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Bill Analysis
Legislative Service Commission

Sub. H.B. 166*

127th General Assembly

(As Reported by H. State Government and Elections)

Reps. Schindel, Adams, Bupp, Combs, DeWine, Flowers, Gibbs, Seitz, Stebelton, Widener, Zehringer

BILL SUMMARY

- Creates the Office of Internal Auditing within the Office of Budget and Management and the position of Chief Internal Auditor.
- Establishes the State Audit Committee.
- Prescribes the duties and functions of the Office of Internal Auditing, State Audit Committee, and Chief Internal Auditor.
- Requires the Office to conduct internal audits according to an annual plan and to make reports of those audits.
- Transfers state employees who perform internal audit functions to the Office.
- Authorizes employees in the classified and unclassified civil service to report employment-related wrongdoing to the Office.

CONTENT AND OPERATION

Office of Internal Auditing

(R.C. 126.40(A) and (B))

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

* This analysis was prepared before the report of the House State Government and Elections Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

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 management techniques and identifies specific audits to be conducted during the year. The programs also must include periodic audits of each agency's major systems and controls, including the systems and controls 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.

Chief Internal Auditor of the OIA

(R.C. 126.40(B) through (D))

The bill requires the Director of OBM, 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 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 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 of OBM, can appoint and maintain any staff necessary to carry out the duties assigned to the OIA or CIA by the bill.

¹ For purposes of the bill, 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.

Duties of the State Audit Committee, OIA, and CIA

(R.C. 126.41(B), 126.42, and 126.43)

The bill 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 the process OBM uses to prepare its annual budgetary financial report and the state's comprehensive annual financial report;

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

Additionally, the bill requires the State Audit Committee to ensure that the OIA's annual internal audit plan 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 approval before the beginning of each fiscal year. The CIA can submit a revised plan for approval at any time the Director of OBM believes there is reason to modify the previously submitted plan for a fiscal year.

Under the bill, in formulating or approving an annual or revised internal audit plan, the OIA and State Audit 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 the agency or division, 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 State Audit 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 preliminary report. The response must include a corrective action plan for any recommendations in the report that the agency or division does not dispute. The OIA must 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 the final report to the State Audit Committee, the Governor, and the director of the state agency involved. The Committee must 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, to the director of the state agency in which the fraud or illegal activity is suspected to have occurred, and to the Auditor of State.

The CIA must 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 or 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 findings and recommendations is submitted to the State Audit Committee, the Governor, and the state agency involved.

Composition of the State Audit Committee

(R.C. 126.41(A) and (C))

The State Audit Committee is to consist of the Director of OBM, who serves as the chairperson; two public members appointed by the House Speaker; and two public members appointed by the Senate President. Of the four public members, one 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.

Each public member of the Committee serves a three-year term commencing on August 1 of the appropriate year, except for the initial public

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.

members. For the initial public 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, and the members appointed by the Senate President serve two-year terms. The term for the initial public members begins on August 1, 2007, and all public 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 must 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.

LSC report; transfer of certain employees to OIA

(Section 2)

The bill requires, not later than six months after its effective date, the Legislative Service Commission (LSC) to prepare a report on the existing internal audit structures of each state agency and identify all state employees who are classified as an internal auditor or with job duties effectively similar to those of an internal auditor. The report must include information about the total amounts budgeted for internal auditing purposes in each of the state agencies. Furthermore, the bill requires each state agency, upon request, to provide the LSC with the requisite information to complete the portion of the report pertaining to that agency.

Upon its completion, the LSC must submit the report to the Governor, the House Speaker, the Senate President, and the House and Senate Minority Leaders.

Subject to the layoff and displacement provisions of the state Civil Service Act, all state agency employees who are classified as internal auditors or whose job duties are effectively similar to those of an internal auditor, as determined by the LSC report, must be transferred to the OIA. The bill provides that the transferred employees retain their positions, compensation, and all associated fringe benefits.

Employee reports of wrongdoing to the OIA

Under current law, if an employee in the classified or unclassified civil service³ becomes aware in the course of employment of a violation of state or

³ 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)).

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 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 in the report. (R.C. 124.341(A) through (C).)

Under the bill, 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 (R.C. 124.341(A)).

HISTORY

ACTION	DATE
Introduced	04-19-07
Reported, H. State Gov't & Elections	---

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