



Reprinted  
February 28, 2020

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## ENGROSSED HOUSE BILL No. 1108

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DIGEST OF HB 1108 (Updated February 27, 2020 4:06 pm - DI 135)

**Citations Affected:** IC 2-5; IC 5-11.

**Synopsis:** State board of accounts. Makes various changes to statutes concerning the state board of accounts (board). Adds a definition of a "responsible officer of an audited entity". Allows the audit committee to determine the amount of the bond for the state examiner, deputy examiners, and field examiners based on applicable risk considerations. Repeals a statute that addresses duties required by law on April 5, 1909. Provides that, for purposes of the risk based examination criteria, the board may perform examinations of certain audited entities more frequently than once every four years if required by a ratings agency  
(Continued next page)

**Effective:** July 1, 2020.

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### Lehman, Porter

(SENATE SPONSORS — BASSLER, SPARTZ, RANDOLPH LONNIE M)

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January 8, 2020, read first time and referred to Committee on Ways and Means.  
January 27, 2020, amended, reported — Do Pass.  
January 29, 2020, read second time, ordered engrossed. Engrossed.  
January 30, 2020, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 5, 2020, read first time and referred to Committee on Appropriations.  
February 20, 2020, amended, reported favorably — Do Pass.  
February 27, 2020, read second time, amended, ordered engrossed.

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EH 1108—LS 6767/DI 129



## Digest Continued

that rates debt maintained by such an audited entity. Provides that the board may issue management letters based on professional auditing standards to certain audited entities. Provides that the state examiner, deputy examiner, or field examiner may issue subpoenas to enforce the filing of certain reports. Establishes a procedure governing the examination of certain bodies corporate and politic. Provides that the procedure applies only to a body corporate and politic whose enabling statute does not provide for an audit, examination, or other engagement by the state board of accounts or an independent public accounting firm concerning financial or compliance related matters of the body corporate and politic. Makes changes to statutes establishing the forfeiture of office for the failure to file certain reports, interference with an examiner, and the failure to adopt or use the system of accounting and reporting adopted by the board. Provides that, as an alternative to an order to forfeit office, a court may impose a civil penalty that does not exceed \$500 for each day that the public officer or responsible officer continues to violate an obligation with respect to an audit, examination, or other engagement by the board. Specifies that the individual is personally liable for a civil penalty imposed on the individual for such a violation. Provides that the board may collect the expenses from the audited entity that the board incurs in carrying out the audit, examination, or other engagement.

**EH 1108—LS 6767/DI 129**



Reprinted  
February 28, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1108

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A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 2-5-1.1-6.3, AS ADDED BY P.L.104-2014,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 6.3. (a) The following definitions apply  
4 throughout this section:  
5 (1) "Audit committee" refers to the audit and financial reporting  
6 subcommittee of the legislative council established by subsection  
7 (b).  
8 (2) "Audited entity" refers to the state, a municipality, a public  
9 hospital, or another person or entity that is subject to an  
10 examination by the state board of accounts under IC 5-11-1 or  
11 another law. However, the term applies to an entity (as defined in  
12 IC 5-11-1-16(e)) to the extent that the entity is required to be  
13 examined under IC 5-11-1-9 or another law.  
14 (3) "Examination" refers to an audit, examination, or other  
15 engagement by the state board of accounts, its field examiners, or  
16 private examiners under IC 5-11-1 or another law.  
17 (b) The audit and financial reporting subcommittee of the legislative

**EH 1108—LS 6767/DI 129**



1 council is established to assure the independence of the state board of  
2 accounts. The subcommittee is comprised of five (5) voting members  
3 and one (1) advisory member, who shall be the director of the office of  
4 management and budget, or the director's designee. The chairman of  
5 the legislative council, with the advice of the vice chairman of the  
6 legislative council, shall appoint the voting members of the audit  
7 committee and its chairperson. The audit committee may have  
8 members who are not members of the legislative council. If the  
9 individual appointed is not a member of the general assembly, the term  
10 of the member is three (3) years. If the individual appointed is a  
11 member of the general assembly, the term of the member is one (1)  
12 year. However, to stagger the terms of the members, if the individual  
13 appointed is not a member of the general assembly, the initial term of  
14 two (2) of these members is two (2) years instead of three (3) years. All  
15 members of the audit committee must possess or obtain a basic  
16 understanding of governmental financial reporting and auditing. To  
17 ensure the audit committee's independence and effectiveness, a  
18 member of the audit committee may not exercise managerial  
19 responsibilities that fall within the scope of an examination required by  
20 IC 5-11-1.

21 (c) It is the responsibility of the audit committee to provide  
22 independent review and oversight of the state board of accounts and the  
23 examination process used by the state board of accounts. To carry out  
24 this responsibility, the audit committee shall do at least the following:

25 (1) Review and monitor the independence and objectivity of the  
26 state board of accounts and the effectiveness of the examination  
27 process, taking into consideration relevant professional and  
28 regulatory requirements.

29 (2) Evaluate the findings and recommendations of any peer  
30 review of the state board of accounts that is required by  
31 recognized government auditing standards.

32 (3) Receive and review reports of examinations submitted under  
33 IC 5-11-5-1 or another law to monitor the integrity of the financial  
34 reporting process and the effectiveness of the state board of  
35 accounts in evaluating the internal accounting controls of audited  
36 entities.

37 (4) Monitor the actions of the examined entities to follow up on  
38 reported findings to assure corrective action is taken.

39 (5) Review the policy on the engagement of the state board of  
40 accounts, its field examiners, and private examiners to supply  
41 nonaudit services, taking into account relevant ethical guidance  
42 regarding the provision of nonaudit services by the state board of



- 1 accounts.
- 2 (6) Provide guidance to the state board of accounts on any
- 3 accounting, examination, or financial reporting matter requested
- 4 by the state board of accounts.
- 5 (7) At least annually, report to the legislative council on how the
- 6 audit committee has discharged its duties and met its
- 7 responsibilities.
- 8 (d) An examined entity shall provide the audit committee with
- 9 information, including any reports of internal auditors and annual
- 10 internal audit work plans, that the audit committee requests as
- 11 necessary or appropriate to carry out the responsibilities of the audit
- 12 committee.
- 13 (e) IC 2-5-1.2 applies to the committee. In addition, the audit
- 14 committee may retain the services of at least one (1) financial expert
- 15 who is either an audit committee member or an outside party engaged
- 16 by the audit committee for this purpose. The financial expert must,
- 17 through both education and experience and in a manner specifically
- 18 relevant to the government sector, possess:
- 19 (1) an understanding of generally accepted accounting principles
- 20 and financial statements;
- 21 (2) experience in preparing or auditing financial statements of
- 22 comparable entities;
- 23 (3) experience in applying such principles in connection with the
- 24 accounting for estimates, accruals, and reserves;
- 25 (4) experience with internal accounting controls; and
- 26 (5) an understanding of audit committee functions.
- 27 The expenses of the audit committee shall be paid from appropriations
- 28 for the legislative council and the legislative services agency.
- 29 **(f) The audit committee shall receive appeals and conduct**
- 30 **hearings as described in IC 5-11-1-9.3.**
- 31 SECTION 2. IC 5-11-1-2, AS AMENDED BY P.L.176-2009,
- 32 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2020]: Sec. 2. The state board of accounts shall formulate,
- 34 prescribe, and install a system of accounting and reporting in
- 35 conformity with this chapter **for use by an audited entity**, which must
- 36 comply with the following:
- 37 (1) Be uniform for every public office and every public account
- 38 of the same class and contain written standards that an entity that
- 39 is subject to audit must observe.
- 40 (2) Exhibit true accounts and detailed statements of funds
- 41 collected, received, obligated, and expended for or on account of
- 42 the public for any and every purpose whatever, and by all public



1 officers, employees, or other individuals.

2 (3) Show the receipt, use, and disposition of all public property  
3 and the income, if any, derived from the property.

4 (4) Show all sources of public income and the amounts due and  
5 received from each source.

6 (5) Show all receipts, vouchers, contracts, obligations, and other  
7 documents kept, or that may be required to be kept, to prove the  
8 validity of every transaction.

9 The state board of accounts shall formulate or approve all statements  
10 and reports necessary for the internal administration of the office to  
11 which the statements and reports pertain. The state board of accounts  
12 shall approve all reports that are published or that are required to be  
13 filed in the office of state examiner. The state board of accounts shall  
14 from time to time make and enforce changes in the system and forms  
15 of accounting and reporting as necessary to conform to law.

16 SECTION 3. IC 5-11-1-4, AS AMENDED BY P.L.244-2017,  
17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2020]: Sec. 4. (a) The state examiner shall require from every  
19 ~~municipality and every state or local governmental unit, entity, or~~  
20 ~~instrumentality~~ **audited entity** financial reports covering the full period  
21 of each fiscal year. These reports shall be prepared, verified, and filed  
22 with the state examiner not later than sixty (60) days after the close of  
23 each fiscal year. The reports must be in the form and content prescribed  
24 by the state examiner and filed electronically in the manner prescribed  
25 under IC 5-14-3.8-7.

26 (b) The department of local government finance may not approve  
27 the budget of a political subdivision or a supplemental appropriation  
28 for a political subdivision until the political subdivision files an annual  
29 report under subsection (a) for the preceding calendar year.

30 (c) As used in this subsection, "bonds" means any bonds, notes, or  
31 other evidences of indebtedness, whether payable from property taxes,  
32 other taxes, revenues, fees, or any other source. However, the term does  
33 not include notes, warrants, or other evidences of indebtedness that  
34 have a maturity of not more than five (5) years and that are made in  
35 anticipation of and to be paid from revenues of the political  
36 subdivision. Notwithstanding any other law, a county or municipality  
37 may not issue any bonds unless the county or municipality has filed an  
38 annual financial report with the state examiner for the preceding fiscal  
39 year. The requirements under this subsection for the issuance of bonds  
40 by a county or municipality are in addition to any other requirements  
41 imposed under any other law. This subsection applies to the issuance  
42 of bonds authorized under any statute, regardless of whether that



1 statute specifically references this subsection or the requirements under  
2 this subsection.

3 SECTION 4. IC 5-11-1-9, AS AMENDED BY P.L.209-2019,  
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2020]: Sec. 9. (a) The state examiner, personally or through  
6 the deputy examiners, field examiners, or private examiners, shall  
7 examine all accounts and all financial affairs of every ~~public office and~~  
8 ~~officer, state office, state institution, and entity.~~ **audited entity.**  
9 However, an examination of an entity under this subsection shall be  
10 limited to matters relevant to the use of the public money received by  
11 the entity.

12 (b) An examination of an entity that is organized as a not-for-profit  
13 corporation deriving:

14 (1) less than fifty percent (50%); or

15 (2) subject to subsection (i), at least fifty percent (50%) but less  
16 than seven hundred fifty thousand dollars (\$750,000);

17 of its disbursements during the period subject to an examination from  
18 appropriations, public funds, taxes, and other sources of public expense  
19 shall be limited to matters relevant to the use of the public money  
20 received by the entity.

21 (c) The examination of an entity described in subsection (b) may be  
22 waived by the state examiner if the state examiner determines that:

23 (1) in consideration of the applicable risk based examination  
24 criteria described in and approved under section 25 of this  
25 chapter; and

26 (2) based on submitted information;

27 there are no compelling reasons to conclude that disbursements of  
28 public money during the period subject to examination were  
29 inconsistent with the purposes for which the money was received.  
30 However, the state examiner may revoke a waiver granted under this  
31 subsection if the state examiner determines that revocation of the  
32 waiver is necessary in accordance with the risk based examination  
33 criteria set forth in section 25 of this chapter. The state examiner shall  
34 communicate the determination to grant or revoke a waiver under this  
35 subsection to the entity in writing.

36 (d) Notwithstanding any other law, the:

37 (1) Indiana economic development corporation created by  
38 IC 5-28-3 and the corporation's funds, accounts, and financial  
39 affairs shall be examined by the state board of accounts unless the  
40 examination is waived under subsection (j); and

41 (2) department of financial institutions established by  
42 IC 28-11-1-1 and the department's funds, accounts, and financial



1           affairs shall be examined by the state board of accounts.

2           (e) On every examination under this section, inquiry shall be made  
3 as to the following:

4           (1) The financial condition and resources of each ~~municipality,~~  
5 ~~office, institution, or entity.~~ **audited entity.**

6           (2) Whether the laws of the state and the uniform compliance  
7 guidelines of the state board of accounts established under section  
8 24 of this chapter have been complied with.

9           (3) The methods and accuracy of the accounts and reports of the  
10 person examined.

11 The examinations may be made without notice.

12           (f) If during an examination of a state office **or a body corporate**  
13 **and politic** under this chapter the examiner encounters an inefficiency  
14 in the operation of the state office **or the body corporate and politic,**  
15 the examiner may comment on the inefficiency in the examiner's report.

16           (g) The state examiner, deputy examiners, any field examiner, or  
17 any private examiner, when engaged in making any examination or  
18 when engaged in any official duty devolved upon them by the state  
19 examiner, is entitled to do the following:

20           (1) Enter into any state, county, city, township, or other public  
21 office in this state, or any entity, agency, or instrumentality, and  
22 examine any books, papers, documents, or electronically stored  
23 information for the purpose of making an examination.

24           (2) Have access, in the presence of the custodian or the  
25 custodian's deputy, to the cash drawers and cash in the custody of  
26 the officer.

27           (3) During business hours, examine the public accounts in any  
28 depository that has public funds in its custody pursuant to the  
29 laws of this state.

30           (h) The state examiner, deputy examiner, or any field examiner,  
31 when engaged in making any examination authorized by law, may issue  
32 subpoenas for witnesses to appear before the examiner in person or to  
33 produce books, papers, or other records (including records stored in  
34 electronic data processing systems) for inspection and examination.

35 **The state examiner, deputy examiner, or any field examiner may**  
36 **issue a subpoena to enforce the filing of the annual financial report.**

37 The state examiner, deputy examiner, and any field examiner may  
38 administer oaths and examine witnesses under oath orally or by  
39 interrogatories concerning the matters under investigation and  
40 examination. Under the authority of the state examiner, the oral  
41 examinations may be transcribed with the reasonable expense paid by  
42 the examined person in the same manner as the compensation of the





1 field examiner is paid. The subpoenas shall be served by any person  
 2 authorized to serve civil process from any court in this state. If a  
 3 witness **or officer** duly subpoenaed refuses to attend, refuses to  
 4 produce information required in the subpoena, or attends and refuses  
 5 to be sworn or affirmed, or to testify when called upon to do so, the  
 6 examiner may apply to the circuit court having jurisdiction of the  
 7 witness **or officer** for the enforcement of attendance and answers to  
 8 questions as provided by the law governing the taking of depositions  
 9 **or to enforce the filing of any report referred to in this subsection.**

10 (i) The definitions in IC 20-24-1 apply throughout this subsection.  
 11 Appropriations, public funds, taxes, and other sources of public money  
 12 received by a nonprofit corporation as a charter school or organizer of  
 13 a charter school for the purposes of a charter school may not be  
 14 counted for the purpose of applying subsection (b)(2). Unless the  
 15 nonprofit corporation receives other public money that would qualify  
 16 the nonprofit corporation for a full examination of all accounts and  
 17 financial affairs of the entity under subsection (b)(2), an examination  
 18 of a charter school or organizer of a charter school must be limited to  
 19 matters relevant to the use of the public money received for the charter  
 20 school. This subsection does not prohibit the state examiner, personally  
 21 or through the deputy examiners, field examiners, or private examiners,  
 22 from examining the accounts in which appropriations, public funds,  
 23 taxes, or other sources of public money are applied that are received by  
 24 a nonprofit corporation as a charter school or organizer of a charter  
 25 school relating to the operation of the charter school.

26 (j) The state examiner may waive the examination of the Indiana  
 27 economic development corporation and a nonprofit subsidiary  
 28 corporation established under IC 5-28-5-13 if:

29 (1) an independent certified public accounting firm conducts an  
 30 examination under IC 5-28-3-2(c) of:

31 (A) the Indiana economic development corporation and the  
 32 Indiana economic development corporation's funds, accounts,  
 33 and financial affairs; and

34 (B) the nonprofit subsidiary corporation;  
 35 for the year;

36 (2) the Indiana economic development corporation submits the  
 37 examination report to the state board of accounts; and

38 (3) the state board of accounts reviews the examination report and  
 39 determines that the examination and examination report comply  
 40 with the uniform compliance guidelines, directives, and standards  
 41 established by the state board of accounts.

42 (k) Notwithstanding the waiver of an examination of the Indiana



1 economic development corporation and its nonprofit subsidiary  
 2 corporation by the state examiner, the state board of accounts may  
 3 examine the Indiana economic development corporation and its  
 4 nonprofit subsidiary corporation at any time.

5 SECTION 5. IC 5-11-1-9.3 IS ADDED TO THE INDIANA CODE  
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 7 1, 2020]: **Sec. 9.3. (a) This section applies only to a body corporate  
 8 and politic whose enabling statute does not provide for an annual  
 9 audit, examination, or other engagement by:**

10 (1) the state board of accounts; or

11 (2) an independent public accounting firm;  
 12 concerning financial or compliance related matters of the body  
 13 corporate and politic.

14 (b) This section does not affect a body corporate and politic  
 15 whose enabling statute provides for an annual audit, examination,  
 16 or other engagement by the state board of accounts or an  
 17 independent public accounting firm.

18 (c) As used in this section, "audit committee" refers to the audit  
 19 and financial reporting subcommittee of the legislative council  
 20 established by IC 2-5-1.1-6.3(b).

21 (d) As used in this section, "enabling statute" refers to a statute,  
 22 including a statute enacted after June 30, 2020, that establishes a  
 23 body corporate and politic.

24 (e) The state board of accounts may conduct an examination of  
 25 a body corporate and politic described in this section. The state  
 26 board of accounts shall permit a body corporate and politic to  
 27 request in writing to the state examiner that an examination under  
 28 this section be performed by an independent public accounting  
 29 firm. The state examiner may approve a request under this section  
 30 based on the applicable risk based examination criteria described  
 31 in and approved under section 25 of this chapter.

32 (f) If a request under subsection (e) for an independent public  
 33 accounting firm to conduct an examination is denied by the state  
 34 examiner, the body corporate and politic may file an appeal of the  
 35 denial with the audit committee. The audit committee shall hold a  
 36 public hearing concerning the appeal and prepare a written  
 37 decision determining whether the independent public accounting  
 38 firm selected by the body corporate and politic is permitted to  
 39 conduct the examination under this section. The audit committee's  
 40 written decision is binding, and the state board of accounts shall  
 41 allow the independent public accounting firm to conduct the  
 42 examination if the audit committee determines the independent



1 public accounting firm is permitted. The audit committee shall  
 2 provide a copy of the written decision to the state board of  
 3 accounts and to the body corporate and politic. The audit  
 4 committee shall post a copy of the written decision on the audit  
 5 committee's Internet web site.

6 (g) An examination of a body corporate and politic conducted  
 7 under this section by the state board of accounts or an independent  
 8 public accounting firm shall be filed with:

9 (1) the state board of accounts in the manner provided by this  
 10 article; and

11 (2) the auditor of state.

12 SECTION 6. IC 5-11-1-10 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. (a) A public officer  
 14 or responsible officer of an audited entity who:

15 (1) fails to make, verify, and file with the state examiner any  
 16 report required by this chapter;

17 (2) fails to follow the directions of the state examiner in keeping  
 18 the accounts of the officer's office;

19 (3) refuses the state examiner, deputy examiner, field examiner,  
 20 or private examiner access to the books, accounts, papers,  
 21 documents, cash drawer, or cash of the officer's office; or

22 (4) interferes with an examiner in the discharge of the examiner's  
 23 official duties;

24 commits a Class B infraction. ~~and forfeits office.~~ The court may also  
 25 order the officer described in this subsection to forfeit the officer's  
 26 office.

27 (b) As an alternative to an order to forfeit office under  
 28 subsection (a), a court in which an action described in subsection  
 29 (a) is filed may impose a civil penalty that does not exceed five  
 30 hundred dollars (\$500) for each day, beginning on the day that the  
 31 court imposes the civil penalty and each day thereafter, that the  
 32 public officer or responsible officer continues to violate an  
 33 obligation described in subsection (a). The individual is personally  
 34 liable for a civil penalty imposed on the individual under this  
 35 section.

36 (c) The state board of accounts may collect the expenses  
 37 incurred in carrying out the audit, examination, or engagement  
 38 from the audited entity of the officer described in this section.

39 SECTION 7. IC 5-11-1-15 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 15. (a) The state  
 41 examiner, deputy examiners, and field examiners shall each give bond  
 42 for the faithful performance of the examiner's duties as follows:



- 1 (1) The state examiner in the sum of five thousand dollars  
 2 (\$5,000); to be approved by the governor.  
 3 (2) Each deputy examiner in the sum of three thousand dollars  
 4 (\$3,000); to be approved by the governor.  
 5 (3) Each field examiner in the sum of one thousand dollars  
 6 (\$1,000); to be approved by the state examiner. **in an amount**  
 7 **determined by the audit committee and based on applicable**  
 8 **risk considerations.** However, field examiners may be covered  
 9 by a blanket bond or crime insurance policy endorsed to include  
 10 faithful performance under IC 5-4-1-15.1 subject to approval of  
 11 the **audit committee and** state examiner.
- 12 (b) The commissioner of insurance shall prescribe the form of the  
 13 bonds or crime policies required by this section.
- 14 SECTION 8. IC 5-11-1-16, AS AMENDED BY P.L.257-2019,  
 15 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2020]: Sec. 16. (a) As used in this article, "municipality"  
 17 means any county, township, city, town, school corporation, special  
 18 taxing district, or other political subdivision of Indiana.
- 19 (b) As used in this article, "state" means any board, commission,  
 20 department, division, bureau, committee, agency, governmental  
 21 subdivision, military body, authority, or other instrumentality of the  
 22 state, but does not include a municipality.
- 23 (c) As used in this article, "public office" means the office of any  
 24 and every individual who for or on behalf of the state or any  
 25 municipality or any public hospital holds, receives, disburses, or keeps  
 26 the accounts of the receipts and disbursements of any public funds.
- 27 (d) As used in this article, "public officer" means any individual  
 28 who holds, receives, disburses, or is required by law to keep any  
 29 account of public funds or other funds for which the individual is  
 30 accountable by virtue of the individual's public office.
- 31 (e) As used in this article, "entity" means any provider of goods,  
 32 services, or other benefits that is:  
 33 (1) maintained in whole or in part at public expense; or  
 34 (2) supported in whole or in part by appropriations or public funds  
 35 or by taxation.
- 36 The term does not include the state or a municipality (as defined in this  
 37 section).
- 38 (f) As used in this article, a "public hospital" means either of the  
 39 following:  
 40 (1) An institution licensed under IC 16-21 and which is owned by  
 41 the state or an agency of the state or one which is a municipal  
 42 corporation. A hospital is a municipal corporation if its governing



1 board members are appointed by elected officials of a  
2 municipality.

3 (2) A state institution (as defined in IC 12-7-2-184).

4 (g) As used in this article, "audit committee" refers to the audit and  
5 financial reporting subcommittee of the legislative council established  
6 by IC 2-5-1.1-6.3.

7 (h) As used in this article, "audited entity" has the meaning set forth  
8 in IC 2-5-1.1-6.3.

9 (i) As used in this article, "development authority" has the meaning  
10 set forth in the following:

11 (1) IC 36-7.5-1-8.

12 (2) IC 36-7.6-1-8.

13 **(j) As used in this article, "responsible officer of an audited**  
14 **entity" refers to the chief executive officer or another individual**  
15 **who has executive decision making authority for the audited entity**  
16 **with respect to a compliance obligation prescribed by or**  
17 **established under this article or another law.**

18 SECTION 9. IC 5-11-1-18, AS AMENDED BY P.L.181-2015,  
19 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2020]: Sec. 18. All examinations under this chapter may be  
21 made without notice to the **audited entities** or officers whose accounts  
22 are to be examined, and without notice to any clerk, deputy, employee,  
23 or other person employed in or connected with the office or the  
24 business of such an **audited entity** or officer. A person who recklessly  
25 communicates knowledge of any proposed examination of any public  
26 account:

27 (1) that the board has determined to make without notice under  
28 this section; and

29 (2) to the officer in charge of the account or to any other  
30 unauthorized person;

31 commits a Class B misdemeanor.

32 SECTION 10. IC 5-11-1-21 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 21. **(a)** All public  
34 officers **and responsible officers of audited entities** shall adopt and  
35 use the books, forms, records, and systems of accounting and reporting  
36 adopted by the state board of accounts, when directed so to do by the  
37 board, and all forms, books, and records shall be purchased by those  
38 officers in the manner provided by law. An officer **described in this**  
39 **subsection** who refuses to provide such books, forms, or records, fails  
40 to use them, or fails to keep the accounts of ~~his~~ **the officer's** office as  
41 directed by the board commits a Class C infraction. ~~and forfeits his~~  
42 ~~office.~~ **The court may also order the officer to forfeit the officer's**



1 office.

2 (b) As an alternative to an order to forfeit office under  
3 subsection (a), a court in which an action described in subsection  
4 (a) is filed may impose a civil penalty that does not exceed five  
5 hundred dollars (\$500) for each day, beginning on the day that the  
6 court imposes the civil penalty and each day thereafter, that the  
7 public officer or responsible officer continues to violate an  
8 obligation described in subsection (a). The individual is personally  
9 liable for a civil penalty imposed on the individual under this  
10 section.

11 (c) The state board of accounts may collect the expenses  
12 incurred in carrying out the audit, examination, or engagement  
13 from the audited entity of the officer described in this section.

14 SECTION 11. IC 5-11-1-22 IS REPEALED [EFFECTIVE JULY 1,  
15 2020]. Sec. 22. The provisions of this chapter shall not be construed to  
16 relieve any officer of any duties required by law of him on April 5,  
17 1909; with relation to the auditing of public accounts or the  
18 disbursement of public funds; but the provisions of this chapter shall  
19 be construed to be supplemental to all provisions of law existing on  
20 April 5, 1909; safeguarding the care and disbursement of public funds;  
21 and provided further, that the provisions of this chapter shall not be  
22 construed to limit or curtail the power of the governor of the state under  
23 laws existing on April 5, 1909; to make examination or investigation  
24 of any public office or to require reports therefrom.

25 SECTION 12. IC 5-11-1-25, AS AMENDED BY P.L.257-2019,  
26 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2020]: Sec. 25. (a) This section and section 24.4 of this  
28 chapter do not limit the application of any law that requires a  
29 municipality, a public hospital, another public office or public officer,  
30 an entity, or another person or organization to be audited or otherwise  
31 examined on an annual or other basis by:

- 32 (1) a certified public accountant; or  
33 (2) a person other than the state examiner or the state board of  
34 accounts.

35 (b) Subject to section 9 of this chapter and subsections (c) and (d),  
36 the state board of accounts shall conduct examinations of audited  
37 entities at the times determined by the state board of accounts, but not  
38 less than once every four (4) years, using risk based examination  
39 criteria that are established by the state board of accounts and approved  
40 by the audit committee. The risk based examination criteria must  
41 include the following risk factors:

- 42 (1) An audited entity has a newly elected or appointed fiscal



- 1 officer.
- 2 (2) An audited entity:
- 3 (A) has not timely filed; or
- 4 (B) has filed a materially incorrect or incomplete;
- 5 annual financial report required by section 4 of this chapter.
- 6 **(3) A ratings agency that rates debt maintained by an audited**
- 7 **entity has determined an examination of the audited entity is**
- 8 **required more frequently than once every four (4) years.**
- 9 ~~(3)~~ **(4)** Any other factor determined by the state examiner and
- 10 approved by the audit committee.
- 11 (c) Examinations must be conducted annually for the following:
- 12 (1) The state.
- 13 (2) An audited entity (other than a school corporation) that
- 14 requires an annual audit:
- 15 (A) because of the receipt of federal financial assistance in an
- 16 amount that subjects the audited entity to an annual federal
- 17 audit;
- 18 (B) due to continuing disclosure requirements; or
- 19 (C) as a condition of a public bond issuance.
- 20 (3) A development authority.
- 21 An audited entity shall, under the guidelines established by the state
- 22 board of accounts, provide notice to the state examiner not later than
- 23 sixty (60) days after the close of the audited entity's fiscal year that the
- 24 audited entity is required to have an annual audit under subdivision (2).
- 25 (d) As permitted under this section since September 1, 1986 (the
- 26 effective date of P.L.3-1986, SECTION 16), examinations of school
- 27 corporations shall be conducted biennially.
- 28 SECTION 13. IC 5-11-5-1, AS AMENDED BY P.L.209-2019,
- 29 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2020]: Sec. 1. (a) Whenever an examination is made under
- 31 this article, a report of the examination shall be made. The report must
- 32 include a list of findings and shall be signed and verified by the
- 33 examiner making the examination. A finding that is critical of an
- 34 examined entity must be based upon one (1) of the following:
- 35 (1) Failure of the entity to observe a uniform compliance
- 36 guideline established under IC 5-11-1-24(a).
- 37 (2) Failure of the entity to comply with a specific law.
- 38 A report that includes a finding that is critical of an examined entity
- 39 must designate the uniform compliance guideline or the specific law
- 40 upon which the finding is based. **The state board of accounts may**
- 41 **also issue management letters, based on professional auditing**
- 42 **standards, to an audited entity (as defined in section 1.5(a) of this**



1 **chapter) in a situation involving noncompliance that does not result**  
 2 **in the establishment of a corrective action plan but that must be**  
 3 **brought to the attention of the audited entity's governing body.** The  
 4 reports shall immediately be filed with the state examiner, and, after  
 5 inspection of the report, the state examiner shall immediately file one  
 6 (1) copy with the officer or person examined, one (1) copy with the  
 7 auditing department of the municipality examined and reported upon  
 8 (if the subject of the report is a municipality), and one (1) copy in an  
 9 electronic format under IC 5-14-6 with the legislative services agency,  
 10 as staff to the audit committee and the general assembly. Upon filing,  
 11 the report becomes a part of the public records of the office of the state  
 12 examiner, of the office or the person examined, of the auditing  
 13 department of the municipality examined and reported upon, and of the  
 14 legislative services agency, as staff to the audit committee and the  
 15 general assembly. A report is open to public inspection at all  
 16 reasonable times after it is filed. If an examination discloses  
 17 malfeasance, misfeasance, or nonfeasance in office or of any officer or  
 18 employee, a copy of the report, signed and verified, shall be placed by  
 19 the state examiner with the attorney general and the inspector general.  
 20 The attorney general shall diligently institute and prosecute civil  
 21 proceedings against the delinquent officer **or employee**, or upon the  
 22 officer's **or employee's** official bond, or both, and against any other  
 23 proper person that will secure to the state or to the proper municipality  
 24 the recovery of any funds misappropriated, diverted, or unaccounted  
 25 for.

26 (b) Before an examination report is signed, verified, and filed as  
 27 required by subsection (a), the officer or the chief executive officer of  
 28 the state office, municipality, or entity examined must have an  
 29 opportunity to review the report and to file with the state examiner a  
 30 written response to that report. If a written response is filed, it becomes  
 31 a part of the examination report that is signed, verified, and filed as  
 32 required by subsection (a). As part of the review of the examination  
 33 report, the state examiner shall hold a gathering of the officer or chief  
 34 executive officer of the state office, municipality, or entity examined,  
 35 any employees or agents of the state office, municipality, or entity  
 36 examined who are requested to attend by the officer or chief executive  
 37 officer of the state office, municipality, or entity examined, and the  
 38 members of the legislative and fiscal bodies of the municipality or  
 39 entity examined. Such a gathering is referred to as an "exit conference"  
 40 for purposes of this subsection. The following apply to an exit  
 41 conference:

42 (1) All information discussed and materials presented or delivered





- 1 by any person during an exit conference are confidential and may  
 2 not be discussed or shared publicly until the earliest of the  
 3 occurrences set forth in subsection (g). However, the information  
 4 discussed and materials presented or delivered during an exit  
 5 conference may be shared with an officer, employee, consultant,  
 6 adviser, or attorney of the officer or chief executive officer of the  
 7 state office, municipality, or entity examined who was not present  
 8 at the exit conference. An individual with whom information and  
 9 materials are shared must maintain the confidentiality of the  
 10 information and materials as provided in this subdivision until the  
 11 earliest of the occurrences set forth in subsection (g).
- 12 (2) An individual attending an exit conference may not  
 13 electronically record the exit conference.
- 14 (3) If a majority of a governing body (as defined in  
 15 IC 5-14-1.5-2(b)) is present during an exit conference, the  
 16 governing body shall be considered in an executive session under  
 17 IC 5-14-1.5. However, the governing body has no obligation to  
 18 give notice as prescribed by IC 5-14-1.5-5 when it participates in  
 19 the exit conference.
- 20 (4) If the state examiner determines after the exit conference that  
 21 additional actions must be undertaken by a deputy examiner, field  
 22 examiner, or private examiner with respect to information  
 23 discussed or materials presented at the exit conference, the state  
 24 examiner may call for an additional exit conference to be held.
- 25 (5) Not more than thirty (30) days after the initial exit conference  
 26 is held under this subsection, the legislative body of the  
 27 municipality or entity examined and reported upon may adopt a  
 28 resolution, approved by at least a two-thirds (2/3) vote of the  
 29 legislative body, requesting that an additional exit conference be  
 30 held. The legislative body shall notify the state board of accounts  
 31 if the legislative body adopts a resolution under this subdivision.  
 32 If a legislative body adopts a resolution under this subdivision, the  
 33 state board of accounts shall conduct an additional exit  
 34 conference not more than sixty (60) days after the state board of  
 35 accounts receives notice of the adoption of the resolution. The  
 36 municipality or entity examined must pay the travel and staff  
 37 costs incurred by the state board of accounts in conducting an  
 38 additional exit conference under this subdivision.
- 39 (6) Except as provided in subdivision (7), a final report under  
 40 subsection (a) may not be issued earlier than forty-five (45) days  
 41 after the initial exit conference is held under this subsection.
- 42 (7) If:



- 1 (A) the state examiner does not call for an additional exit  
 2 conference to be held as described in subdivision (4); and  
 3 (B) the:
- 4 (i) legislative body of the municipality or entity examined  
 5 and reported upon provides written notice to the state  
 6 examiner that the legislative body waives an additional exit  
 7 conference described in subdivision (5); or  
 8 (ii) state examiner determines that a final report under  
 9 subsection (a) must be issued as soon as possible;  
 10 the final report may be issued earlier than forty-five (45) days  
 11 after the initial exit conference is held under this subsection.
- 12 (c) Except as provided by subsections (b), (d), and (e), it is unlawful  
 13 for any person, before an examination report is made public as  
 14 provided by this section, to make any disclosure of the result of any  
 15 examination of any public account, except:
- 16 (1) to the state examiner;  
 17 (2) if directed to give publicity to the examination report by the  
 18 state examiner or by any court;  
 19 (3) to another deputy examiner, field examiner, or private  
 20 examiner engaged in conducting the examination; or  
 21 (4) if directed by the state examiner, to the chair of the audit  
 22 committee or the members of the audit committee acting in  
 23 executive session, or both.
- 24 If an examination report shows or discloses the commission of a crime  
 25 by any person, it is the duty of the state examiner to transmit and  
 26 present the examination report to the prosecuting attorney of the county  
 27 in which the crime was committed. The state examiner shall furnish to  
 28 the prosecuting attorney all evidence at the state examiner's command  
 29 necessary in the investigation and prosecution of the crime.
- 30 (d) If, during an examination under this article, a deputy examiner,  
 31 field examiner, or private examiner acting as an agent of the state  
 32 examiner determines that the following conditions are satisfied, the  
 33 examiner shall report the determination to the state examiner:
- 34 (1) A substantial amount of public funds has been  
 35 misappropriated or diverted.  
 36 (2) The deputy examiner, field examiner, or private examiner  
 37 acting as an agent of the state examiner has a reasonable belief  
 38 that the malfeasance or misfeasance that resulted in the  
 39 misappropriation or diversion of the public funds was committed  
 40 by the officer or an employee of the office **or entity**.
- 41 (e) After receiving a preliminary report under subsection (d), the  
 42 state examiner may provide a copy of the report to the attorney general.



1 The attorney general may institute and prosecute civil proceedings  
 2 against the delinquent officer or employee, or upon the officer's or  
 3 employee's official bond, or both, and against any other proper person  
 4 that will secure to the state or to the proper municipality the recovery  
 5 of any funds misappropriated, diverted, or unaccounted for.

6 (f) In an action under subsection (e), the attorney general may attach  
 7 the defendant's property under IC 34-25-2.

8 (g) Except as permitted in this section, the information and materials  
 9 that are part of an exit conference under subsection (b), ~~and~~ the results  
 10 of an examination, including a preliminary report under subsection (d),  
 11 **and management letters** are confidential until the occurrence of the  
 12 earliest of the following:

13 (1) The final report is made public under subsection (a).

14 (2) The results of the examination are publicized under subsection  
 15 (c)(2).

16 (3) The attorney general institutes an action under subsection (e)  
 17 on the basis of the preliminary report.

18 (h) Except as permitted in this section, an individual, a public  
 19 agency (as defined in IC 5-14-3-2), a public employee, a public official,  
 20 or an employee or officer of a contractor or subcontractor of a public  
 21 agency that knowingly or intentionally discloses information in  
 22 violation of subsection (b) or (g), regardless of whether the information  
 23 is received orally or by any other means, is subject to the following:

24 (1) A public agency (as defined in IC 5-14-3-2), a public  
 25 employee, a public official, or an employee or officer of a  
 26 contractor or subcontractor of a public agency commits a Class A  
 27 infraction under IC 5-14-3-10.

28 (2) If the disclosure is by a person who is not described in  
 29 subdivision (1), the person commits a Class A infraction.

30 (i) Unless in accordance with a judicial order or as otherwise  
 31 provided in this section, the state board of accounts or its employees,  
 32 former employees, counsel, or agents, or any other person may not  
 33 divulge the examination workpapers and investigation records of a  
 34 deputy examiner, a field examiner, or a private examiner acting as an  
 35 agent of the state examiner, except to:

36 (1) employees and members of the state board of accounts;

37 (2) the audit committee;

38 (3) law enforcement officers, the attorney general, a prosecuting  
 39 attorney, or any other legal representative of the state in any  
 40 action with respect to the misappropriation or diversion of public  
 41 funds;

42 (4) an authorized representative of the United States;



1 (5) a successor examiner or auditor, in accordance with applicable  
2 professional auditing standards; or

3 (6) another individual for any other factor that constitutes good  
4 cause as set forth in criteria established by the state examiner and  
5 approved by the audit committee.

6 (j) An individual described in subsection (i)(3) or (i)(4) who  
7 receives examination workpapers and investigation records described  
8 in subsection (i) may divulge the workpapers and records in any action  
9 with respect to the misappropriation or diversion of public funds.

10 SECTION 14. IC 5-11-5-1.5, AS ADDED BY P.L.176-2017,  
11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2020]: Sec. 1.5. (a) As used in this section, "audited entity"  
13 includes only the following:

14 (1) A state agency (as defined in IC 4-13-1-1).

15 (2) A public hospital.

16 (3) A municipality.

17 (4) A body corporate and politic.

18 (5) A state educational institution.

19 (6) An entity to the extent that the entity is required to be  
20 examined under IC 5-11-1-9 or another law.

21 (b) If an examination report contains a finding that an audited entity  
22 failed to observe a uniform compliance guideline established under  
23 IC 5-11-1-24(a) or to comply with a specific law, the audited entity  
24 shall take action to address the audit finding.

25 (c) If a subsequent examination report of the audited entity contains  
26 a finding that is the same as or substantially similar to the finding  
27 contained in the previous examination report described in subsection  
28 (b), the public officer of the audited entity shall file a corrective action  
29 plan as a written response to the report under section 1(b) of this  
30 chapter.

31 (d) The state board of accounts shall create guidelines for use by an  
32 audited entity to establish a corrective action plan described in  
33 subsection (c). The guidelines must include a requirement that the issue  
34 that is the subject of a finding described in subsection (c) must be  
35 corrected not later than six (6) months after the date on which the  
36 corrective action plan is filed.

37 (e) After the successful completion of a corrective action plan by an  
38 audited entity that was required to file a corrective action plan under  
39 subsection (c), the audited entity shall notify the state board of  
40 accounts. The state board of accounts shall review each corrective  
41 action plan. If a corrective action plan is not implemented or the issue  
42 that is the subject of the finding is not corrected within six (6) months,



- 1 the state board of accounts shall prepare a memorandum summarizing:  
 2 (1) the examination report finding;  
 3 (2) the corrective action plan;  
 4 (3) the manner by which the examination report finding was or  
 5 was not addressed; and  
 6 (4) a recommended course of action.  
 7 (f) The state board of accounts shall present to the audit committee  
 8 established by IC 2-5-1.1-6.3 a memorandum described in subsection  
 9 (e). If the audit committee determines that further action should be  
 10 taken, the audit committee may do any of the following:  
 11 (1) Request a written statement from the public officer of the  
 12 audited entity.  
 13 (2) Request the personal attendance of the public officer of the  
 14 audited entity at the next audit committee meeting.  
 15 (3) Request that the public officer of the audited entity take  
 16 corrective action.  
 17 (4) Notify the:  
 18 (A) office of management and budget (in the case of an  
 19 audited entity that is a state agency, a body corporate and  
 20 politic, or a state educational institution); or  
 21 (B) officer or chief executive officer, legislative body, and  
 22 fiscal body of the audited entity and the department of local  
 23 government finance (in the case of any other audited entity);  
 24 that the audited entity refused to correct the audited entity's failure  
 25 to observe a uniform compliance guideline established under  
 26 IC 5-11-1-24(a), or refused to comply with a specific law, with  
 27 notice of the recommendation described in subsection (e)(4)  
 28 published on the general assembly's Internet web site.  
 29 (5) Refer the facts drawn from the examination and the actions  
 30 taken under this section for investigation and prosecution of a  
 31 violation of IC 5-11-1-10 or IC 5-11-1-21 to the:  
 32 (A) inspector general, in the case of an audited entity that is a  
 33 state agency, a body corporate and politic, or a state  
 34 educational institution; or  
 35 (B) prosecuting attorney of the county in which a violation of  
 36 IC 5-11-1-10 or IC 5-11-1-21 may have been committed, in the  
 37 case of any other audited entity;  
 38 with notice of the referral published on the general assembly's  
 39 Internet web site. Notice of a referral described in clause (B) must  
 40 be sent to the officer or chief executive officer, legislative body,  
 41 and fiscal body of the audited entity.  
 42 (6) Recommend that legislation be introduced in the general



1 assembly to amend any statute under which the audited entity is  
2 found to be noncompliant.

3 (7) Recommend that the state board of accounts examine the  
4 audited entity within the calendar year following the year in  
5 which the audited entity was required to file a corrective action  
6 plan under subsection (c).

7 **(g) When implementing this section, the state board of accounts**  
8 **may issue confidential management letters, based on professional**  
9 **auditing standards, to an audited entity in a situation involving**  
10 **noncompliance that does not result in the establishment of a**  
11 **corrective action plan but that must be brought to the attention of**  
12 **the audited entity's governing body.**

13 SECTION 15. IC 5-11-13-1, AS AMENDED BY P.L.137-2012,  
14 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2020]: Sec. 1. (a) Every state, county, city, town, township, or  
16 school official, elective or appointive, who is the head of or in charge  
17 of any office, department, board, or commission of the state or of any  
18 county, city, town, or township, and every state, county, city, town, or  
19 township employee or agent who is the head of, or in charge of, or the  
20 executive officer of any department, bureau, board, or commission of  
21 the state, county, city, town, or township, and every executive officer  
22 by whatever title designated, who is in charge of any state educational  
23 institution or of any other state, county, or city institution, **As used in**  
24 **this section, "audited entity" includes only the following:**

25 **(1) The state.**

26 **(2) A municipality.**

27 **(3) A state educational institution.**

28 **(b) Each audited entity** shall during the month of January of each  
29 year prepare, make, and sign a certified report, correctly and  
30 completely showing the names and business addresses of ~~each and all~~  
31 ~~the~~ officers, employees, and agents ~~in their respective offices,~~  
32 ~~departments, boards, commissions, and institutions, and of the audited~~  
33 ~~entity. The report shall indicate~~ the respective duties and  
34 compensation of each ~~and~~ **officer, employee, and agent of the**  
35 **audited entity. The audited entity** shall ~~forthwith file said the~~ report  
36 in the office of the state examiner of the state board of accounts. The  
37 report must also indicate whether the political subdivision offers a  
38 health plan, a pension, and other benefits to full-time and part-time  
39 employees. However, no more than one (1) report covering the same  
40 officers, employees, and agents need be made from the state or any  
41 county, city, town, township, or school unit in any one year. The  
42 certification must be filed electronically in the manner prescribed



1 under IC 5-14-3.8-7.  
2 ~~(b)~~ (c) The department of local government finance may not  
3 approve the budget of a county, city, town, or township or a  
4 supplemental appropriation for a county, city, town, or township until  
5 the county, city, town, or township files an annual report under  
6 subsection ~~(a)~~ (b) for the preceding calendar year.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1108, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, delete lines 1 through 8, begin a new paragraph and insert:

"SECTION 1. IC 5-11-1-9.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 9.3. (a) This section applies only to a body corporate and politic whose enabling statute does not provide for an annual audit, examination, or other engagement by:**

**(1) the state board of accounts; or**

**(2) an independent public accounting firm;**

**concerning financial or compliance related matters of the body corporate and politic.**

**(b) This section does not affect a body corporate and politic whose enabling statute provides for an annual audit, examination, or other engagement by the state board of accounts or an independent public accounting firm.**

**(c) As used in this section, "enabling statute" refers to a statute, including a statute enacted after June 30, 2020, that establishes a body corporate and politic.**

**(d) The state board of accounts may conduct an examination of a body corporate and politic described in this section. The state board of accounts shall permit a body corporate and politic to request in writing to the state examiner that an examination under this section be performed by an independent public accounting firm in accordance with sections 7 and 24 of this chapter. The state examiner may approve a request under this section based on the applicable risk based examination criteria described in and approved under section 25 of this chapter.**

**(e) An examination of a body corporate and politic conducted under this section by the state board of accounts or an independent public accounting firm shall be filed with:**

**(1) the state board of accounts in the manner provided by this article; and**

**(2) the auditor of state."**

Page 17, delete line 19.

Page 17, line 20, delete "(4)" and insert "(3)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

**EH 1108—LS 6767/DI 129**





(Reference is to HB 1108 as introduced.)

BROWN T

Committee Vote: yeas 20, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1108, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-5-1.1-6.3, AS ADDED BY P.L.104-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6.3. (a) The following definitions apply throughout this section:

- (1) "Audit committee" refers to the audit and financial reporting subcommittee of the legislative council established by subsection (b).
- (2) "Audited entity" refers to the state, a municipality, a public hospital, or another person or entity that is subject to an examination by the state board of accounts under IC 5-11-1 or another law. However, the term applies to an entity (as defined in IC 5-11-1-16(e)) to the extent that the entity is required to be examined under IC 5-11-1-9 or another law.
- (3) "Examination" refers to an audit, examination, or other engagement by the state board of accounts, its field examiners, or private examiners under IC 5-11-1 or another law.

(b) The audit and financial reporting subcommittee of the legislative council is established to assure the independence of the state board of accounts. The subcommittee is comprised of five (5) voting members and one (1) advisory member, who shall be the director of the office of management and budget, or the director's designee. The chairman of the legislative council, with the advice of the vice chairman of the legislative council, shall appoint the voting members of the audit committee and its chairperson. The audit committee may have members who are not members of the legislative council. If the individual appointed is not a member of the general assembly, the term

**EH 1108—LS 6767/DI 129**



of the member is three (3) years. If the individual appointed is a member of the general assembly, the term of the member is one (1) year. However, to stagger the terms of the members, if the individual appointed is not a member of the general assembly, the initial term of two (2) of these members is two (2) years instead of three (3) years. All members of the audit committee must possess or obtain a basic understanding of governmental financial reporting and auditing. To ensure the audit committee's independence and effectiveness, a member of the audit committee may not exercise managerial responsibilities that fall within the scope of an examination required by IC 5-11-1.

(c) It is the responsibility of the audit committee to provide independent review and oversight of the state board of accounts and the examination process used by the state board of accounts. To carry out this responsibility, the audit committee shall do at least the following:

- (1) Review and monitor the independence and objectivity of the state board of accounts and the effectiveness of the examination process, taking into consideration relevant professional and regulatory requirements.
- (2) Evaluate the findings and recommendations of any peer review of the state board of accounts that is required by recognized government auditing standards.
- (3) Receive and review reports of examinations submitted under IC 5-11-5-1 or another law to monitor the integrity of the financial reporting process and the effectiveness of the state board of accounts in evaluating the internal accounting controls of audited entities.
- (4) Monitor the actions of the examined entities to follow up on reported findings to assure corrective action is taken.
- (5) Review the policy on the engagement of the state board of accounts, its field examiners, and private examiners to supply nonaudit services, taking into account relevant ethical guidance regarding the provision of nonaudit services by the state board of accounts.
- (6) Provide guidance to the state board of accounts on any accounting, examination, or financial reporting matter requested by the state board of accounts.
- (7) At least annually, report to the legislative council on how the audit committee has discharged its duties and met its responsibilities.

(d) An examined entity shall provide the audit committee with information, including any reports of internal auditors and annual



internal audit work plans, that the audit committee requests as necessary or appropriate to carry out the responsibilities of the audit committee.

(e) IC 2-5-1.2 applies to the committee. In addition, the audit committee may retain the services of at least one (1) financial expert who is either an audit committee member or an outside party engaged by the audit committee for this purpose. The financial expert must, through both education and experience and in a manner specifically relevant to the government sector, possess:

- (1) an understanding of generally accepted accounting principles and financial statements;
- (2) experience in preparing or auditing financial statements of comparable entities;
- (3) experience in applying such principles in connection with the accounting for estimates, accruals, and reserves;
- (4) experience with internal accounting controls; and
- (5) an understanding of audit committee functions.

The expenses of the audit committee shall be paid from appropriations for the legislative council and the legislative services agency.

**(f) The audit committee shall receive appeals and conduct hearings as described in IC 5-11-1-9.3."**

Page 6, between lines 13 and 14, begin a new paragraph and insert:

**"(c) As used in this section, "audit committee" refers to the audit and financial reporting subcommittee of the legislative council established by IC 2-5-1.1-6.3(b)."**

Page 6, line 14, delete "(c)" and insert "(d)".

Page 6, line 17, delete "(d)" and insert "(e)".

Page 6, line 22, delete "firm in accordance with sections 7 and 24 of this chapter." and insert "**firm.**".

Page 6, between lines 25 and 26, begin a new paragraph and insert:

**"(f) If a request under subsection (e) for an independent public accounting firm to conduct an examination is denied by the state examiner, the body corporate and politic may file an appeal of the denial with the audit committee. The audit committee shall hold a public hearing concerning the appeal and prepare a written decision determining whether the independent public accounting firm selected by the body corporate and politic is permitted to conduct the examination under this section. The audit committee's written decision is binding, and the state board of accounts shall allow the independent public accounting firm to conduct the examination if the audit committee determines the independent public accounting firm is permitted. The audit committee shall**



**provide a copy of the written decision to the state board of accounts and to the body corporate and politic. The audit committee shall post a copy of the written decision on the audit committee's Internet web site."**

Page 6, line 26, delete "(e)" and insert "(g)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1108 as printed January 27, 2020.)

MISHLER, Chairperson

Committee Vote: Yeas 12, Nays 0.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1108 be amended to read as follows:

Page 6, line 36, delete "report," and insert "**report**."

Page 6, line 37, delete "personnel report, or entity report established by this article."

Page 9, line 31, after "each day" insert "**, beginning on the day that the court imposes the civil penalty and each day thereafter,**".

Page 12, line 4, after "each day" insert "**, beginning on the day that the court imposes the civil penalty and each day thereafter,**".

Page 13, line 38, delete "confidential".

Page 17, delete lines 5 through 13, begin a new paragraph and insert:

"(g) Except as permitted in this section, the information and materials that are part of an exit conference under subsection (b), ~~and~~ the results of an examination, including a preliminary report under subsection (d), **and management letters** are confidential until the occurrence of the earliest of the following:

- (1) The final report is made public under subsection (a).
- (2) The results of the examination are publicized under subsection (c)(2).
- (3) The attorney general institutes an action under subsection (e) on the basis of the preliminary report."

(Reference is to EHB 1108 as printed February 21, 2020.)

BASSLER

