

Excerpt from the Annotated Code of Maryland
State Government Article

§ 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.]

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.]

§ 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.

(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(f) of this subtitle.

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

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) At least once every 3 years, 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) In determining the audit schedule 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.

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

(iv) 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 funds.

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

(3) 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.

(4) 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) *Maryland-National Capital Park and Planning Commission.*- The Office of Legislative Audits shall audit the expenditures or tax revenues of the Maryland-National Capital Park and Planning Commission relating to Prince George's County, by request of:

(1) the Joint Audit Committee of the General Assembly;

(2) the Prince George's County Executive; or

(3) the Prince George's County Council.

(e) *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) Article 19, § 40 of the Code, 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.

(f) *Local school systems.*-

(1) Between July 1, 2004 and June 30, 2010, 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 employees of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by law, of any local school system to perform the audits authorized under this section or pursuant to a request for information as provided in § 5-114(e)(4) of the Education Article.

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

(5) In addition to the requirements of § 2-1224 of this subtitle, each audit shall be distributed to the House Ways and Means Committee and the Joint Committee on the Management of Public Funds.

[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.]

§ 2-1221.

**Scope of
audit.**

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

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

(b) *Performance audits.*-

(1) Performance 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.

(2) A performance audit conducted by the Office of Legislative Audits may include:

(i) a review of the efficiency, effectiveness, and economy with which resources are used;

(ii) a review to determine whether desired program results are achieved; and

(iii) a review to determine the reliability of performance measures, as defined in § 3-1001(g) of the State Finance and Procurement Article, identified in the managing for results agency strategic plan developed under § 3-1002(c) 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) *Reviews.*- A review may be conducted by the Office of Legislative Audits when the objectives of the work to be performed can be satisfactorily fulfilled without conducting an audit as prescribed in subsection (a), (b), or (c) of this section.

(f) *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 for determining 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.]

§ 2-1222. Place of audits.

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

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

(1) If considered appropriate and after consultation with the State unit being audited or reviewed, the Legislative Auditor may authorize all or a portion of an audit or review 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.]

§ 2-1223. Audit procedures.

(a) *Access to records.*-

(1) Except as prohibited by the federal Internal Revenue Code, during an audit or review, the employees 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 audit or review authorized under § 2-1220 of 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.

(b) *Provision of information.*- Each officer or employee of the unit or body that is subject to audit or review shall provide any information that the Legislative Auditor determines to be needed for the audit or review, 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 audit or review to produce a record that is needed for the audit or review.

(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 audit or review, 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.]

§ 2-1224. Audit reports.

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

(b) *Report of Legislative Auditor.*-

(1) On the completion of each audit or review, 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 audited or reviewed; and

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

(c) *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;

(5) the Comptroller;

(6) the State Treasurer;

(7) the Attorney General;

(8) the unit that has been audited or reviewed;

(9) the Secretary of Budget and Management;

(10) the Executive Director; and

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

(d) *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 §§ 10-602 and 10-611 through 10-628 of this article.

(e) *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.

[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.]

§ 2-1225. Reports on violations and defaults.

(a) *Violations.*-

(1) In addition to the report 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 audited or reviewed.

(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 audit, review, or investigation, 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.]

§ 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 of the Office of Legislative Audits obtains during an audit or review:

(1) is confidential; and

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

(b) *Exceptions.*- The Legislative Auditor may authorize the disclosure of information obtained during an audit or review 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 audit or review 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 obtains during an audit or review also is confidential under another law, the employee 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.]

§ 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 (a) or § 2-1226 of this subtitle.

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