

**PERFORMANCE AUDITS OF LOCAL
GOVERNMENTS**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peggy Wallace

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides for legislative auditor general performance audits of certain local government entities.

Highlighted Provisions:

This bill:

▸ requires the legislative auditor general to perform annual performance audits of first and second class counties and cities;

▸ requires the legislative auditor general to:

- prepare written reports of those performance audits; and
- monitor county and city actions to correct deficiencies identified in the audits;

and

▸ requires the audited counties and cities to report the findings of the performance audits at legislative body meetings, to make a copy of the audit report available to the public, and to correct, or adopt a plan to correct, the deficiencies identified in the audits.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **36-12-15**, as last amended by Chapter 84, Laws of Utah 2005

31 ENACTS:

32 **10-3-831**, Utah Code Annotated 1953

33 **17-15-29**, Utah Code Annotated 1953



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **10-3-831** is enacted to read:

37 **10-3-831. Reporting performance audit findings -- Making copies of report**
38 **available -- Correcting deficiencies identified in performance audits.**

39 (1) The legislative body of each city of the first or second class on which the Office of
40 the Legislative Auditor General has conducted a performance audit under Subsection
41 36-12-15(4)(b)(iv) shall:

42 (a) report the findings of the performance audit at the next meeting of the city's
43 legislative body immediately following the preparation of the written report of the performance
44 audit; and

45 (b) make a copy of the performance audit report available to members of the public.

46 (2) Within six months following each performance audit under Subsection
47 36-12-15(4)(b)(iv), each city of the first and second class shall correct, or adopt a plan to
48 correct, the deficiencies identified in the performance audit report.

49 Section 2. Section **17-15-29** is enacted to read:

50 **17-15-29. Reporting performance audit findings -- Making copies of report**
51 **available -- Correcting deficiencies identified in performance audits.**

52 (1) The legislative body of each county of the first or second class on which the Office
53 of the Legislative Auditor General has conducted a performance audit under Subsection
54 36-12-15(4)(b)(iv) shall:

55 (a) report the findings of the performance audit at the next meeting of the county
56 legislative body immediately following the preparation of the written report of the performance
57 audit; and

58 (b) make a copy of the performance audit report available to members of the public.

59 (2) Within six months following each performance audit under Subsection
60 36-12-15(4)(b)(iv), each county of the first and second class shall correct, or adopt a plan to
61 correct, the deficiencies identified in the performance audit report.

62 Section 3. Section **36-12-15** is amended to read:

63 **36-12-15. Office of Legislative Auditor General established -- Qualifications --**
64 **Powers, functions, and duties.**

65 (1) There is created an Office of the Legislative Auditor General as a permanent staff
66 office for the Legislature.

67 (2) The legislative auditor general shall be a licensed certified public accountant or
68 certified internal auditor with at least five years experience in the auditing or public accounting
69 profession, or the equivalent, prior to appointment.

70 (3) The legislative auditor general shall appoint and develop a professional staff within
71 budget limitations.

72 (4) (a) The Office of the Legislative Auditor General shall exercise the constitutional
73 authority provided in Article VI, Sec. 33, Utah Constitution.

74 (b) Under the direction of the legislative auditor general, the office shall:

75 (i) conduct comprehensive and special purpose audits, examinations, and reviews of
76 any entity that receives public funds;

77 (ii) prepare and submit a written report on each audit, examination, or review to the
78 Legislative Management Committee, the audit subcommittee, and to all members of the
79 Legislature within 75 days after the audit or examination is completed; [~~and~~]

80 (iii) as provided in Section 36-24-101:

81 (A) monitor all new programs and agencies created during each Annual General
82 Session or Special Session of the Legislature;

83 (B) provide each new program and agency created with a list of best practices in setting
84 up their program or agency, including:

85 (I) policies;

86 (II) performance measures; and

87 (III) data collection;

88 (C) send each new program and agency:

89 (I) within one year after its creation, a survey instrument requesting a self evaluation

90 that includes policies, performance measures, and data collection; and

91 (II) within two years after its creation, a survey instrument requesting a self evaluation
92 that includes policies, performance measures, and data collection; and

93 (D) (I) using the new program or agency's response to the self evaluation survey
94 instruments, recommend to the legislative audit subcommittee that the office conduct an audit
95 of those new programs and agencies created on which questions have arisen as a result of the
96 response to the survey instrument and provide a limited scope audit report on those new
97 programs or agencies on which it receives direction to audit to the legislative interim
98 committee and to the legislative appropriations subcommittee with oversight responsibility for
99 that program or agency on or before the November interim meeting; and

100 (II) include within this limited scope audit report a recommendation as to whether the
101 program or agency is fulfilling its statutory guidelines and directives[-]; and

102 (iv) (A) (I) conduct a performance audit during 2006 of approximately half of all first
103 and second class counties and approximately half of all first and second class cities in the state;

104 (II) conduct a performance audit during 2007 of all remaining first and second class
105 counties and first and second class cities in the state; and

106 (III) beginning 2008, conduct an annual performance audit of each first and second
107 class county and each first and second class city in the state;

108 (B) at the conclusion of each performance audit referred to in Subsection (4)(b)(iv)(A),
109 prepare a written report of the performance audit and provide a copy of the report to:

110 (I) (Aa) if the audit is of a county, the county executive, if applicable, and county
111 legislative body of the audited county; and

112 (Bb) if the audit is of a city, the mayor and legislative body of the audited city; and

113 (II) the audit subcommittee; and

114 (C) monitor each audited county's and city's correction of, or adoption of a plan to
115 correct, the deficiencies identified in the audit report, as required under Sections 17-15-29 and
116 10-3-831, and report the county's or city's corrective actions or inactions to the audit
117 subcommittee.

118 (5) The audit, examination, or review of any entity that receives public funds may
119 include a determination of any or all of the following:

120 (a) the honesty and integrity of all its fiscal affairs;

- 121 (b) the accuracy and reliability of its financial statements and reports;
- 122 (c) whether or not its financial controls are adequate and effective to properly record
123 and safeguard its acquisition, custody, use, and accounting of public funds;
- 124 (d) whether or not its administrators have faithfully adhered to legislative intent;
- 125 (e) whether or not its operations have been conducted in an efficient, effective, and
126 cost efficient manner;
- 127 (f) whether or not its programs have been effective in accomplishing intended
128 objectives; and
- 129 (g) whether or not its management control and information systems are adequate and
130 effective.
- 131 (6) The Office of the Legislative Auditor General may:
 - 132 (a) (i) notwithstanding any other provision of law, obtain access to all records,
133 documents, and reports of any entity that receives public funds that are necessary to the scope
134 of its duties; and
 - 135 (ii) if necessary, issue a subpoena to obtain access as provided in Subsection (6)(a)(i)
136 using the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers;
 - 137 (b) establish policies, procedures, methods, and standards of audit work for the office
138 and staff;
 - 139 (c) prepare and submit each audit report without interference from any source relative
140 to the content of the report, the conclusions reached in the report, or the manner of disclosing
141 the results of his findings; and
 - 142 (d) prepare and submit the annual budget request for the office.
- 143 (7) To preserve the professional integrity and independence of the office:
 - 144 (a) no legislator or public official may urge the appointment of any person to the office;
145 and
 - 146 (b) the legislative auditor general may not be appointed to serve on any board,
147 authority, commission, or other agency of the state during his term as legislative auditor
148 general.
- 149 (8) The following records in the custody or control of the legislative auditor general
150 shall be protected records under Title 63, Chapter 2, Government Records Access and
151 Management Act:

152 (a) Records that would disclose information relating to allegations of personal
153 misconduct, gross mismanagement, or illegal activity of a past or present governmental
154 employee if the information or allegation cannot be corroborated by the legislative auditor
155 general through other documents or evidence, and the records relating to the allegation are not
156 relied upon by the legislative auditor general in preparing a final audit report.

157 (b) Records and audit workpapers to the extent they would disclose the identity of a
158 person who during the course of a legislative audit, communicated the existence of any waste
159 of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or
160 regulation adopted under the laws of this state, a political subdivision of the state, or any
161 recognized entity of the United States, if the information was disclosed on the condition that
162 the identity of the person be protected.

163 (c) Prior to the time that an audit is completed and the final audit report is released,
164 records or drafts circulated to a person who is not an employee or head of a governmental
165 entity for their response or information.

166 (d) Records that would disclose an outline or part of any audit survey plans or audit
167 program.

168 (e) Requests for audits, if disclosure would risk circumvention of an audit.

169 (f) The provisions of Subsections (8)(a), (b), and (c) do not prohibit the disclosure of
170 records or information that relate to a violation of the law by a governmental entity or
171 employee to a government prosecutor or peace officer.

172 (g) The provisions of this section do not limit the authority otherwise given to the
173 legislative auditor general to classify a document as public, private, controlled, or protected
174 under Title 63, Chapter 2, Government Records Access and Management Act.

175 (9) The legislative auditor general shall:

176 (a) be available to the Legislature and to its committees for consultation on matters
177 relevant to areas of his professional competence and shall perform, or otherwise assist in the
178 performance of, a health insurance provision review as provided in Section 36-12-5;

179 (b) conduct special audits as requested by the Legislative Management Committee;

180 (c) report immediately in writing to the Legislative Management Committee through its
181 audit subcommittee any apparent violation of penal statutes disclosed by the audit of a state
182 agency and furnish to the Legislative Management Committee all information relative to the

183 apparent violation;

184 (d) report immediately in writing to the Legislative Management Committee through
185 its audit subcommittee any apparent instances of malfeasance or nonfeasance by a state officer
186 or employee disclosed by the audit of a state agency; and

187 (e) make any recommendations to the Legislative Management Committee through its
188 audit subcommittee with respect to the alteration or improvement of the accounting system
189 used by any entity that receives public funds.

190 (10) (a) Prior to each annual general session, the legislative auditor general shall
191 prepare a summary of the audits conducted and of actions taken based upon them during the
192 preceding year.

193 (b) This report shall also set forth any items and recommendations that are important
194 for consideration in the forthcoming session, together with a brief statement or rationale for
195 each item or recommendation.

196 (c) The legislative auditor general shall deliver the report to the Legislature and to the
197 appropriate committees of the Legislature.

198 (11) (a) No person or entity may:

199 (i) interfere with a legislative audit, examination, or review of any entity conducted by
200 the office; or

201 (ii) interfere with the office relative to the content of the report, the conclusions
202 reached in the report, or the manner of disclosing the results and findings of the office.

203 (b) Any person or entity that violates the provisions of this Subsection (11) is guilty of
204 a class B misdemeanor.

Legislative Review Note

as of 1-9-06 10:22 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

It is estimated to cost \$124,300 from the General Fund in FY 2006 and \$350,000 from the General Fund in FY 2007 and FY 2008 to complete limited scoped audits required by this bill. These funds will be used to hire 4 FTE at the Legislative Auditor General's Office. Local governments might have some fiscal impact as they comply with requests for information required during the audits.

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>	<u>Revenue</u>
General Fund	\$124,300	\$350,000	\$350,000	\$0	\$0	\$0
TOTAL	\$124,300	\$350,000	\$350,000	\$0	\$0	\$0

Individual and Business Impact

No fiscal impact.