

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 922

(Senator Lam)(Chair, Joint Audit and Evaluation
Committee)

Education, Health, and Environmental Affairs

Appropriations

**Office of Legislative Audits – Acceptance and Investigation of Allegations of
Fraud, Waste, and Abuse**

This bill requires the Office of Legislative Audits (OLA) to maintain a fraud hotline for the reporting of allegations of fraud, waste, and abuse of State resources. Each unit of State government must post and distribute specified information prepared by OLA relating to the reporting of fraud, waste, and abuse. In addition, OLA must, in consultation with the Office of the Attorney General and the Office of the State Prosecutor, evaluate and develop appropriate statutory or regulatory language to (1) enhance the authority, duties, and powers of OLA related to investigations of acts or allegations of fraud, waste, or abuse; (2) coordinate and cooperate with appropriate prosecutorial entities to maximize the effectiveness of investigations conducted by OLA; and (3) require State agencies to report any instance of possible criminal or unethical behavior in the obligation, expenditure, receipt, or use of State resources at the agency to OLA unless otherwise prohibited by law. By December 1, 2021, OLA must report its findings to the Joint Audit and Evaluation Committee.

Fiscal Summary

State Effect: The bill’s requirements can be carried out with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: OLA may (1) investigate an allegation received under the fraud hotline within the scope of its authority or (2) refer the allegation to the appropriate federal, State, or local agencies responsible for the enforcement or administration of the matter for investigation. The bill specifies that information obtained by OLA in relation to an act or allegation of fraud, waste, or abuse is confidential and may not be disclosed except under specified conditions that, under current law, apply to information obtained by OLA during an examination.

Each unit of State government must:

- keep posted in conspicuous places on its premises a notice prepared by OLA setting forth the methods for reporting fraud, waste, and abuse;
- keep posted in conspicuous places on its website a direct link to the website of OLA for reporting fraud, waste, and abuse; and
- on request of OLA, distribute information related to the prevention, detection, and reporting of fraud, waste, and abuse of State resources to State employees and other persons or bodies receiving State funds.

Current Law: OLA has the authority to conduct separate investigations of acts or allegations of fraud, waste, or abuse in the obligation, expenditure, receipt, or use of State resources. The Legislative Auditor is responsible for determining whether an investigation must be conducted in conjunction with a required audit or separately.

Access to Records

Except as prohibited by the federal Internal Revenue Code, the employees or authorized representatives of OLA must have access to and may inspect the records, including those that are confidential by law, of any unit of State government or of a person or other body receiving State funds, with respect to any matter under the jurisdiction of OLA. In conjunction with an authorized examination, the access must include the records of contractors and subcontractors that perform work under State contracts.

Each officer or employee of the unit or body that is subject to examination must provide any information that the Legislative Auditor determines to be needed for the examination of that unit or body, or any other matter under the authority of OLA, including information that otherwise would be confidential under any provision of law.

The Legislative Auditor may issue process that requires an official who is subject to examination to produce a record that is needed for the examination, as specified. If a person

fails to comply with process issued by the Legislative Auditor or fails to provide requested information, a circuit court may issue an order directing compliance with the process or compelling the provision of the requested information.

Confidentiality

Generally, information that an employee or authorized representative of OLA obtains during an examination is confidential and may not be disclosed except to another employee or authorized representative of OLA. The Legislative Auditor may authorize the disclosure of information obtained during an examination only to:

- another employee of the Department of Legislative Services, with the approval of the Executive Director;
- federal, State, or local officials, or their auditors, who provide evidence to the Legislative Auditor that they are performing investigations, studies, or audits related to the same examination and who provide justification for the specific information requested; or
- the Joint Audit and Evaluation Committee, if necessary to assist the committee in reviewing a report issued by the Legislative Auditor.

If information obtained by an employee or authorized representative of OLA is also confidential under another law, the employee, authorized representative, or Legislative Auditor may not include in a report or otherwise use the information in any manner that discloses the identity of any person who is the subject of the confidential information.

Additional Comments: OLA currently operates a hotline to receive allegations of fraud, waste, or abuse of State government resources. The hotline is administered by OLA's Fraud Investigation Unit. Additional information about the hotline can be found on OLA's [website](#).

Additional Information

Prior Introductions: None.

Designated Cross File: HB 756 (Delegate Krimm) - Appropriations.

Information Source(s): Maryland Department of Aging; Department of Commerce; Secretary of State; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State Prosecutor's Office; Maryland State Department of Education; Morgan State University; St. Mary's College of Maryland; Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of Disabilities; Department of General Services; Department of Housing and Community Development; Department of Juvenile Services; Maryland Department of Labor; Department of Natural Resources; Maryland Department of Planning; Board of Public Works; Department of State Police; Maryland Department of Transportation; Department of Veterans Affairs; State Department of Assessments and Taxation; State Ethics Commission; Military Department; Public Service Commission; State Retirement Agency; Comptroller's Office; University System of Maryland; Maryland Department of Health; Harford, Montgomery, Talbot, and Wicomico counties; City of College Park; Maryland State's Attorneys' Association; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2021
rh/mcr Third Reader - March 22, 2021
Revised - Amendment(s) - March 22, 2021
Revised - Clarification - March 22, 2021

Analysis by: Elizabeth J. Allison

Direct Inquiries to:
(410) 946-5510
(301) 970-5510