

SENATE BILL 354

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SB 680/94 - EEA

1999 Regular Session
9r0301
CF 9r1087

By: **Senator Currie (Chairman, Joint Audit Committee) and Senators
Hoffman, Astle, Forehand, Hafer, Hogan, Lawlah, Roesser, and Ruben**

Introduced and read first time: February 5, 1999
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 25, 1999

CHAPTER _____

1 AN ACT concerning

2 **Office of Legislative Audits - Private Foundations**

3 FOR the purpose of authorizing the Office of Legislative Audits of the Department of
4 Legislative Services to access ~~and review the financial records and the~~ audit
5 reports of each private foundation affiliated with a unit of State government,
6 subject to certain conditions; authorizing the Office of Legislative Audits to
7 conduct an audit of a private foundation affiliated with a unit of State
8 government under certain circumstances; prohibiting the Office from charging
9 certain private foundations fees for the review or the audit; providing for the
10 scope of the review and the audit; prohibiting the Office from disclosing certain
11 information; providing for the distribution of the review to certain parties; and
12 generally relating to the review by the Office of Legislative Audits of the
13 financial records and audit reports of private foundations affiliated with a unit
14 of State government.

15 BY repealing and reenacting, with amendments,
16 Article - State Government
17 Section 2-1220(a)
18 Annotated Code of Maryland
19 (1995 Replacement Volume and 1998 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

1

Article - State Government

2 2-1220.

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

5 (2) (i) At least once every 3 years, the Office of Legislative Audits shall
6 conduct a fiscal/compliance audit of each unit of the State government, except for
7 units in the Legislative Branch.

8 (ii) In determining the audit schedule for a unit, the Office of
9 Legislative Audits shall take into consideration:

10 1. the materiality and risk of the unit's fiscal activities with
11 respect to the State's fiscal activities;

12 2. the complexity of the unit's fiscal structure; and

13 3. the nature and extent of audit findings in the unit's prior
14 audit reports.

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

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

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

23 (3) (I) ~~IN ACCORDANCE WITH THE AUDIT REQUIREMENTS OF~~
24 ~~PARAGRAPH (2) OF THIS SUBSECTION, THE OFFICE OF LEGISLATIVE AUDITS MAY~~
25 ~~ACCESS AND REVIEW THE FINANCIAL RECORDS AND AUDIT REPORTS, INCLUDING~~
26 ~~AUDITOR'S WORKING PAPERS AND MANAGEMENT LETTERS, OF A PRIVATE~~
27 ~~FOUNDATION AFFILIATED WITH A UNIT OF STATE GOVERNMENT.~~

28 (II) THE OFFICE OF LEGISLATIVE AUDITS MAY CONDUCT AN AUDIT
29 OF A PRIVATE FOUNDATION AFFILIATED WITH A UNIT OF STATE GOVERNMENT IF
30 THE JOINT AUDIT COMMITTEE DETERMINES THAT AN AUDIT IS WARRANTED AS A
31 RESULT OF:

32 1. THE REVIEW PROVIDED IN SUBPARAGRAPH (I) OF THIS
33 PARAGRAPH; OR

34 2. AN AUDIT OF THE AFFILIATED UNIT OF STATE
35 GOVERNMENT.

36 (III) THE OFFICE OF LEGISLATIVE AUDITS:

1 1. MAY NOT CHARGE A PRIVATE FOUNDATION AFFILIATED
2 WITH A UNIT OF STATE GOVERNMENT FOR THE REVIEW OF THE ~~FINANCIAL~~
3 ~~RECORDS AND~~ AUDIT REPORTS OR THE AUDIT;

4 2. MAY NOT DISCLOSE INFORMATION REGARDING THE
5 IDENTITY OF DONORS TO A PRIVATE FOUNDATION; AND

6 3. SHALL, TO THE EXTENT POSSIBLE, RELY ON THE WORK
7 PRODUCT OF OTHER AUDITORS OR THE SECRETARY OF STATE TO AVOID A
8 DUPLICATION OF EFFORT.

9 ~~(III)~~ (IV) THE ~~REVIEW~~ AUDIT SHALL:

10 1. FOCUS ON THE FOUNDATION'S MATERIAL FINANCIAL
11 TRANSACTIONS AND INTERNAL CONTROLS, THE INTERRELATIONSHIP OF THE
12 FOUNDATION AND THE UNIT OF STATE GOVERNMENT, AND THE ROLE OF THE
13 FOUNDATION WITH RESPECT TO THE PROGRAMS AND SERVICES PROVIDED BY THE
14 UNIT OF STATE GOVERNMENT; ~~AND~~

15 2. RECOGNIZE THAT A PRIVATE FOUNDATION IS NOT
16 REQUIRED TO COMPLY WITH CERTAIN STATE LAWS AND REGULATIONS; AND

17 3. BE CONDUCTED IN ACCORDANCE WITH GENERALLY
18 ACCEPTED AUDITING STANDARDS.

19 ~~(IV)~~ (V) THE RESULTS OF THE ~~REVIEW~~ AUDIT MAY BE
20 SEPARATELY REPORTED OR INCLUDED IN THE REPORT ON THE APPLICABLE UNIT OF
21 STATE GOVERNMENT.

22 ~~(V)~~ (VI) IF ISSUED SEPARATELY, THE LEGISLATIVE AUDITOR
23 SHALL FORWARD A COPY OF THE REPORT TO THE UNIT OF STATE GOVERNMENT
24 AFFILIATED WITH THE FOUNDATION.

25 [(3)] (4) If, on request of the Comptroller, the Joint Audit Committee so
26 directs, the Office of Legislative Audits shall audit or review a claim that has been
27 presented to the Comptroller for payment of an expenditure or disbursement and that
28 is alleged to have been made by or for an officer or unit of the State government.

29 [(4)] (5) The Office of Legislative Audits shall conduct an audit or review
30 to determine the accuracy of information about or procedures of a unit of the State
31 government, as directed by the Joint Audit Committee or the Executive Director.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 1999.

