

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 936 (Delegate Stein)
Health and Government Operations

**Office of Legislative Audits - Preliminary Determination or Referral -
Confidentiality**

This bill prohibits the Office of Legislative Audits (OLA) from publicly disseminating a report or announcement regarding an audit that refers to a preliminary determination or referral of findings of a criminal act or an ethical violation unless the Office of the Attorney General, State's Attorney, or State Ethics Commission has made a final determination regarding the alleged act or violation.

Fiscal Summary

State Effect: None. The bill's provisions are procedural in nature.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: OLA, a unit within the Department of Legislative Services (DLS), is required to conduct fiscal/compliance audits of every State agency and program, except the Legislative Branch, at least every three years. Copies of the reports are provided to the Joint Audit Committee, the Executive Director of Legislative Services, the unit or body that is the subject of the report, and the Office of the Attorney General.

OLA's audits must be conducted in accordance with generally accepted government auditing standards. Those standards, issued by the Comptroller General of the United States, require auditors to report as a finding any instances of fraud and illegal acts unless

they are inconsequential. The standards note that a finding that an illegal act is likely to have occurred is not a final determination of illegality. The standards also recommend that auditors consult with authorities or legal counsel to determine whether publicly reporting such information would compromise ongoing investigations or legal proceedings.

If OLA discovers any alleged criminal violation by a person during the course of the audit, it must report the alleged violation to the Office of the Attorney General and an appropriate State's Attorney and request that they take appropriate action. If neither the Attorney General nor the State's Attorney decides to prosecute an alleged criminal violation, they must keep the reported violation confidential.

The Attorney General may investigate and prosecute any alleged criminal violation referred to it by OLA, and must respond in writing to the Joint Audit Committee, the Executive Director of Legislative Services, the unit or body that was the subject of the audit, and OLA regarding any actions it takes.

Background: OLA advises that it consults with the Office of the Attorney General and any applicable State's Attorney office about any suspected instance of fraud or illegality, and only reports instances in which either office expresses an interest in conducting an investigation. If neither office is interested in pursuing an investigation, the instance is typically not reported. OLA notes that some final determinations of fraud or illegality can take months or years, which would delay the release of audit reports required under current law.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Ethics Commission, Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2011
mc/lgc Revised - Updated Information - March 15, 2011

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