
AUDITOR OF STATE

Fraud-reporting system and training (PARTIALLY VETOED)

- Requires the Auditor of State to promptly notify the prosecuting attorney or similar chief legal officer of a municipal corporation if a report received under the fraud-reporting system involves probable theft or fraud by a public office or official, unless the chief legal officer is the perpetrator.
- Requires the Auditor to create training material detailing Ohio's fraud-reporting system and the means of reporting fraud, waste, and abuse.
- Requires the Department of Administrative Services to administer the training material to each state employee, statewide elected official, and General Assembly member in a manner prescribed by the Auditor.
- Requires the Auditor to administer the training material to elected officials and employees of a political subdivision.
- Would have required certain persons to make a timely report on the fraud-reporting system after becoming aware of fraud, theft in office, or misuse or misappropriation of public money (VETOED).
- Would have specified that a prosecuting attorney or similar chief legal officer of a municipal corporation, or employees of the officer, are not required, and do not have an express statutory duty, to report a violation to the Auditor's fraud-reporting system (VETOED).
- Would have exempted a person who serves as legal counsel, or who is employed as legal counsel, for a public office from being required to report fraud, theft in office, or misuse or misappropriation of public money if it concerns any communication received from a client in an attorney-client relationship (VETOED).
- Permits the Office of Internal Audit to consult with the Auditor regarding any written report the Office receives regarding those violations and to share those reports with the Auditor upon request.

Audit records

- Permits the Auditor to refer a public records request to an originating public office when the record was provided to the Auditor for purposes of an audit, and the original public office has asserted to the Auditor that the record is not a public record.

Auditor's Innovation Fund

- Replaces the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund with the Auditor's Innovation Fund.

- Authorizes the Auditor's Innovation Fund to be used for innovative audit, accounting, or local government assistance services that improve the quality or increase the range of services offered to local governments and school districts.
- Removes law describing the uses of the LEAP funds, including (1) making loans to state and local entities for performance audits and (2) paying the costs of performance audits and feasibility studies.

Auditor feasibility study

- Permits the Auditor to conduct a feasibility study requested by a state agency or local public office at the Auditor's discretion, rather than as LEAP funds are allowed and available.

Cause of action by Auditor

- Specifies that, when there is a cause of action set forth from a report of the Auditor, the amount payable from that action is a final and certified claim, under the law regarding collecting amounts due to the state, upon submission to the Attorney General.
- Specifies that the amount payable may be satisfied under an existing process that allows a person's tax refund to be applied to a debt to the state or a political subdivision.

Performance audits

- Modifies the timeframe for a state agency or institution to implement the recommendations of a performance audit and the related reporting requirement.
- Modifies the content and submission date of the Auditor's annual report.
- Removes the cost limitations on performance audits of state universities.

Access to public records (VETOED)

- Would have required state agencies and institutions of higher education that are subject to a performance audit to give the Auditor access to the agency's or institution's employees, books, accounts, reports, vouchers, correspondence files, contracts, money, property, electronic data, and other records (VETOED).
- Would have allowed the Auditor to examine the records upon request (VETOED).
- Would have required the agency or institution to provide records to the Auditor in the format the Auditor requested (VETOED).
- Would have required the Auditor to maintain the confidential nature of a document, data, or information (VETOED).
- Would have required the Auditor to provide a data sharing agreement to govern the use of restricted data if the Auditor determines it necessary (VETOED).

School district fiscal distress performance audits

- Removes the Office of Budget and Management from the performance audit consultation process for school districts under fiscal caution, in a state of fiscal watch, or in fiscal emergency.
- Removes the requirement that the Auditor prioritize performance audits of school districts in fiscal distress.

ODJFS audit (VETOED)

- Would have permitted the Auditor to conduct audits of the Department of Job and Family Services and any program it administers, and to charge the Department for the cost of an audit (VETOED).

Department of Medicaid audit (VETOED)

- Would have required the Auditor to conduct audits of the Department of Medicaid and the programs it administers and to periodically report the results of these audits to the Joint Medicaid Oversight Committee (VETOED).
- Would have permitted the Auditor to charge the Department for the cost of an audit (VETOED).
- Would have specified that the Auditor may determine the subject and scope of these audits, which may include specified topics (VETOED).

Fraud-reporting system and training (PARTIALLY VETOED)

(R.C. 117.103)

Fraud-reporting system

The act requires the Auditor of State to promptly notify the prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation if a report received under the fraud-reporting system involves probable theft or fraud, including misuse or misappropriation of public money by any public office or public official, unless the attorney, director, solicitor, or chief legal officer is the perpetrator.

Fraud-reporting training

The act requires the Auditor to create training material detailing Ohio's fraud-reporting system and the means of reporting fraud, waste, and abuse. The training material must be as concise as practicable. Under continuing law, the Auditor must establish and maintain a system for reporting fraud, including misuse and misappropriation of public money by any public office or official. The system must allow residents and employees of any public office to make anonymous complaints using a toll free telephone number, the Auditor's website, or by mail to the Auditor's office. The Auditor must review all complaints in a timely manner.

Additionally, the act requires the Department of Administrative Services to administer the training material to each state employee, statewide elected official, and General Assembly member. The Auditor must administer the training material to employees and elected officials of political subdivisions. Current employees and elected officials must complete the training within 90 days of a date the Auditor specifies unless there is good cause for noncompliance. Each new employee or elected official must confirm receipt of the training material on a form model provided by the Auditor within 30 days after taking office or beginning employment.

The training is required every four years for each employee or elected official. Under former law, a public office was required to provide employees with information about Ohio's fraud reporting system within 30 days upon employment with a public office and was satisfied if the public office provides the information in an employee handbook and requires an employee's signature for receipt of the handbook.

Persons required to report fraud and abuse (VETOED)

(R.C. 4113.52)

The Governor vetoed a provision that would have required the following persons who, during the person's term of office or course of employment, become aware of fraud, theft in office, or misuse or misappropriation of public money to timely notify the Auditor through the fraud reporting system or other means:

- The person is elected to public office;
- The person is appointed to or within a public office;
- The person has a fiduciary duty to a public office;
- The person holds a supervisory position within a public office;
- The person is employed in the department or office responsible for processing any expenses of the public office.

The Governor vetoed a provision that would have specified that the duty of those persons to notify the Auditor is an express statutory duty of the officers and employees of a public office. However, a prosecuting attorney or similar chief legal officer of a municipal corporation, or employees of the officer, are not required, and do not have an express statutory duty, to report a violation to the Auditor's fraud-reporting system.

Additionally, the Governor vetoed a provision that would have exempted a person who serves as legal counsel, or who is employed as legal counsel, for a public office from being required to report fraud, theft in office, or misuse or misappropriation of public money if it concerns any communication received from a client in an attorney-client relationship.

The Governor vetoed a provision that would have specified that nothing in the act should be construed to limit the authority of an auditor, including the Auditor, to make inquiries or interview state or local government employees or officials or otherwise perform audit procedures related to fraud during the course of an audit or attestation engagement.

Continuing law requires a person to orally notify the person's supervisor or other responsible officer if the person becomes aware, in the course of employment, of a violation of any state or federal statute or any ordinance or regulation of a political subdivision that the person's employer has the authority to correct, and the person reasonably believes the violation is a criminal offense that is likely to cause imminent harm or hazard to public health and safety, a felony, or improper solicitation for contribution. Additionally, the person must file a written report with that supervisor or officer that provides sufficient detail to identify and describe the violation. If the violation is not corrected within 24 hours or a reasonable and good faith effort was not made to correct the violation, the person may file a written report with the prosecuting attorney, a peace officer, the inspector general if within its jurisdiction, the fraud-reporting system, or any other appropriate public official or agency.

Office of Internal Audit

(R.C. 126.47)

Additionally, the act permits the Office of Internal Audit (within the Office of Budget and Management) to consult with the Auditor regarding any written report the office receives. The Office may share the written reports with the Auditor upon request and those reports are not a public record under Ohio's Public Records Law. Continuing law permits an employee of the classified or unclassified civil service to file a written report identifying violations of state or federal statutes, rules, or regulations, or misuse of public resources with the employee's Office of Internal Audit, in addition to or instead of with the employee's supervisor or appointing authority or the fraud-reporting system. The Office directs internal audits of state agencies or divisions of state agencies to improve their operations in areas of risk management, internal controls, and governance.²¹

Audit records

(R.C. 149.43)

The act modifies Public Records Law to authorize the Auditor, in the following circumstance, to direct a public records requestor to another public office. Under the act, when the Auditor receives a request to inspect or to make a copy of a record that was provided to the Auditor for purposes of an audit, but the original public office has asserted to the Auditor that the record is not a public record, the Auditor may handle the request by directing the requestor to the original public office that provided the record to the Auditor.

Auditor's Innovation Fund

(R.C. 117.47, with conforming changes in R.C. 117.46; repealed R.C. 117.471 and 117.472)

The act eliminates the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund, and creates the Auditor's Innovation Fund.

²¹ R.C. 149.43; R.C. 124.341 and 126.45, not in the act.

It permits the Auditor to use the Auditor’s Innovation Fund for “innovative audit, accounting, or local government assistance services that improve the quality or increase the range of services offered to local governments and school districts.” The fund consists of money appropriated to it.

The act repeals law permitting loans to be made with LEAP funds. Under the law, the Auditor had to use LEAP funds to make loans to state agencies, local public offices, and state institutions of higher education for conducting performance audits if the Auditor approved their applications. The amount loaned was charged by the Auditor for a performance audit. In addition, LEAP funds were used for conducting feasibility studies requested by state agencies or local public offices. Under the repealed law, 50% of the money in the LEAP Fund had to be used for loans and paying the costs of performance audits, and 50% for feasibility studies.

The act repeals law containing the terms and conditions of LEAP Fund loans to entities that receive them, and provisions describing the consequences of defaulting on those loans.

Under the former law, the LEAP Fund consisted of appropriated money, plus repayments of principal and interest made on LEAP Fund loans.

Auditor feasibility study

(R.C. 117.473)

The act permits the Auditor to conduct a feasibility study at the Auditor’s discretion, rather than require the Auditor to conduct feasibility studies as LEAP funds are allowed and available. Under former law, the Auditor had to conduct the requested feasibility studies as funds were allowed and available from the LEAP Fund, no more than 50% of which could be used to conduct those feasibility studies.

Continuing law permits a state agency or local public office to request that the Auditor conduct a feasibility study to determine if it could realize greater efficiency or cost savings by sharing services or facilities with other agencies or offices.

Cause of action by Auditor

(R.C. 117.34)

The act specifies that, when there is a cause of action set forth from a report of the Auditor, the amount payable from that action is a final and certified claim, under the law²² regarding collecting amounts due to the state, upon submission to the Attorney General.

Under continuing law, if an amount owed to the state is not paid within 45 days after payment is due, the officer responsible for collecting it must certify the amount due to the Attorney General, who must give immediate notice to the party indebted of the nature and amount of the indebtedness. The Attorney General and the officer must agree on the time a payment is due, which may be an appropriate time determined by them based on statutory requirements or ordinary business processes. The law requires the AG to follow this process on

²² See R.C. 113.02, not in the act.

behalf of state agencies, and also on behalf of state institutions of higher education and of political subdivisions.

Additionally, the act specifies that the amount payable may be satisfied under the law²³ that allows a person's tax refund to be applied to a debt to the state or a political subdivision.

Performance audits

(R.C. 117.462 and 117.463; repealed R.C. 117.464 and 117.465; Section 701.50)

The act makes changes to the Auditor's performance audit process, including the timeframe for implementation, the annual report, and cost limitations.

Timeframe for implementation

Continuing law requires the Auditor to conduct at least four performance audits each biennium. At the conclusion of each audit, the Auditor must give recommendations to the state agency or state institution of higher education. Formerly, an agency or institution that had not begun implementing the recommendations within three months had to: (1) file a report explaining its failure to do so with the Governor, Auditor, Senate President and Minority Leader, and Speaker and Minority Leader of the House, and (2) provide testimony to the appropriate Senate and House committees. The act makes three changes:

- First, the act requires each agency or institution to develop an "implementation plan" within two months.
- Second, it extends the time an agency or institution has to begin implementing the recommendations – from three months to four months.
- Finally, the agency or institution must "request an opportunity to provide" testimony to the Senate and House committees, instead of requiring the testimony.

Under continuing law, an agency or institution that fails to implement every recommendation within a year must file a report justifying why the recommendation has not or will not be implemented. Formerly, the report was filed with the Governor, Auditor, Senate President and Minority Leader, and Speaker and Minority Leader of the House. Under the act, the report is filed with the Auditor and the Governor or governing authority of the agency or institution. Then, after considering the report, the agency director or the governing authority must submit a letter in writing to the Auditor, Senate President and Minority Leader, and Speaker and Minority Leader of the House outlining the status and plan for implementing the recommendations.

Annual report

Under continuing law, the Auditor must submit an annual report to the Governor, Senate President and Minority Leader, and Speaker and Minority Leader of the House. Instead of requiring information about whether agencies and institutions implemented the Auditor's

²³ See R.C. 5747.12, not in the act.

recommendations, the act requires information about the progress agencies and institutions have made in implementing the recommendations. And, the act requires the report to include information about other operational and programmatic improvements or efficiencies that have been achieved as a result of implementation. Finally, the act changes the submission date from March 30 to November 1.

Cost limitations

The act removes the cost limitations on performance audits of state universities and removes a related provision that allowed the Auditor and a university to agree to exceed that limitation.

Access to public records (VETOED)

(R.C. 117.092)

The Governor vetoed a provision that would have given the Auditor and the Auditor's authorized representatives access to all employees, books, accounts, reports, vouchers, correspondence files, contracts, money, property, or other records of a state agency or institution of higher education subject to a performance audit, including access to all electronic data. Every officer or employee of an agency or institution having the records or property under their control would have been required to permit access to and examination of those records upon request. The act would have required that all information requested by the Auditor for the purposes of an audit be promptly provided in the format prescribed by the Auditor, along with all items necessary to interpret the requested information, including data. The Auditor would have been required to comply with all restrictions imposed by law on documents, data, or information deemed confidential or otherwise restricted. The Auditor would have been required to provide a data sharing agreement to govern the use of restricted data if the Auditor determined an agreement was necessary to ensure compliance with restrictions imposed by law.

School district fiscal distress performance audits

(R.C. 3316.042)

The act removes the Office of Budget and Management from the performance audit consultation process for school districts under fiscal caution, in a state of fiscal watch, or in fiscal emergency. However, the Auditor must continue to consult with the Department of Education and Workforce in conducting performance audits. The act also removes the requirement that the Auditor prioritize performance audits of school districts that are in fiscal distress.

Under continuing law, the Auditor has discretion to conduct performance audits of school districts under a fiscal caution, in a state of fiscal watch, in a state of fiscal emergency, or in fiscal distress. These audits consist of the review of any programs or areas of operation in which the Auditor believes that greater operational efficiencies or enhanced program results can be achieved, but do not include review or evaluation of the school district's academic performance. The costs of performance audits are paid by the Auditor with funds appropriated from the General Assembly.

ODJFS audit (VETOED)

(Section 701.100)

The Governor vetoed a provision that would have permitted the Auditor to conduct an audit of the Department of Job and Family Services (ODJFS) and any program it administers. The subject and scope of an audit would have been determined by the Auditor and could have included:

- Management and operation of ODJFS;
- Economy, efficiency, and transparency of ODJFS programs;
- Goals, outcomes, or impacts of ODJFS programs;
- Systems and processes used to determine eligibility for program recipients and providers;
- ODJFS program integrity and payment accuracy;
- Contract management and subrecipient monitoring practices.

The vetoed provision would have permitted the Auditor to charge ODJFS with the total cost of any audit the Auditor conducts under this provision.

Department of Medicaid audit (VETOED)

(Section 701.110)

The Governor vetoed a provision that would have required the Auditor to conduct audits of the Department of Medicaid (ODM) and any program it administers. The subject and scope of an audit would have been determined by the Auditor, and could have included:

- Management and operation of ODM;
- Economy, efficiency, and transparency of ODM programs;
- Goals, outcomes, or impacts of ODM programs;
- Systems and processes used to determine eligibility for program recipients and providers;
- ODM program integrity and payment accuracy;
- Contract management and subrecipient monitoring practices.

The Auditor would have been required to periodically report findings of audits conducted to the Joint Medicaid Oversight Committee. The Auditor would have been permitted to charge ODM the total cost of an audit conducted under this provision.