

HB 2106 -- RESPONSIBILITIES OF THE OFFICE OF THE STATE AUDITOR

SPONSOR: Marshall

COMMITTEE ACTION: Voted "do pass" by the Committee on Downsizing State Government by a vote of 9 to 4.

This bill changes the laws regarding the responsibilities of the Office of the State Auditor. In its main provisions, the bill:

(1) Repeals the provision requiring the State Auditor to prescribe the form of books, receipts, vouchers, and documents required to separate and verify each transaction and forms of reports and statements required for the administration of the officer or for the information of the public;

(2) Repeals the provision requiring the auditor to postaudit the accounts of all state agencies and audit the treasury at least once a year, the accounts of all appointed officers of the state and institutions supported by the state at least once every two years, and any executive department or agency of the state upon the request of the Governor;

(3) Requires the auditor to be responsible for the following:

(a) All audits may be made at the auditor's discretion without advance notice to the organization being audited;

(b) The auditor, on his or her own initiative and as often as deemed necessary, to make or cause to be made audits of all or any part of the activities of state agencies;

(c) The auditor must make or cause to be made audits of all or any parts of political subdivisions and other entities as authorized by state law;

(d) The auditor may, at his or her discretion, in selecting audit areas and in evaluating current audit activity, consider and utilize the relevant audit coverage and applicable reports of the audit staffs of the various state agencies, independent contractors, and federal agencies;

(e) The auditor is authorized to contract with federal audit agencies or any governmental agency, on a cost-reimbursable basis, in order to perform audits of federal grant programs administered by state departments and institutions in accordance with agreements negotiated between the auditor and the contracting federal audit agencies or any governmental agency;

(f) The auditor is authorized and directed in reports of audits

or special investigations to make any comments, suggestions, or recommendations deemed appropriate concerning any aspect of the agency's activities and operations;

(g) The auditor must audit the treasury at least once a year;

(h) The auditor may examine the accounts and records of any bank or financial institution and require the bank to furnish information relating to transactions with the state, state agencies, or political subdivisions of the state;

(i) The auditor may, as often as deemed advisable, conduct a detailed review of the bookkeeping and accounting systems in use in the various state agencies to evaluate the adequacy of the systems and recommend changes to the agency and notify the General Assembly of the recommended changes;

(j) The auditor must, through appropriate tests, satisfy the auditor concerning the propriety of the data presented in the state comprehensive annual financial report and express the appropriate auditor's opinions in accordance with generally accepted government auditing standards;

(k) The auditor must provide a report to the Governor, Attorney General, and other appropriate officials of any facts known which pertain to the apparent violation of laws or instances of an officer or employee not meeting a required duty;

(l) The auditor, or his or her designated representative, at the conclusion of an audit must discuss the audit with the official, or his or her designated representative, whose office was subject to the audit. The agency's response to the audit must be included in the final report if received within 30 days from receipt of the draft report;

(m) The auditor must notify the General Assembly, Governor, chief executive officer of each state agency audited, and others deemed appropriate that an audit report has been published which must include specified information. The distribution requirements of the report are specified in the bill;

(n) The audit function established in the bill cannot be construed to infringe upon or deprive the General Assembly or the executive or judicial branches of state government of any rights, powers, or duties vested in or imposed upon them by statute or the Missouri Constitution; and

(o) The auditor must be responsible for receiving reports of allegations of improper governmental activities and must adopt the necessary policies and procedures to provide for

investigation or referral of allegations;

(4) Requires the auditor to maintain a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the auditor's authority. Audit work papers and other evidence must be kept confidential and must be retained according to an agreement between the auditor and state archives, but may be made available for inspection by duly authorized representatives of the state and federal government in connection with an official matter including criminal investigations;

(5) Authorizes the auditor to audit any public employee retirement or health care system operating within the state;

(6) Requires the auditor to provide various means to receive reports of allegations of improper governmental activities and periodically publicize this contact information. An individual who makes a report may choose to remain anonymous if he or she chooses;

(7) Requires the auditor, upon receiving an allegation of improper governmental activities of state agencies, political subdivisions, or state or political subdivision officers or employees, to conduct an initial review. He or she may investigate those allegations that he or she deems to be credible. He or she must refer the allegation to the proper state agency for the enforcement or administration of the matter when he or she believes the allegation is outside his or her authority;

(8) Repeals the provisions regarding audit standards and the summons of persons and documents in any examination;

(9) Requires the auditor to have access to persons and any documents of any state agency or political subdivision that the auditor is authorized by law to audit, including state tax returns;

(10) Requires the auditor to have access to persons and any documents in the possession of any individual, private corporation, institution, association, board, or other organization that pertain to amounts received under a grant or contract from the federal government, the state, or its political subdivisions or amounts received, disbursed, or otherwise handled on behalf of the federal government or the state;

(11) Authorizes the auditor to have ready access and to examine and inspect all property, equipment, and facilities in the possession of any state agency, political subdivision, or any

individual, private corporation, institution, association, board, or other organization that were provided through state or federal funding;

(12) Requires all contracts or grants entered into by state agencies or political subdivisions to include a clause providing the auditor access as intended by these provisions;

(13) Authorizes the auditor and authorized agents to examine all books and accounts of any individual, firm, or corporation only insofar as they relate to transactions with any state agency or political subdivision;

(14) Allows the auditor to obtain the services of independent professionals and experts as deemed necessary to carry out the duties and functions assigned under these provisions;

(15) Prohibits any state agency from contracting for auditing services without consulting with, and the prior written approval of, the auditor;

(16) Allows the auditor or his or her authorized representative to have the power to subpoena witnesses, take testimony under oath, depose witnesses, and assemble records and documents. If a person refuses to obey a subpoena, the auditor must invoke the aid of any state court within the appropriate jurisdiction in requiring the attendance and testimony of witnesses and the production of documents;

(17) Specifies that any person who willfully makes or causes to be made to the auditor or an auditor's designated representative any false, misleading, or unfounded report for the purpose of interfering with the performance of any audit, special review, or investigation or to hinder or obstruct the auditor's duties will be guilty of a class A misdemeanor. Any person or entity who refuses or fails to comply with this requirement will be guilty of a class A misdemeanor;

(18) Allows the General Assembly, when desired, to order an independent audit to be conducted of the State Auditor's office;

(19) Requires the board of directors of the Missouri County Employees' Retirement System to arrange for annual audits of the system and the operations of the board by a certified public accountant or firm. Currently, the auditor must provide the audit every two years;

(20) Repeals the provision requiring the auditor to examine the independent audits conducted of the records and accounts of specified retirement systems at least once every three years and

report the results to the board and the Governor; and

(21) Repeals provisions regarding transportation provided to examiners, establishing accounting systems for all state officers and agencies, reporting findings from examinations of state institutions and officials, proof of payment of fees, and the criminal penalty for failure to comply.

FISCAL NOTE: No impact on state funds in FY 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that the powers of the State Auditor and how he or she conducts the financial responsibility of the State of Missouri have not been updated in decades. The bill consists of the changes the career auditors within the auditor's office felt were necessary in order to help them do their jobs in making sure that taxpayer money is used properly. Most of the provisions are current powers that are simply revised; the bill does not authorize any additional powers to the Office of the State Auditor.

Testifying for the bill were Representative Marshall; and Daryl Moore, Chief Litigation Counsel for the State Auditor.

OPPOSERS: There was no opposition voiced to the committee.