



Sub. H.B. 166

127th General Assembly
(As Passed by the General Assembly)

Reps. Schindel, Adams, Bubp, Combs, DeWine, Flowers, Gibbs, Seitz, Stebelton, Widener, Zehringer, Aslanides, Bacon, Batchelder, Blessing, Coley, Collier, Daniels, Dolan, Evans, Fessler, J. Hagan, Hite, Hottinger, Huffman, Hughes, R. McGregor, Patton, Schneider, Setzer, Uecker, Wachtmann, Wagner, Wagoner, Widowfield

Sens. Niehaus, Cates, D. Miller, Gardner, Faber, Padgett, Spada, Austria, Buehrer, Carey, Goodman, Grendell, Harris, Mumper, Roberts, Seitz, Schaffer, Schuler, Schuring, Stivers

Effective date: February 14, 2008

ACT SUMMARY

- Creates the Office of Internal Auditing within the Office of Budget and Management and the position of Chief Internal Auditor.
- Requires that the Office of Internal Auditing conduct the internal audits of certain state agencies according to an annual plan and report the audits' findings and recommendations.
- Transfers state agency employees who perform internal audit functions to the Office of Internal Auditing.
- Establishes the State Audit Committee to, among other things, review and comment on the annual internal audit plans prepared by the Office of Internal Auditing.

CONTENT AND OPERATION

Office of Internal Auditing

(R.C. 126.45(A) and (B) and 5703.21)

The act creates the Office of Internal Auditing (OIA) in the Office of Budget and Management (OBM) to conduct internal audits of certain state

agencies¹ or divisions of those agencies to improve their operations in the areas of risk management, internal controls, and governance. The audits are to be conducted as part of specified OIA programs. These programs must include an annual internal audit plan that utilizes risk assessment techniques and identifies the specific audits to be conducted during the year. The programs also must include periodic audits of each agency's major systems and controls, including those pertaining to accounting, administration, and electronic data processing. Upon OIA's request, each state agency must provide OIA employees access to all records and documents necessary for the performance of an internal audit. With respect to the Department of Taxation, this access includes access to and the right to examine any state or federal tax returns and tax return information that the Department possesses. Such tax information, however, cannot be divulged unless required for the internal audit or pursuant to court testimony compelled under legal process. Divulging the tax information for any other purpose will result in disqualification from acting as an officer or employee of, or in any other capacity under appointment or employment of, the OIA.

The Director of Budget and Management is required to assess a charge against each state agency for which the OIA conducts internal auditing programs. The total amount of these charges must be sufficient to cover the costs of the OIA's operation.

Chief Internal Auditor of the OIA

(R.C. 126.45(B) through (D))

The act requires the Director of Budget and Management, with the approval of the Governor, to appoint a Chief Internal Auditor (CIA). The CIA serves at the Director's pleasure and is responsible for the administration of the OIA. The CIA must hold at least a bachelor's degree and be one of the following:

(1) A certified internal auditor, a certified government auditing professional, or a certified public accountant, who also has held a PA registration

¹ For purposes of the act, a "state agency" means the Office of Budget and Management, the Department of Commerce, the Department of Administrative Services, the Department of Transportation, the Department of Agriculture, the Department of Natural Resources, the Department of Health, the Department of Job and Family Services, the Department of Public Safety, the Department of Mental Health, the Department of Mental Retardation and Developmental Disabilities, the Department of Insurance, the Department of Development, the Department of Youth Services, the Department of Rehabilitation and Correction, the Environmental Protection Agency, the Department of Aging, the Department of Alcohol and Drug Addiction Services, the Department of Taxation, and the Bureau of Workers' Compensation.

or a CPA certificate issued under Ohio's Public Accounting Act for at least four years and has at least six years of auditing experience; or

(2) An auditor who has held a PA registration or a CPA certificate issued under Ohio's Public Accounting Act for at least four years and has at least ten years of auditing experience.

The CIA, subject to the direction and control of the Director, can appoint and maintain any staff necessary to carry out the duties assigned to the OIA or CIA by the act.

Duties of the State Audit Committee, OIA, and CIA

(R.C. 126.46(A) and (B), 126.47, and 126.48)

The act also creates the State Audit Committee, and requires it to do all of the following:

--Ensure that the internal audits conducted by the OIA conform to the Institute of Internal Auditors' international standards for the professional practice of internal auditing and to the Institute's code of ethics;

--Review and comment on the process OBM uses to prepare its annual budgetary financial report and the state's comprehensive annual financial report required by current law;

--Review and comment on unaudited financial statements submitted to the Auditor of State and communicate with external auditors as required by government auditing standards.

Additionally, the act requires the Committee to ensure that the OIA has an annual internal audit plan that identifies the internal audits of state agencies or divisions of those agencies scheduled for the next fiscal year. The CIA must submit the plan to the Committee for review and comment before the beginning of each fiscal year. The CIA can submit a revised plan for review and comment at any time the Director of Budget and Management believes there is reason to modify the previously submitted plan for a fiscal year.

In formulating or reviewing an annual or revised internal audit plan, the OIA and Committee must consider the following factors to determine the state agencies or divisions of those agencies that are to be audited: (1) the risk for fraud, waste, or abuse of public money within an agency or division, (2) the length of time since an agency or division was last subject to an internal audit, (3) the size of an agency or division and the amount of time and resources necessary to audit it, and (4) any other factor the Committee determines to be relevant.

Only OIA employees can conduct the internal audits. After the conclusion of an internal audit, the CIA must submit a preliminary report of the audit's findings and recommendations to the Committee and to the director of the state agency involved. The agency or division covered by a preliminary report must be provided an opportunity to respond within 30 days after receipt of the report. The response must include a corrective action plan for any recommendation in the report that the agency or division does not dispute. The OIA is required to include any response that it receives within the 30-day period in its final report of the internal audit.

The OIA must issue a final report within 30 days after the end of the 30-day response period, and submit copies of that report to the Committee, the Governor, and the director of the state agency involved. The Committee is to determine an appropriate method for making the preliminary and final reports available for public inspection in a timely manner.

Any suspected fraud or illegal activity that the OIA discovers during the conduct of an internal audit must be reported immediately to the Committee, the director of the state agency in which the fraud or illegal activity is suspected to have occurred, and the Auditor of State.

The CIA is required to prepare an annual report and submit it to the Governor, the Senate President, the House Speaker, and the Auditor of State. OBM must make the report available to the public by posting it on its web site before each July 1.

Any preliminary or final report of an internal audit's findings and recommendations produced by the OIA and all work papers of the internal audit are confidential and not public records under the Public Records Act until the final report of the audit's findings and recommendations is submitted to the Committee, the Governor, and the director of the state agency involved.

Composition of the State Audit Committee

(R.C. 126.46(A) and (C))

The State Audit Committee is to consist of one public member appointed by the Governor, two public members appointed by the House Speaker, and two public members appointed by the Senate President. One of the members appointed by the House Speaker and one of the members appointed by the Senate President may be a person recommended by the minority leader of the respective body.

One member of the Committee must be a financial expert;² one must be an active, inactive, or retired certified public accountant; one must be familiar with governmental financial accounting; and one must represent the public. Additionally, of the four members appointed by the House Speaker and the Senate President, not more than two can belong to or be affiliated with the same political party. The member appointed by the Governor must be external to the management structure associated with the preparation of financial statements of state government and must have the program and management expertise required to serve as the Committee chairperson.

Each member of the Committee serves a three-year term, except for the initial members: the first member appointed by the House Speaker serves a one-year term, the second member appointed by the House Speaker serves a three-year term, the members appointed by the Senate President serve two-year terms, and the member appointed by the Governor serves a three-year term. The initial members of the Committee must be appointed within 30 days after the act's effective date.

Committee members may be reappointed to serve one additional term. Any vacancy on the Committee must be filled in the same manner as the original appointment, and the person appointed to fill a vacancy is to serve the remainder of the predecessor's term.

Committee members are to be reimbursed for actual and necessary expenses incurred in the discharge of their duties. Each must file financial disclosure statements with the Ohio Ethics Commission as is required for certain public officers.³

² "Financial expert" means a person who has all of the following: (1) an understanding of generally accepted accounting principles and financial statements, (2) the ability to assess the general application of those principles in connection with accounting for estimates, accruals, and reserves, (3) experience preparing, auditing, analyzing, or evaluating financial statements presenting accounting issues that generally are of comparable breadth and level of complexity to those likely to be presented by a state agency's financial statements, or experience actively supervising one or more persons engaged in those activities, (4) an understanding of internal controls and procedures for financial reporting, and (5) an understanding of audit committee functions.

³ See R.C. 102.02.

OIA commencement plan; transfer of certain employees

(Section 3)

The act states that it is the intent of the General Assembly that the primary internal audit function of state agencies be carried out by the OIA.

Prior to May 1, 2008, the Director of Budget and Management, in consultation with the Director of Administrative Services and the State Audit Committee, is required to develop a plan to commence operations of the OIA. The plan, which is subject to Controlling Board approval, must do the following:

(1) Identify those existing employees within state agencies who perform the function of an internal auditor and who will be transferred to the OIA;

(2) Establish funds and appropriation authority that is necessary for the efficient and effective operation of the OIA;

(3) Provide for a method to assess charges against the state agencies for which the OIA conducts internal auditing programs so that the total amount of the charges is sufficient to cover the operational costs of the OIA;

(4) Provide for the appropriate reduction in the appropriation authority of the state agencies from which existing employees who perform the function of internal auditor are transferred.

Subject to the layoff and displacement provisions of the state Civil Service Act, all state agency employees who are identified by the plan as performing duties necessary to comply with the act are to be transferred, upon the approval of the Controlling Board, to the OIA. The act provides that the transferred employees retain their positions, compensation, and associated fringe benefits.

Employee reports of wrongdoing to the OIA

(R.C. 124.341)

Under ongoing law, if an employee in the classified or unclassified civil service⁴ becomes aware in the course of employment of a violation of state or federal statutes, rules, or regulations or of the misuse of public resources, and the employee's supervisor or appointing authority has authority to correct the violation

⁴ The classified and unclassified civil service includes all offices and positions of trust and employment in the service of the state, counties, cities, city health districts, general health districts, and city school districts (R.C. 124.01(A)).

or misuse, the employee may file a written report identifying the violation or misuse with the supervisor or appointing authority. An employee who makes such a report is protected from being disciplined for making the report, although the employee is subject to disciplinary action for purposely, knowingly, or recklessly reporting false information.

Under the act, the employee may file such a written report with the OIA, in addition to or instead of filing a written report with the employee's supervisor or appointing authority, and receive the same protection.

HISTORY

ACTION	DATE
Introduced	04-19-07
Reported, H. State Gov't & Elections	06-26-07
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Reported, S. Finance & Financial Institutions	10-31-07
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