
By: **Senator McFadden (Chairman, Joint Audit Committee)**

Introduced and read first time: January 24, 2006

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 13, 2006

CHAPTER _____

1 AN ACT concerning

2 **General Assembly - Office of Legislative Audits - Authorized**
3 **Representatives and Authorized Work**

4 FOR the purpose of authorizing the Legislative Auditor to contract with consultants
5 as authorized representatives; adding the authorized representatives to all
6 provisions applicable to employees of the Office of Legislative Audits; clarifying
7 that performance audits, financial statement audits, and reviews are authorized
8 work performed by the Office of Legislative Audits; altering a certain
9 investigation conducted by the Office of Legislative Audits to include resources
10 rather than funds; repealing the requirement that the Office of Legislative
11 Audits perform a certain audit of the Maryland-National Capital Park and
12 Planning Commission at the request of certain officials or the Joint Audit
13 Committee; clarifying that a certain rating system is based on the results of a
14 fiscal/compliance audit; authorizing an examination to occur at the offices of a
15 local school system; defining a certain term; clarifying that certain provisions
16 relating to access to records, process, reporting, enforcement, and confidentiality
17 apply to all authorized work and required audits under a certain provision;
18 requiring a unit or body subject to an examination to provide certain
19 information to the Legislative Auditor; establishing a process for the Joint Audit
20 Committee to review local school systems' responses to certain audits; requiring
21 the Governor and the Chief Judge of the Court of Appeals to implement certain
22 systems and processes to correct certain audit findings; requiring any unit of
23 State government that has five or more audit findings to notify the Office of
24 Legislative Audits within a certain period of time of certain corrective actions
25 taken or a schedule of certain corrective actions to be implemented for each
26 finding; requiring the Governor and the Chief Judge of the Court of Appeals to
27 submit a certain report to certain committees of the General Assembly by a
28 certain date outlining certain processes to resolve audit findings and evaluating

1 the feasibility of establishing an Inspector General in certain agencies and the
2 Judiciary; making stylistic changes; and generally relating to the authorized
3 representatives and the authorized work of the Office of Legislative Audits.

4 BY repealing and reenacting, without amendments,
5 Article - State Government
6 Section 2-1217, 2-1218, and 2-1227
7 Annotated Code of Maryland
8 (2004 Replacement Volume and 2005 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - State Government
11 Section 2-1219 through 2-1226
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2005 Supplement)

14 BY adding to
15 Article - State Government
16 Section 2-1219.1
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2005 Supplement)

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

21 **Article - State Government**

22 2-1217.

23 There is an Office of Legislative Audits in the Department.

24 2-1218.

25 (a) The head of the Office of Legislative Audits is the Legislative Auditor, who
26 shall be appointed by the Executive Director, subject to the approval of the President
27 and the Speaker.

28 (b) The Legislative Auditor must:

29 (1) be licensed as a certified public accountant in the State;

30 (2) at the time of appointment, have at least 3 years' auditing experience;
31 and

32 (3) while in office, be covered by a surety bond in the form and amount
33 required by law.

1 (c) The Legislative Auditor serves without a fixed term and may be removed
2 by the Executive Director, subject to the approval of the President and the Speaker.

3 (d) The Legislative Auditor is entitled to the salary provided in the State
4 budget.

5 (e) Subject to the policies and directives of the President and the Speaker, the
6 Joint Audit Committee, and the overall supervision and control of the Executive
7 Director, the Legislative Auditor has general administrative control of the operation
8 of the Office of Legislative Audits.

9 (f) The Legislative Auditor shall devote full time to the duties of office and
10 shall serve in a nonpartisan capacity.

11 2-1219.

12 (a) With the approval of the Executive Director, the Legislative Auditor shall
13 appoint a Deputy Legislative Auditor and other professional staff AND MAY
14 CONTRACT WITH CONSULTANTS AS AUTHORIZED REPRESENTATIVES.

15 (b) (1) The Deputy Legislative Auditor must be licensed as a certified public
16 accountant in the State.

17 (2) The Deputy Legislative Auditor:

18 (i) has the duties delegated by the Legislative Auditor; and

19 (ii) may be designated by the Executive Director to act as
20 Legislative Auditor if the office is vacant or the Legislative Auditor is unable to
21 perform the duties of office.

22 (c) With the approval of the Executive Director, the Legislative Auditor shall
23 appoint professional staff to conduct audits of local school systems in accordance with
24 [§ 2-1220(f)] § 2-1220(E) of this subtitle.

25 2-1219.1.

26 IN THIS SUBTITLE, "EXAMINATION" INCLUDES ALL AUTHORIZED WORK AND
27 REQUIRED AUDITS UNDER § 2-1220 OF THIS SUBTITLE.

28 2-1220.

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

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

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

- 1 (1) the Joint Audit Committee of the General Assembly;
- 2 (2) the Prince George's County Executive; or
- 3 (3) the Prince George's County Council.
- 4 (e) (1) The Office of Legislative Audits shall review any audit report
5 prepared under the authority of:
- 6 (i) Article 19, § 40 of the Code, with respect to a county, municipal
7 corporation, or taxing district; or
- 8 (ii) § 16-315 of the Education Article, with respect to a community
9 college.
- 10 (2) The results of any review made by the Office of Legislative Audits
11 under paragraph (1) of this subsection shall be reported as provided in § 2-1224 of
12 this subtitle.
- 13 [(f) (E) (1) Between July 1, 2004 and June 30, 2010, the Office of
14 Legislative Audits shall conduct an audit of each local school system to evaluate the
15 effectiveness and efficiency of the financial management practices of the local school
16 system.
- 17 (2) The audits may be performed concurrently or separately.
- 18 (3) [The employees of the Office of Legislative Audits shall have access
19 to and may inspect the records, including those that are confidential by law, of any
20 local school system to perform the audits authorized under this section or pursuant to
21 a request for information as provided in § 5-114(e)(4) of the Education Article.
- 22 (4)] The Office of Legislative Audits shall provide information regarding
23 the audit process to the local school system before the audit is conducted.
- 24 [(5) In addition to the requirements of § 2-1224 of this subtitle, each
25 audit shall be distributed to the House Ways and Means Committee and the Joint
26 Committee on the Management of Public Funds.]
- 27 2-1221.
- 28 (a) A fiscal/compliance audit conducted by the Office of Legislative Audits
29 shall include:
- 30 (1) [an examination of] EXAMINING financial transactions and records
31 and internal controls;
- 32 (2) [an evaluation of] EVALUATING compliance with applicable laws and
33 regulations;
- 34 (3) [an audit of] EXAMINING electronic data processing operations; and

1 (4) [an evaluation of] EVALUATING compliance with applicable laws and
2 regulations relating to the acquisition of goods and services from Maryland
3 Correctional Enterprises.

4 (b) [(1) Performance audits shall be conducted when authorized by the
5 Legislative Auditor, when directed by the Joint Audit Committee or the Executive
6 Director, or when otherwise required by law.

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

9 [(i) (1) [a review of] EVALUATING the efficiency, effectiveness,
10 and economy with which resources are used;

11 [(ii) (2) [a review to determine] DETERMINING whether desired
12 program results are achieved; and

13 [(iii) (3) [a review to determine] DETERMINING the reliability of
14 performance measures, as defined in § 3-1001(g) of the State Finance and
15 Procurement Article, identified in the managing for results agency strategic plan
16 developed under § 3-1002(c) of the State Finance and Procurement Article.

17 (c) The purpose of financial statement audits conducted by the Office of
18 Legislative Audits shall be to express an opinion regarding the fairness of the
19 presentation of a unit's financial statements.

20 (d) The audits referred to in subsections (a), (b), and (c) of this section shall be
21 conducted in accordance with generally accepted government auditing standards.

22 (e) [A review may be conducted by the Office of Legislative Audits when the
23 objectives of the work to be performed can be satisfactorily fulfilled without
24 conducting an audit as prescribed in subsection (a), (b), or (c) of this section.

25 (f)] (1) Upon approval of the Joint Audit Committee, the Office of Legislative
26 Audits shall develop and use a rating system THAT IS BASED ON THE RESULTS OF A
27 FISCAL/COMPLIANCE AUDIT [for determining] TO DETERMINE an overall evaluation
28 of a unit's financial transactions, records, and internal controls and compliance with
29 applicable laws and regulations as a means of comparing the various units of State
30 government.

31 (2) When an evaluation is issued, it shall be provided to the unit and
32 shall be available to the Joint Audit Committee and the Budget Committees of the
33 Maryland General Assembly.

34 2-1222.

35 (a) An [audit or review] EXAMINATION conducted by the Office of Legislative
36 Audits shall generally be made at the offices of the State unit, county officer or unit,
37 corporation, [or] association, OR LOCAL SCHOOL SYSTEM that is subject to [audit or
38 review] EXAMINATION.

1 (b) (1) If considered appropriate and after consultation with the [State]
2 unit OR BODY being [audited or reviewed] EXAMINED, the Legislative Auditor may
3 authorize all or a portion of an [audit or review] EXAMINATION to be conducted at the
4 offices of the Office of Legislative Audits.

5 (2) Before the original or only copy of any record is removed from the
6 State unit's premises, the prior approval of the State unit for the removal is required.
7 2-1223.

8 (a) (1) Except as prohibited by the federal Internal Revenue Code, during an
9 [audit or review] EXAMINATION, the employees OR AUTHORIZED REPRESENTATIVES
10 of the Office of Legislative Audits shall have access to and may inspect the records,
11 including those that are confidential by law, of any unit of the State government or of
12 a person or other body receiving State funds, with respect to any matter under the
13 jurisdiction of the Office of Legislative Audits.

14 (2) In conjunction with an [audit or review] EXAMINATION authorized
15 under [§ 2-1220 of] this subtitle, the access required by paragraph (1) of this
16 subsection shall include the records of contractors and subcontractors that perform
17 work under State contracts.

18 (3) THE EMPLOYEES OR AUTHORIZED REPRESENTATIVES OF THE
19 OFFICE OF LEGISLATIVE AUDITS SHALL HAVE ACCESS TO AND MAY INSPECT THE
20 RECORDS, INCLUDING THOSE THAT ARE CONFIDENTIAL BY LAW, OF ANY LOCAL
21 SCHOOL SYSTEM TO PERFORM THE AUDITS AUTHORIZED UNDER § 2-1220 OF THIS
22 SUBTITLE OR IN ACCORDANCE WITH A REQUEST FOR INFORMATION AS PROVIDED IN
23 § 5-114(E) OF THE EDUCATION ARTICLE.

24 (b) Each officer or employee of the unit or body that is subject to [audit or
25 review] EXAMINATION shall provide any information that the Legislative Auditor
26 determines to be needed for the [audit or review] EXAMINATION OF THAT UNIT OR
27 BODY, OR OF ANY MATTER UNDER THE AUTHORITY OF THE OFFICE OF LEGISLATIVE
28 AUDITS, including information that otherwise would be confidential under any
29 provision of law.

30 (c) (1) The Legislative Auditor may issue process that requires an official
31 who is subject to [audit or review] EXAMINATION to produce a record that is needed
32 for the [audit or review] EXAMINATION.

33 (2) The process shall be sent to the sheriff for the county where the
34 official is located.

35 (3) The sheriff promptly shall serve the process.

36 (4) The State shall pay the cost of process.

37 (5) If a person fails to comply with process issued under this subsection
38 or fails to provide information that is requested during an [audit or review]

1 EXAMINATION, a circuit court may issue an order directing compliance with the
2 process or compelling that the information requested be provided.

3 2-1224.

4 (a) Except with the written approval of the Legislative Auditor, an employee
5 OR AUTHORIZED REPRESENTATIVE of the Office of Legislative Audits shall submit
6 any report of findings only to the Legislative Auditor.

7 (b) (1) On the completion of each [audit or review] EXAMINATION, the
8 Legislative Auditor shall submit a full and detailed report to the Joint Audit
9 Committee.

10 (2) A report shall include:

11 (i) the findings;

12 (ii) any appropriate recommendations for changes in record
13 keeping or in other conduct of the unit or body [audited or reviewed] THAT IS THE
14 SUBJECT OF THE REPORT; and

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

17 (c) The Legislative Auditor shall send a copy of the report to:

18 (1) the President of the Senate and the Speaker of the House of
19 Delegates;

20 (2) the Chairmen of the Senate Budget and Taxation and House
21 Appropriations Committees;

22 (3) members of the General Assembly, subject to § 2-1246 of this subtitle;

23 (4) the Governor;

24 (5) the Comptroller;

25 (6) the State Treasurer;

26 (7) the Attorney General;

27 (8) the unit OR BODY that [has been audited or reviewed] IS THE
28 SUBJECT OF THE REPORT;

29 (9) the Secretary of Budget and Management;

30 (10) the Executive Director; and

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

1 (D) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (C) OF THIS
2 SECTION, EACH REPORT OF A LOCAL SCHOOL SYSTEM SHALL BE DISTRIBUTED TO
3 THE CHAIR OF THE HOUSE WAYS AND MEANS COMMITTEE AND THE COCHAIRS OF
4 THE JOINT COMMITTEE ON THE MANAGEMENT OF PUBLIC FUNDS.

5 [(d)] (E) After the expiration of any period that the Joint Audit Committee
6 specifies, a report of the Legislative Auditor is available to the public under §§ 10-602
7 and 10-611 through 10-628 of this article.

8 [(e)] (F) (1) The Legislative Auditor shall review each unit's response and
9 advise the unit of the results of the review. The Legislative Auditor shall advise the
10 Joint Audit Committee when:

11 (i) a unit does not make a response to a recommendation;

12 (ii) a unit does not indicate action to be taken in response to a
13 recommendation;

14 (iii) a unit has not taken the action the unit indicated in its response
15 to a recommendation;

16 (iv) a unit requests a waiver from a recommendation; or

17 (v) the response by the unit is not considered appropriate to carry
18 out the recommendation.

19 (2) The Executive Director or the Joint Audit Committee may direct the
20 Legislative Auditor to undertake a review to determine the extent to which action has
21 been taken by a unit to implement a report recommendation.

22 (3) With respect to findings and recommendations of a fiscal/compliance
23 nature, the Committee may recommend to the Governor and the Comptroller that the
24 unit take the corrective action the unit indicates would be taken or take action to
25 correct the findings in the report or the Committee may grant a waiver from the
26 recommended action.

27 (4) Within 45 days after receipt of the recommendation the Governor
28 shall advise the Committee as to the action taken with respect to the
29 recommendation.

30 (5) Without concurrence of the Comptroller, the Committee may not
31 waive a recommendation of the Legislative Auditor with respect to fiscal and
32 financial record keeping, a uniform system of accounting, or the submission of fiscal
33 and financial reports by the units.

34 (6) With respect to findings and recommendations of a performance
35 nature, the Committee may make recommendations to the Governor or propose
36 legislation after reviewing a unit's response to a recommended action.

1 (7) THE LEGISLATIVE AUDITOR SHALL REVIEW EACH LOCAL SCHOOL
2 SYSTEM'S RESPONSE TO AN AUDIT CONDUCTED UNDER § 2-1220(E) OF THIS SUBTITLE
3 AND ADVISE THE LOCAL SCHOOL SYSTEM OF THE RESULTS OF THE REVIEW. THE
4 LEGISLATIVE AUDITOR SHALL ADVISE THE JOINT AUDIT COMMITTEE WHEN A LOCAL
5 SCHOOL SYSTEM:

6 (I) DOES NOT MAKE A RESPONSE TO A RECOMMENDATION;

7 (II) DOES NOT INDICATE ACTION TO BE TAKEN IN RESPONSE TO A
8 RECOMMENDATION;

9 (III) HAS NOT TAKEN THE ACTION THE LOCAL SCHOOL SYSTEM
10 INDICATED IN ITS RESPONSE TO A RECOMMENDATION; OR

11 (IV) RESPONDS IN A MANNER THAT IS NOT CONSIDERED
12 APPROPRIATE TO CARRY OUT THE RECOMMENDATION.

13 (8) THE EXECUTIVE DIRECTOR OR THE JOINT AUDIT COMMITTEE MAY
14 DIRECT THE LEGISLATIVE AUDITOR TO UNDERTAKE A REVIEW TO DETERMINE THE
15 EXTENT TO WHICH ACTION HAS BEEN TAKEN BY A LOCAL SCHOOL SYSTEM TO
16 IMPLEMENT A REPORT RECOMMENDATION.

17 (9) WITH RESPECT TO FINDINGS AND RECOMMENDATIONS MADE TO A
18 LOCAL SCHOOL SYSTEM, THE JOINT AUDIT COMMITTEE MAY MAKE
19 RECOMMENDATIONS TO THE GOVERNOR, STATE SUPERINTENDENT OF SCHOOLS,
20 THE LOCAL SCHOOL GOVERNING BOARD, OR LOCAL SCHOOL OFFICIALS AFTER
21 REVIEWING A LOCAL SCHOOL SYSTEM'S RESPONSE TO A RECOMMENDED ACTION.

22 (G) (1) BY OCTOBER 1, 2006, THE GOVERNOR AND THE CHIEF JUDGE OF THE
23 COURT OF APPEALS SHALL IMPLEMENT SYSTEMS AND PROCESSES TO MONITOR THE
24 EFFORTS OF THE EXECUTIVE DEPARTMENTAL UNITS AND THE JUDICIARY,
25 RESPECTIVELY, TO CORRECT AUDIT FINDINGS REPORTED BY THE OFFICE OF
26 LEGISLATIVE AUDITS.

27 (2) WITHIN 9 MONTHS OF THE MOST RECENT AUDIT REPORT, ANY UNIT
28 OF STATE GOVERNMENT THAT HAS FIVE OR MORE REPEAT AUDIT FINDINGS SHALL
29 REPORT TO THE OFFICE OF LEGISLATIVE AUDITS:

30 (I) THE CORRECTIVE ACTIONS TAKEN; OR

31 (II) A SCHEDULE FOR WHEN SPECIFIC CORRECTIVE ACTIONS WILL
32 BE IMPLEMENTED FOR EACH FINDING.

33 (3) EACH UNIT REQUIRED TO REPORT TO THE OFFICE OF LEGISLATIVE
34 AUDITS UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL CONTINUE TO REPORT
35 TO THE OFFICE OF LEGISLATIVE AUDITS ON A QUARTERLY BASIS AFTER THE INITIAL
36 REPORT UNTIL ALL REPEAT FINDINGS HAVE BEEN RESOLVED.

1 2-1225.

2 (a) (1) In addition to the [report] REPORTS under § 2-1224 of this subtitle,
3 the Legislative Auditor shall report an apparent violation of any law on use of State
4 funds by the unit of the State government or other body that is [audited or reviewed]
5 EXAMINED.

6 (2) A report under this subsection shall be submitted to:

7 (i) the Joint Audit Committee;

8 (ii) the Executive Director;

9 (iii) the unit or body that is the subject of the report; and

10 (iv) the Office of the Attorney General.

11 (b) (1) If the Legislative Auditor discovers any alleged criminal violation by
12 a person during the course of an [audit, review, or investigation] EXAMINATION, the
13 Legislative Auditor shall report the alleged violation to the Attorney General and an
14 appropriate State's Attorney.

15 (2) A report under this subsection shall ask the Attorney General and
16 State's Attorney to take appropriate action.

17 (3) Unless the Attorney General or State's Attorney decides to prosecute
18 an alleged criminal violation reported under this subsection, the Attorney General
19 and State's Attorney shall keep the report of the Legislative Auditor under this
20 subsection confidential.

21 (4) The Attorney General may investigate and prosecute any alleged
22 criminal violation reported under this subsection and has all the powers and duties of
23 a State's Attorney, including the use of a grand jury in any county or Baltimore City,
24 to investigate and prosecute the alleged violation.

25 (c) (1) The Office of the Attorney General shall respond, in writing, to a
26 report received from the Legislative Auditor under this section.

27 (2) The response of the Attorney General shall include what actions, if
28 any, were taken as a result of the findings of the Legislative Auditor.

29 (3) The response of the Attorney General shall be submitted to:

30 (i) the Joint Audit Committee;

31 (ii) the Executive Director;

32 (iii) the unit or body that is the subject of the report; and

33 (iv) the Legislative Auditor.

1 2-1226.

2 (a) Except as provided in § 2-1225 of this subtitle and subsection (b) of this
3 section, information that an employee OR AUTHORIZED REPRESENTATIVE of the
4 Office of Legislative Audits obtains during an [audit or review] EXAMINATION:

5 (1) is confidential; and

6 (2) may not be disclosed except to another employee OR AUTHORIZED
7 REPRESENTATIVE of the Office of Legislative Audits.

8 (b) The Legislative Auditor may authorize the disclosure of information
9 obtained during an [audit or review] EXAMINATION only to the following:

10 (1) another employee of the Department, with the approval of the
11 Executive Director;

12 (2) federal, State, or local officials, or their auditors, who provide
13 evidence to the Legislative Auditor that they are performing investigations, studies,
14 or audits related to that same [audit or review] EXAMINATION and who provide
15 justification for the specific information requested; or

16 (3) the Joint Audit Committee, if necessary to assist the Committee in
17 reviewing a report issued by the Legislative Auditor.

18 (c) Except as provided in § 2-1225 of this subtitle, if information that an
19 employee OR AUTHORIZED REPRESENTATIVE obtains during an [audit or review]
20 EXAMINATION also is confidential under another law, the employee, AUTHORIZED
21 REPRESENTATIVE, or the Legislative Auditor may not include in a report or otherwise
22 use the information in any manner that discloses the identity of any person who is the
23 subject of the confidential information.

24 2-1227.

25 A person is guilty of a misdemeanor and on conviction is subject to a fine not
26 exceeding \$1,000 if the person:

27 (1) fails to comply promptly with process that the Legislative Auditor
28 issues under this Part IV of this subtitle; or

29 (2) violates any provision of § 2-1224(a) or § 2-1226 of this subtitle.

30 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,
31 2006, the Governor and the Chief Judge of the Court of Appeals, in accordance with §
32 2-1246 of the State Government Article, shall submit a report to the Senate Budget
33 and Taxation Committee and the House Appropriations Committee:

34 (1) Outlining the processes adopted by the Judiciary and Executive Branch
35 departmental units to ensure that findings are resolved and that the responsible

1 personnel are held accountable for ensuring that corrective actions are implemented
2 on an ongoing basis; and

3 (2) Evaluating the feasibility of establishing an Inspector General position
4 within the Judiciary and each cabinet-level agency of the Executive Branch for the
5 purposes of conducting internal audits, implementing corrective actions to address
6 audit findings by OLA, and ensuring compliance with applicable laws, rules, and
7 regulations.

8 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
9 effect October 1, 2006.