

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 116

(The President)(By Request - Department of Legislative Services)

Budget and Taxation

Appropriations

State Government - Office of Legislative Audits - Alterations in Audit Requirements

This bill makes various changes to the audit requirements for the Office of Legislative Audits (OLA). In general, the current requirement that OLA conduct fiscal/compliance audits of specified agencies at least once every three years is modified; instead, the bill requires OLA to conduct each audit at an interval ranging from three to four years, unless the Legislative Auditor determines that more frequent audits are required. The bill also eliminates the requirement that OLA conduct certain audits, review other audit findings, and approve independent auditors, as discussed below.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: General fund expenditures by OLA are not affected; rather, OLA staff resources are reallocated to high-priority fiscal/compliance audits and additional performance audits. Revenues are not materially affected.

Local Effect: Local government finances and operations are not materially affected.

Small Business Effect: None.

Analysis

Bill Summary: OLA must conduct a fiscal/compliance audit of each unit of the State government (except for units of the Legislative Branch) at an interval ranging from three

to four years, unless the Legislative Auditor determines, on a case-by-case basis, that more frequent audits are required. Technical and conforming changes are made to align various statutes to the new general fiscal/compliance audit interval. The bill also eliminates the requirement that OLA:

- audit each licensee of the State Racing Commission at least once every two years;
- evaluate crime scene DNA collection data reported by local law enforcement to the Governor's Office of Crime Control and Prevention;
- perform a separate performance audit of the utilization of funds that are allocated through the Small, Minority, and Women-owned Businesses Account under the authority of the Board of Public Works (OLA must still audit this as part of its regular fiscal/compliance audit of the board);
- annually audit and evaluate information submitted to the State Lottery and Gaming Control Commission by licensees on minority business participation goals;
- audit the Baltimore City Police Department Death Relief Fund;
- conduct postaudits of a fiscal and compliance nature on the Universal Service Trust Fund and the Environmental Trust Fund (OLA is still authorized to do so);
- conduct fiscal compliance audits of the 9-1-1 Trust fund (OLA is still authorized to do so); and
- approve independent auditors for specified units of State and local government.

The remaining current law relating to the process and criteria for OLA audits is unchanged.

Current Law: At least once every three years, OLA must conduct a fiscal/compliance audit of each unit of State government, except for units of the Legislative Branch. In determining the fiscal/compliance audit schedule for a unit, OLA must take into consideration:

- the materiality and risk of the unit's fiscal activities with respect to the State's fiscal activities;

- the complexity of the unit's fiscal structure; and
- the nature and extent of audit findings in the unit's prior audit reports.

Each agency or program may be audited separately or as part of a larger organizational unit of State government. In addition to conducting fiscal/compliance audits, OLA *must*:

- when authorized by the Legislative Auditor, directed by the Joint Audit Committee or the Executive Director of the Department of Legislative Services (DLS), or otherwise required by law, conduct performance audits or financial statement audits;
- on request of the Comptroller or if the Joint Audit Committee so directs, audit or review a claim that has been presented to the Comptroller for payment of an expenditure or disbursement and that is alleged to have been made by or for an officer or unit of the State government;
- conduct an audit or review to determine the accuracy of information about or procedures of a unit of the State government, as directed by the Joint Audit Committee or the Executive Director of Legislative Services;
- if the General Assembly, by resolution, or the Joint Audit Committee so directs, conduct an audit or review of a corporation or association to which the General Assembly has appropriated money or that has received funds from an appropriation from the State Treasury;
- review the annual financial statement audit reports prepared for a county, municipality, special taxing district, or community college;
- at least once every six years, conduct an audit of each local school system to evaluate the effectiveness and efficiency of the financial management practices of the local school system; and
- at least once every three years, conduct a performance audit of the Board of Liquor License Commissioners for Baltimore City.

In addition to the above requirements, OLA *may*:

- conduct a review when the objectives of the work to be performed can be satisfactorily fulfilled without conducting an audit; and
- audit any county officer or unit that collects State taxes.

OLA also has the authority to conduct a separate investigation of an act or allegation of fraud, waste, or abuse in the obligation, expenditure, receipt, or use of State resources.

Background: OLA advises that, as the size and scope of State government have increased over time, the office has had to decrease the depth and scrutiny that it can apply to each audit. Giving the Legislative Auditor the discretion to extend the audit interval for some agencies allows OLA to apply additional resources to audits with greater materiality, risk, complexity, sensitivity, and prior audit findings.

While the maximum length of the review cycle is increased from three to four years, OLA advises that 22 audits, out of approximately 180 total, will remain on a three-year interval. Combined, these audits account for about one-third of all fiscal/compliance audit findings, as shown in **Exhibit 1**. OLA advises that this list is subject to periodic reassessment over time as agency budgets and responsibilities change.

Exhibit 1
Audits Remaining on Three-year Cycle

<u>Agency</u>	Number of Findings Audit Report Cycle Ended 6/30/15
State Board of Elections	9
Comptroller – Compliance Division	6
Comptroller – Revenue Administration Division	10
State Treasurer’s Office	4
State Lottery and Gaming Control Agency	5
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State Department of Assessments and Taxation	11
Department of Information Technology	7
DGS – Office of Procurement and Logistics	13
MDOT – Maryland Transit Administration	9
MDOT – Motor Vehicle Administration	9
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MDOT – State Highway Administration	10
DHMH – Office of the Secretary	15
DHMH – Developmental Disabilities Administration	13
DHMH – Medical Care Programs Administration (Medicaid)	9
DHMH – Prevention and Health Promotion Administration	5
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Maryland Health Benefits Exchange	See Note
DHR – Child Support Enforcement Administration	6
DHR – Local Department Operations	6
DLLR – Division of Unemployment Insurance	5
Maryland State Department of Education	8
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University of Maryland, Baltimore	7
University of Maryland, College Park	7
Total	174
Number of Findings, All Fiscal/Compliance Audits	554
Percent of all Fiscal/Compliance Audit Findings	31.4%

DGS = Department of General Services
MDOT = Maryland Department of Transportation
DHMH = Department of Health and Mental Hygiene
DHR = Department of Human Resources
DLLR = Department of Labor, Licensing, and Regulation

Note: The first Maryland Health Benefits Exchange audit was released on October 2, 2015, and had 10 findings.

Source: Office of Legislative Audits

State Expenditures: General fund expenditures by OLA are not affected; rather, OLA staff resources are reallocated to high-priority fiscal/compliance audits and additional performance audits. OLA advises that the change to the fiscal/compliance audit schedule allows the office to reallocate approximately seven full-time-equivalent audit positions, primarily back into the 22 agency audits listed in Exhibit 1, as well as other high-risk areas at other agencies. The remaining substantive changes to OLA's performance and special audit requirements allow the office to reallocate an additional two full-time-equivalent positions to other agency audits.

OLA notes that it allocates significant performance audit resources to the local school system audits (about half of its performance audit positions); however, the bill does not affect these audits.

State Revenues: State general fund revenues are not materially affected. Two provisions of the bill remove the requirement that OLA audit the 9-1-1 Trust Fund and the Environmental Trust Fund and instead provide OLA with the discretion to audit the two funds. Both current law and the bill provide that OLA must be paid for the cost of the audits by the respective fund. OLA advises that reimbursed costs for these audits accrue to the general fund, but the amounts have historically been minimal. Therefore, any change to the audit frequency of the two funds does not materially affect general fund revenues.

Under current law, there are several requirements for OLA to be reimbursed for certain fiscal audit costs (such as the Maryland Food Center Authority, Maryland Correctional Enterprises, Maryland Transit Administration, Maryland Port Administration, Maryland Aviation Administration, and the State Lottery and Gaming Control Agency). These provisions are removed by the bill. However, OLA advises that its practice has been to not seek reimbursement for these audits. Therefore, the bill's elimination of the cost reimbursement provisions has no effect on general fund revenues.

Additional Comments: DLS notes that, at its December 8, 2015 meeting, the Joint Audit Committee agreed to support the general approach taken in the bill, including the change in audit frequency for State agency fiscal/compliance audits.

Additional Information

Prior Introductions: None.

Cross File: HB 84 (The Speaker)(By Request - Department of Legislative Services) - Appropriations.

Information Source(s): Department Legislative Services (Office of Legislative Audits), Department of Public Safety and Correctional Services, Maryland Department of Transportation, Maryland State Lottery and Gaming Control Agency, Department of Legislative Services

Fiscal Note History: First Reader - January 25, 2016
min/mcr

Analysis by: Stephen M. Ross

Direct Inquiries to:

(410) 946-5510

(301) 970-5510