits.

(ii) A local school system may not be exempt for two consecutive 6-year audit cycles.

(5) Notwithstanding paragraph (4) of this subsection, the Joint Audit Committee may direct the Office of Legislative Audits to conduct an audit of a local school system at any time.

(f) *Board of Liquor License Commissioners for Baltimore City.*-

(1) At least once every 4 years, the Office of Legislative Audits shall conduct a performance audit of the Board of Liquor License Commissioners for Baltimore City to evaluate the effectiveness and efficiency of the management practices of the Board and of the economy with which the Board uses resources.

(2) The performance audit shall focus on operations relating to liquor inspections, licensing, disciplinary procedures, and management oversight.

[An. Code 1957, art. 40, §§ 61B, 61D; 1984, ch. 284, § 1; 1992, ch. 598; 1994, ch. 750; 1997, ch. 264, § 1; ch. 635, §§ 2, 9; ch. 636, §§ 2, 9; 2004, ch. 148; 2006, ch. 512; 2010, chs. 58, 59; 2011, ch. 263; 2013, ch. 136; 2016, ch. 8, § 5; chs. 49, 261.]

§ 2-1221. Scope of audit.

(a) *Fiscal/compliance audits.*- A fiscal/compliance audit conducted by the Office of Legislative Audits shall include:

- (1) examining financial transactions and records and internal controls;
- (2) evaluating compliance with applicable laws and regulations;
- (3) examining electronic data processing operations; and
- (4) evaluating compliance with applicable laws and regulations relating to the acquisition of goods and services from Maryland Correctional Enterprises.

(b) *Performance audits.*- A performance audit conducted by the Office of Legislative Audits may include:

- (1) evaluating the efficiency, effectiveness, and economy with which resources are used;
- (2) determining whether desired program results are achieved; and
- (3) determining the reliability of performance measures, as defined in § 3-1001(g) of the State Finance and Procurement Article, identified in:
 - (i) the managing for results agency strategic plan developed under § 3-1002(c) of the State Finance and Procurement Article; or
 - (ii) the StateStat agency strategic plan developed under § 3-1003(d) of the State Finance and Procurement Article.

(c) *Financial statement audits.*- The purpose of financial statement audits conducted by the Office of Legislative Audits shall be to express an opinion regarding the fairness of the presentation of a unit's financial statements.

(d) *Government auditing standards.*- The audits referred to in subsections (a), (b), and (c) of this section shall be conducted in accordance with generally accepted government auditing standards.

(e) *Evaluation of financial transactions, records and compliance.*-

(1) Upon approval of the Joint Audit Committee, the Office of Legislative Audits shall develop and use a rating system that is based on the results of a fiscal/compliance audit to determine an overall evaluation of a unit's financial transactions, records, and internal controls and compliance with applicable laws and regulations as a means of comparing the various units of State government.

(2) When an evaluation is issued, it shall be provided to the unit and shall be available to the Joint Audit Committee and the Budget Committees of the Maryland General Assembly.

[An. Code 1957, art. 40, § 61B; 1984, ch. 284, § 1; 1985, chs. 199, 556; 1992, ch. 598; 1997, ch. 635, § 2; ch. 636, § 2; 2004, ch. 452; 2005, ch. 124; 2006, ch. 512; 2007, ch. 7.]

§ 2-1222. Place of audits.

(a) *In general.*- An examination conducted by the Office of Legislative Audits shall generally be made at the offices of the State unit, county officer or unit, corporation, association, or local school system that is subject to examination.

(b) *Office of Legislative Audits, removal of records.*-

(1) If considered appropriate and after consultation with the unit or body being examined, the Legislative Auditor may authorize all or a portion of an examination to be conducted at the offices of the Office of Legislative Audits.

(2) Before the original or only copy of any record is removed from the State unit's premises, the prior approval of the State unit for the removal is required.

[An. Code 1957, art. 40, § 61C; 1984, ch. 284, § 1; 1992, ch. 598; 1997, ch. 635, § 2; ch. 636, § 2; 2000, ch. 61, § 1; 2006, ch. 512.]

§ 2-1223. Audit procedures.

(a) *Access to records.*-

(1) Except as prohibited by the federal Internal Revenue Code, during an examination, the employees or authorized representatives of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by law, of any unit of the State government or of a person or other body receiving State funds, with respect to any matter under the jurisdiction of the Office of Legislative Audits.

(2) In conjunction with an examination authorized under this subtitle, the access required by paragraph (1) of this subsection shall include the records of contractors and subcontractors that perform work under State contracts.

(3) The employees or authorized representatives of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by law, of:

(i) any local school system to perform the audits authorized under § 2-1220 of this subtitle or in accordance with a request for information as provided in § 5-114(d) of the Education Article; and

(ii) the Board of Liquor License Commissioners for Baltimore City to perform the audits authorized under § 2-1220(f) of this subtitle.

(b) *Provision of information.*- Each officer or employee of the unit or body that is subject to examination shall provide any information that the Legislative Auditor determines to be needed for the examination of that unit or body, or of any matter under the authority of the Office of Legislative Audits, including information that otherwise would be confidential under any provision of law.

(c) *Enforcement.*-

(1) The Legislative Auditor may issue process that requires an official who is subject to examination to produce a record that is needed for the examination.

(2) The process shall be sent to the sheriff for the county where the official is located.

(3) The sheriff promptly shall serve the process.

(4) The State shall pay the cost of process.

(5) If a person fails to comply with process issued under this subsection or fails to provide information that is requested during an examination, a circuit court may issue an order directing compliance with the process or compelling that the information requested be provided.

[An. Code 1957, art. 40, §§ 61B, 61C; 1984, ch. 284, § 1; 1992, ch. 598; 1997, ch. 635, § 2; ch. 636, § 2; 2006, ch. 512; 2009, ch. 60, § 5; 2011, ch. 263.]

§ 2-1223.1. Communicating preliminary findings of examination.

On the preliminary completion of an examination of a public senior higher education institution by the Office of Legislative Audits, the Legislative Auditor shall send a copy of the discussion notes of the examination relating to any preliminary findings of substantial fiscal impropriety to the following individuals and governing boards of the respective institutions that were subject to the examination:

(1) The Chancellor of the University System of Maryland and the University System of Maryland Board of Regents Audit Committee;

(2) The President of Morgan State University and the Finance and Facilities Committee of the Board of Regents of Morgan State University; or

(3) The President of St. Mary's College of Maryland and the Finance, Investment, and Audit Committee of the Board of Trustees of St. Mary's College of Maryland.

[2010, ch. 652.]

§ 2-1224. Audit reports.

(a) *"Unit" defined.*- In this section, "unit" includes the Board of Liquor License Commissioners for Baltimore City.

(b) *Report of employees.*- Except with the written approval of the Legislative Auditor, an employee or authorized representative of the Office of Legislative Audits shall submit any report of findings only to the Legislative Auditor.

(c) *Report of Legislative Auditor.*-

(1) On the completion of each examination, the Legislative Auditor shall submit a full and detailed report to the Joint Audit Committee.

(2) A report shall include:

(i) the findings;

(ii) any appropriate recommendations for changes in record keeping or in other conduct of the unit or body that is the subject of the report; and

(iii) any response of that unit or body, subject to procedures approved by the Joint Audit Committee.

(d) *Distribution by Legislative Auditor.*- The Legislative Auditor shall send a copy of the report to:

(1) the President of the Senate and the Speaker of the House of Delegates;

(2) the Chairmen of the Senate Budget and Taxation and House Appropriations Committees;

(3) members of the General Assembly, subject to § 2-1246 of this subtitle;

(4) the Governor, unless the report is of the Board of Liquor License Commissioners for Baltimore City;

(5) the Comptroller;

(6) the State Treasurer, unless the report is of the Board of Liquor License Commissioners for Baltimore City;

(7) the Attorney General, unless the report is of the Board of Liquor License Commissioners for Baltimore City;

(8) the unit or body that is the subject of the report;

(9) the Secretary of Budget and Management, unless the report is of the Board of Liquor License Commissioners for Baltimore City;

(10) the Executive Director; and

(11) any other person whom the Joint Audit Committee specifies.

(e) *Additional distributions.*- In addition to the requirements of subsection (d) of this section, each report of :

(1) a local school system shall be distributed to the chair of the House Ways and Means Committee and the cochairs of the Joint Committee on the Management of Public Funds; and

(2) the Board of Liquor License Commissioners for Baltimore City shall be distributed to the chair of the Baltimore City delegation and the chair of the Baltimore City senators.

(f) *Public access.*- After the expiration of any period that the Joint Audit Committee specifies, a report of the Legislative Auditor is available to the public under Title 4, Subtitles 1 through 5 of the General Provisions Article.

(g) *Review of unit's response; advice of Legislative Auditor.*-

(1) The Legislative Auditor shall review each unit's response and advise the unit of the results of the review. The Legislative Auditor shall advise the Joint Audit Committee when:

(i) a unit does not make a response to a recommendation;

(ii) a unit does not indicate action to be taken in response to a recommendation;

(iii) a unit has not taken the action the unit indicated in its response to a recommendation;

(iv) a unit requests a waiver from a recommendation; or

(v) the response by the unit is not considered appropriate to carry out the recommendation.

(2) The Executive Director or the Joint Audit Committee may direct the Legislative Auditor to undertake a review to determine the extent to which action has been taken by a unit to implement a report recommendation.

(3) With respect to findings and recommendations of a fiscal/compliance nature, the Committee may recommend to the Governor and the Comptroller that the unit take the corrective action the unit indicates would be taken or take action to correct the findings in the report or the Committee may grant a waiver from the recommended action.

(4) Within 45 days after receipt of the recommendation the Governor shall advise the Committee as to the action taken with respect to the recommendation.

(5) Without concurrence of the Comptroller, the Committee may not waive a recommendation of the Legislative Auditor with respect to fiscal and financial record keeping, a uniform system of accounting, or the submission of fiscal and financial reports by the units.

(6) With respect to findings and recommendations of a performance nature, the Committee may make recommendations to the Governor or propose legislation after reviewing a unit's response to a recommended action.

(7) The Legislative Auditor shall review each local school system's response to an audit conducted under § 2-1220(e) of this subtitle and advise the local school system of the results of the review. The Legislative Auditor shall advise the Joint Audit Committee when a local school system:

- (i) does not make a response to a recommendation;
- (ii) does not indicate action to be taken in response to a recommendation;
- (iii) has not taken the action the local school system indicated in its response to a recommendation; or
- (iv) responds in a manner that is not considered appropriate to carry out the recommendation.

(8) The Executive Director or the Joint Audit Committee may direct the Legislative Auditor to undertake a review to determine the extent to which action has been taken by a local school system to implement a report recommendation.

(9) With respect to findings and recommendations made to a local school system, the Joint Audit Committee may make recommendations to the Governor, State Superintendent of Schools, the local school governing board, or local school officials after reviewing a local school system's response to a recommended action.

(h) *Monitoring systems and processes.*-

(1) The Governor and the Chief Judge of the Court of Appeals shall implement systems and processes to monitor the efforts of the Executive Departmental Units and the Judiciary, respectively, to correct audit findings reported by the Office of Legislative Audits.

(2) Within 9 months of the most recent audit report, any unit that has five or more repeat audit findings shall report to the Office of Legislative Audits for each finding in that audit report:

- (i) the corrective actions taken; or
- (ii) a schedule for when specific corrective actions will be implemented.

(3) Each unit required to report to the Office of Legislative Audits under paragraph (2) of this subsection shall continue to report to the Office of Legislative Audits on a quarterly basis after the initial report until the actions reported by the agency indicate that satisfactory progress has been made to address all findings.

[An. Code 1957, art. 40, § 61B; 1984, ch. 284, § 1; 1985, ch. 556; 1988, ch. 6, § 1; 1991, ch. 55, § 6; 1994, ch. 3, § 3; 1996, ch. 349, § 13; 1997, ch. 635, § 2; ch. 636, § 2; 2004, ch. 25, § 6; 2006, ch. 512; 2011, ch. 263; 2014, ch. 104, § 2.]

§ 2-1225. Reports on violations and defaults.

(a) *Violations.-*

(1) In addition to the reports under § 2-1224 of this subtitle, the Legislative Auditor shall report an apparent violation of any law on use of State funds by the unit of the State government or other body that is examined.

(2) A report under this subsection shall be submitted to:

- (i) the Joint Audit Committee;
- (ii) the Executive Director;
- (iii) the unit or body that is the subject of the report; and
- (iv) the Office of the Attorney General.

(b) *Same - Reporting.-*

(1) If the Legislative Auditor discovers any alleged criminal violation by a person during the course of an examination, the Legislative Auditor shall report the alleged violation to the Attorney General and an appropriate State's Attorney.

(2) A report under this subsection shall ask the Attorney General and State's Attorney to take appropriate action.

(3) Unless the Attorney General or State's Attorney decides to prosecute an alleged criminal violation reported under this subsection, the Attorney General and State's Attorney shall keep the report of the Legislative Auditor under this subsection confidential.

(4) The Attorney General may investigate and prosecute any alleged criminal violation reported under this subsection and has all the powers and duties of a State's Attorney, including the use of a grand jury in any county or Baltimore City, to investigate and prosecute the alleged violation.

(c) *Response by Attorney General.-*

(1) The Office of the Attorney General shall respond, in writing, to a report received from the Legislative Auditor under this section.

(2) The response of the Attorney General shall include what actions, if any, were taken as a result of the findings of the Legislative Auditor.

(3) The response of the Attorney General shall be submitted to:

- (i) the Joint Audit Committee;
- (ii) the Executive Director;
- (iii) the unit or body that is the subject of the report; and
- (iv) the Legislative Auditor.

[An. Code 1957, art. 40, § 61B; 1984, ch. 284, § 1; 1994, ch. 750; 1997, ch. 635, § 2; ch. 636, § 2; 2004, chs. 241, 242; 2006, ch. 512.]

§ 2-1226. Confidentiality.

(a) *In general.*- Except as provided in § 2-1225 of this subtitle and subsection (b) of this section, information that an employee or authorized representative of the Office of Legislative Audits obtains during an examination:

(1) is confidential; and

(2) may not be disclosed except to another employee or authorized representative of the Office of Legislative Audits.

(b) *Exceptions.*- The Legislative Auditor may authorize the disclosure of information obtained during an examination only to the following:

(1) another employee of the Department, with the approval of the Executive Director;

(2) federal, State, or local officials, or their auditors, who provide evidence to the Legislative Auditor that they are performing investigations, studies, or audits related to that same examination and who provide justification for the specific information requested; or

(3) the Joint Audit Committee, if necessary to assist the Committee in reviewing a report issued by the Legislative Auditor.

(c) *Identity.*- Except as provided in § 2-1225 of this subtitle, if information that an employee or authorized representative obtains during an examination also is confidential under another law, the employee, authorized representative, or the Legislative Auditor may not include in a report or otherwise use the information in any manner that discloses the identity of any person who is the subject of the confidential information.

[An. Code 1957, art. 40, § 61B; 1984, ch. 284, § 1; 1991, ch. 474; 1992, ch. 598; 1997, ch. 635, § 2; ch. 636, § 2; 2004, chs. 241, 242; 2006, ch. 512.]

§ 2-1227. Penalties.

A person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 if the person:

(1) fails to comply promptly with process that the Legislative Auditor issues under this Part IV of this subtitle; or

(2) violates any provision of § 2-1224 (b) or § 2-1226 of this subtitle.

[An. Code 1957, art. 40, §§ 61B, 61C; 1984, ch. 284, § 1; 1997, ch. 635, § 2; ch. 636, § 2; 2006, ch. 512; 2011, ch. 65, § 5.]
