

Chapter 225

(House Bill 756)

AN ACT concerning

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

FOR the purpose of ~~authorizing the Office of Legislative Audits to compel by subpoena or otherwise certain records and the appearance of a person for a certain purpose; authorizing the Office to coordinate an investigation with certain law enforcement units; requiring certain law enforcement units to cooperate and share information under certain circumstances;~~ providing that, except under certain circumstances, certain information obtained in relation to an act or allegation of fraud, waste, or abuse is confidential and may not be disclosed; authorizing the Legislative Auditor to authorize the disclosure of certain information in relation to an act or allegation of fraud, waste, or abuse to certain persons under certain circumstances; requiring the Office of Legislative Audits to maintain a certain fraud hotline; authorizing the Office to investigate or refer to a certain agency certain allegations under certain circumstances; requiring each unit of State government to keep posted in conspicuous places on its premises a certain notice and on its website a certain link, and distribute certain information to certain persons under certain circumstances; report certain information to the Office, and provide timely cooperation on certain inquiries; requiring the Office, in coordination with the Office of the Attorney General and the Office of the State Prosecutor, to evaluate and develop certain statutory and regulatory language; requiring the Office to report its findings to a certain committee of the General Assembly on or before a certain date; and generally relating to the Office of Legislative Audits.

BY repealing and reenacting, without amendments,

Article – State Government

Section 2-1220(a)(4)

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section ~~2-1223~~ and 2-1226

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

BY adding to

Article – State Government

Section 2-1228

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

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

Article – State Government

2–1220.

(a) (4) (i) In addition to the audits required under paragraph (2) of this subsection, the Office of Legislative Audits may conduct a review when the objectives of the work to be performed can be satisfactorily fulfilled without conducting an audit as prescribed in § 2–1221 of this subtitle.

(ii) 1. The Office of Legislative Audits 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.

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

~~2–1223.~~

~~(a) (1) Except as prohibited by the federal Internal Revenue Code, the employees or authorized representatives of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by law, of any unit of the State government or of a person or other body receiving State funds, with respect to any matter under the jurisdiction of the Office of Legislative Audits.~~

~~(2) In conjunction with an examination authorized under this subtitle, the access required by paragraph (1) of this subsection shall include the records of contractors and subcontractors that perform work under State contracts.~~

~~(3) The employees or authorized representatives of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by law, of:~~

~~(i) any local school system to perform the audits authorized under § 2–1220 of this subtitle or in accordance with a request for information as provided in § 5–114(d) of the Education Article;~~

~~(ii) the Board of Liquor License Commissioners for Baltimore City to perform the audits authorized under § 2–1220(f)(1) of this subtitle;~~

~~(iii) the board of license commissioners for a county or for the City of Annapolis to perform the audits authorized under § 2–1220(f)(2) of this subtitle;~~

~~(iv) the Board of License Commissioners for Prince George's County to perform the audits authorized under § 2-1220(g) of this subtitle; and~~

~~(v) the Baltimore Police Department and the Baltimore City government to perform the audits required under § 2-1220(h) of this subtitle.~~

~~(4) IN ADDITION TO THE AUTHORITY PROVIDED IN PARAGRAPHS (1) THROUGH (3) OF THIS SUBSECTION, THE OFFICE OF LEGISLATIVE AUDITS MAY, FOR THE PURPOSE OF FURTHERING AN INVESTIGATION UNDER § 2-1220(A)(4)(H) OF THIS SUBTITLE, COMPEL BY SUBPOENA OR OTHERWISE:~~

~~(I) THE PRODUCTION OF PUBLIC AND PRIVATE RECORDS, INCLUDING THOSE THAT ARE CONFIDENTIAL BY LAW, IN THE POSSESSION OF ANY PERSON, PRIVATE CORPORATION, INSTITUTION, BOARD, ORGANIZATION, OR OTHER BODY OR ENTITY; AND~~

~~(II) A PERSON TO APPEAR UNDER OATH AS A WITNESS.~~

~~(b) Each officer or employee of the unit or body that is subject to examination shall provide any information that the Legislative Auditor determines to be needed for the examination of that unit or body, or of any matter under the authority of the Office of Legislative Audits, including information that otherwise would be confidential under any provision of law.~~

~~(e) (1) 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.~~

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

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

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

~~(5) If a person fails to comply with process issued under this subsection or fails to provide information that is requested during an examination, a circuit court may issue an order directing compliance with the process or compelling that the information requested be provided.~~

~~(D) (1) THE OFFICE OF LEGISLATIVE AUDITS MAY COORDINATE AN INVESTIGATION WITH:~~

~~(I) THE OFFICE OF THE ATTORNEY GENERAL;~~

~~(II) THE OFFICE OF THE STATE PROSECUTOR; AND~~

~~(III) OTHER STATE AND LOCAL LAW ENFORCEMENT UNITS AND PROSECUTORIAL AGENCIES, AS DETERMINED NECESSARY BY THE OFFICE OF LEGISLATIVE AUDITS.~~

~~(2) THE LAW ENFORCEMENT UNITS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL COOPERATE AND SHARE INFORMATION WITH THE EMPLOYEES OF THE OFFICE OF LEGISLATIVE AUDITS AS NEEDED TO FURTHER AN INVESTIGATION.~~

2-1226.

(a) Except as provided in § 2-1225 of this subtitle and subsection (b) of this section, information that an employee or authorized representative of the Office of Legislative Audits obtains during an examination **OR IN RELATION TO AN ACT OR ALLEGATION OF FRAUD, WASTE, OR ABUSE:**

(1) is confidential; and

(2) may not be disclosed except to another employee or authorized representative of the Office of Legislative Audits.

(b) The Legislative Auditor may authorize the disclosure of information obtained during an examination **OR IN RELATION TO AN ACT OR ALLEGATION OF FRAUD, WASTE, OR ABUSE** only to the following:

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

(2) 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 that same examination and who provide justification for the specific information requested; or

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

(c) Except as provided in § 2-1225 of this subtitle, if information that an employee or authorized representative obtains during an examination also is confidential under another law, the employee, authorized representative, or the 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.

2-1228.

(A) (1) THE OFFICE OF LEGISLATIVE AUDITS SHALL MAINTAIN A FRAUD HOTLINE FOR THE REPORTING OF ALLEGATIONS OF FRAUD, WASTE, AND ABUSE IN THE OBLIGATION, EXPENDITURE, RECEIPT, OR USE OF STATE RESOURCES.

(2) THE OFFICE OF LEGISLATIVE AUDITS MAY INVESTIGATE AN ALLEGATION RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN THE SCOPE OF ITS AUTHORITY OR REFER THE ALLEGATION TO THE APPROPRIATE FEDERAL, STATE, OR LOCAL AGENCIES RESPONSIBLE FOR THE ENFORCEMENT OR ADMINISTRATION OF THE MATTER FOR INVESTIGATION.

(B) EACH UNIT OF STATE GOVERNMENT SHALL:

(1) KEEP POSTED IN CONSPICUOUS PLACES ON ITS PREMISES A NOTICE PREPARED BY THE OFFICE OF LEGISLATIVE AUDITS SETTING FORTH THE METHODS FOR REPORTING FRAUD, WASTE, AND ABUSE OF STATE RESOURCES;

(2) KEEP POSTED IN CONSPICUOUS PLACES ON ITS WEBSITE A DIRECT LINK TO THE WEBSITE OF THE OFFICE OF LEGISLATIVE AUDITS FOR REPORTING FRAUD, WASTE, AND ABUSE; AND

(3) ON REQUEST OF THE OFFICE OF LEGISLATIVE AUDITS, 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;

~~(4) REPORT TO THE OFFICE OF LEGISLATIVE AUDITS ANY INSTANCE OF POSSIBLE CRIMINAL OR UNETHICAL CONDUCT BY ANY EMPLOYEE, CONTRACTOR, OR RECIPIENT OF FUNDS FROM THE STATE IN ACCORDANCE WITH THE GUIDELINES AND FORMAT ESTABLISHED BY THE OFFICE OF LEGISLATIVE AUDITS; AND~~

~~(5) PROVIDE TIMELY COOPERATION ON ANY INQUIRIES BY THE OFFICE OF LEGISLATIVE AUDITS REGARDING ANY MATTER REPORTED UNDER ITEM (4) OF THIS SUBSECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Office of Legislative Audits shall, 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 the Office of Legislative Audits related to investigations of acts or allegations of fraud, waste, or abuse conducted under its authority under § 2-1220 of the State Government Article;

(2) coordinate and cooperate with appropriate prosecutorial entities to maximize the effectiveness of investigations of acts or allegations of fraud, waste, or abuse conducted by the Office of Legislative Audits; 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 the Office of Legislative Audits, unless otherwise prohibited by law.

(b) On or before December 1, 2021, the Office of Legislative Audits shall, in accordance with § 2-1257 of the State Government Article, report on the findings under subsection (a) of this section to the Joint Audit and Evaluation Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Approved by the Governor, May 18, 2021.