

STATE AUDITOR REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to the state auditor's authority to conduct a performance and special purpose audit.

Highlighted Provisions:

This bill:

- ▶ authorizes the state auditor to conduct a performance and special purpose audit to determine whether an entity's management, control, and information systems are adequate, effective, and secure; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-3-1, as last amended by Laws of Utah 2012, Chapter 137

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

Section 1. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

30 (b) The state auditor is not limited in the selection of personnel or in the determination
31 of the reasonable and necessary expenses of the state auditor's office.

32 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
33 financial statements showing:

34 (a) the condition of the state's finances;

35 (b) the revenues received or accrued;

36 (c) expenditures paid or accrued;

37 (d) the amount of unexpended or unencumbered balances of the appropriations to the
38 agencies, departments, divisions, commissions, and institutions; and

39 (e) the cash balances of the funds in the custody of the state treasurer.

40 (3) (a) The state auditor shall:

41 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
42 any department of state government or any independent agency or public corporation as the law
43 requires, as the auditor determines is necessary, or upon request of the governor or the
44 Legislature;

45 (ii) perform the audits in accordance with generally accepted auditing standards and
46 other auditing procedures as promulgated by recognized authoritative bodies;

47 (iii) as the auditor determines is necessary, conduct the audits to determine:

48 (A) honesty and integrity in fiscal affairs;

49 (B) accuracy and reliability of financial statements;

50 (C) effectiveness and adequacy of financial controls; and

51 (D) compliance with the law.

52 (b) If any state entity receives federal funding, the state auditor shall ensure that the
53 audit is performed in accordance with federal audit requirements.

54 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
55 appropriation to the state auditor from the General Fund.

56 (ii) If an appropriation is not provided, or if the federal government does not
57 specifically provide for payment of audit costs, the costs of the federal compliance portions of

58 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
59 bears to the total federal funds received by the state.

60 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
61 funds passed through the state to local governments and to reflect any reduction in audit time
62 obtained through the use of internal auditors working under the direction of the state auditor.

63 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
64 financial audits, and as the auditor determines is necessary, conduct performance and special
65 purpose audits, examinations, and reviews of any entity that receives public funds, including a
66 determination of any or all of the following:

67 (i) the honesty and integrity of all its fiscal affairs;

68 (ii) whether or not its administrators have faithfully complied with legislative intent;

69 (iii) whether or not its operations have been conducted in an efficient, effective, and
70 cost-efficient manner;

71 (iv) whether or not its programs have been effective in accomplishing the intended
72 objectives; and

73 (v) whether or not its management, control, and information systems are adequate
74 [~~and~~], effective, and secure.

75 (b) The auditor may not conduct performance and special purpose audits,
76 examinations, and reviews of any entity that receives public funds if the entity:

77 (i) has an elected auditor; and

78 (ii) has, within the entity's last budget year, had its financial statements or performance
79 formally reviewed by another outside auditor.

80 (5) The state auditor shall administer any oath or affirmation necessary to the
81 performance of the duties of the auditor's office, and may subpoena witnesses and documents,
82 whether electronic or otherwise, and examine into any matter that the auditor considers
83 necessary.

84 (6) The state auditor may require all persons who have had the disposition or
85 management of any property of this state or its political subdivisions to submit statements

86 regarding it at the time and in the form that the auditor requires.

87 (7) The state auditor shall:

88 (a) except where otherwise provided by law, institute suits in Salt Lake County in
89 relation to the assessment, collection, and payment of its revenues against:

90 (i) persons who by any means have become entrusted with public money or property
91 and have failed to pay over or deliver the money or property; and

92 (ii) all debtors of the state;

93 (b) collect and pay into the state treasury all fees received by the state auditor;

94 (c) perform the duties of a member of all boards of which the state auditor is a member
95 by the constitution or laws of the state, and any other duties that are prescribed by the
96 constitution and by law;

97 (d) stop the payment of the salary of any state official or state employee who:

98 (i) refuses to settle accounts or provide required statements about the custody and
99 disposition of public funds or other state property;

100 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
101 board or department head with respect to the manner of keeping prescribed accounts or funds;
102 or

103 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
104 official's or employee's attention;

105 (e) establish accounting systems, methods, and forms for public accounts in all taxing
106 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

107 (f) superintend the contractual auditing of all state accounts;

108 (g) subject to Subsection (8), withhold state allocated funds or the disbursement of
109 property taxes from any state taxing or fee-assessing unit, if necessary, to ensure that officials
110 and employees in those taxing units of the state comply with state laws and procedures in the
111 budgeting, expenditures, and financial reporting of public funds; and

112 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
113 if necessary, to ensure that officials and employees in the county comply with Section

114 59-2-303.1.

115 (8) Except as otherwise provided by law, the state auditor may not withhold funds
116 under Subsection (7)(g) until a taxing or fee-assessing unit has received formal written notice
117 of noncompliance from the auditor and has been given 60 days to make the specified
118 corrections.

119 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
120 received formal written notice of noncompliance from the auditor and has been given 60 days
121 to make the specified corrections.

122 (10) The state auditor shall:

123 (a) establish audit guidelines and procedures for audits of local mental health and
124 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
125 Chapter 43, Parts 2, Local Substance Abuse Authorities and 3, Local Mental Health
126 Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
127 Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and
128 Mental Health Act; and

129 (b) ensure that those guidelines and procedures provide assurances to the state that:

130 (i) state and federal funds appropriated to local mental health authorities are used for
131 mental health purposes;

132 (ii) a private provider under an annual or otherwise ongoing contract to provide
133 comprehensive mental health programs or services for a local mental health authority is in
134 compliance with state and local contract requirements, and state and federal law;

135 (iii) state and federal funds appropriated to local substance abuse authorities are used
136 for substance abuse programs and services; and

137 (iv) a private provider under an annual or otherwise ongoing contract to provide
138 comprehensive substance abuse programs or services for a local substance abuse authority is in
139 compliance with state and local contract requirements, and state and federal law.

140 (11) The state auditor may, in accordance with the auditor's responsibilities for political
141 subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political

142 Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
143 investigations of any political subdivision that are necessary to determine honesty and integrity
144 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
145 financial controls and compliance with the law.

146 (12) (a) The state auditor may not audit work that the state auditor performed before
147 becoming state auditor.

148 (b) If the state auditor has previously been a responsible official in state government
149 whose work has not yet been audited, the Legislature shall:

150 (i) designate how that work shall be audited; and

151 (ii) provide additional funding for those audits, if necessary.

152 (13) The state auditor shall:

153 (a) with the assistance, advice, and recommendations of an advisory committee
154 appointed by the state auditor from among local district boards of trustees, officers, and
155 employees and special service district boards, officers, and employees:

156 (i) prepare a Uniform Accounting Manual for Local Districts that:

157 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
158 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -
159 Local Districts, and special service districts under Title 17D, Chapter 1, Special Service
160 District Act;

161 (B) conforms with generally accepted accounting principles; and

162 (C) prescribes reasonable exceptions and modifications for smaller districts to the
163 uniform system of accounting, budgeting, and reporting;

164 (ii) maintain the manual under Subsection (13)(a) so that it continues to reflect
165 generally accepted accounting principles;

166 (iii) conduct a continuing review and modification of procedures in order to improve
167 them;

168 (iv) prepare and supply each district with suitable budget and reporting forms; and

169 (v) prepare instructional materials, conduct training programs, and render other

170 services considered necessary to assist local districts and special service districts in
171 implementing the uniform accounting, budgeting, and reporting procedures; and

172 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
173 and experiences of specific local districts and special service districts selected by the state
174 auditor and make the information available to all districts.

175 (14) (a) The following records in the custody or control of the state auditor are
176 protected records under Title 63G, Chapter 2, Government Records Access and Management
177 Act:

178 (i) records that would disclose information relating to allegations of personal
179 misconduct, gross mismanagement, or illegal activity of a past or present governmental
180 employee if the information or allegation cannot be corroborated by the state auditor through
181 other documents or evidence, and the records relating to the allegation are not relied upon by
182 the state auditor in preparing a final audit report;

183 (ii) records and audit workpapers to the extent they would disclose the identity of a
184 person who during the course of an audit, communicated the existence of any waste of public
185 funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation
186 adopted under the laws of this state, a political subdivision of the state, or any recognized entity
187 of the United States, if the information was disclosed on the condition that the identity of the
188 person be protected;

189 (iii) before an audit is completed and the final audit report is released, records or drafts
190 circulated to a person who is not an employee or head of a governmental entity for their
191 response or information;

192 (iv) records that would disclose an outline or part of any audit survey plans or audit
193 program; and

194 (v) requests for audits, if disclosure would risk circumvention of an audit.

195 (b) The provisions of Subsections (14)(a)(i), (ii), and (iii) do not prohibit the disclosure
196 of records or information that relate to a violation of the law by a governmental entity or
197 employee to a government prosecutor or peace officer.

198 (c) The provisions of this Subsection (14) do not limit the authority otherwise given to
199 the state auditor to classify a document as public, private, controlled, or protected under Title
200 63G, Chapter 2, Government Records Access and Management Act.

201 (15) If the state auditor conducts an audit of an entity that the state auditor has
202 previously audited and finds that the entity has not implemented a recommendation made by
203 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
204 Committee through its audit subcommittee that the entity has not implemented that
205 recommendation.