

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.

HOUSE ENROLLED ACT No. 1108

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

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

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

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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 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.

SECTION 2. IC 5-11-1-2, AS AMENDED BY P.L.176-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. The state board of accounts shall formulate, prescribe, and install a system of accounting and reporting in conformity with this chapter **for use by an audited entity**, which must comply with the following:

- (1) Be uniform for every public office and every public account of the same class and contain written standards that an entity that is subject to audit must observe.
- (2) Exhibit true accounts and detailed statements of funds collected, received, obligated, and expended for or on account of the public for any and every purpose whatever, and by all public officers, employees, or other individuals.
- (3) Show the receipt, use, and disposition of all public property and the income, if any, derived from the property.
- (4) Show all sources of public income and the amounts due and received from each source.



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

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

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

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

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

SECTION 4. IC 5-11-1-9, AS AMENDED BY P.L.209-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. (a) The state examiner, personally or through



the deputy examiners, field examiners, or private examiners, shall examine all accounts and all financial affairs of every ~~public office and officer, state office, state institution, and entity.~~ **audited entity.** However, an examination of an entity under this subsection shall be limited to matters relevant to the use of the public money received by the entity.

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

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

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

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

- (1) in consideration of the applicable risk based examination criteria described in and approved under section 25 of this chapter; and
- (2) based on submitted information;

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

(d) Notwithstanding any other law, the:

- (1) Indiana economic development corporation created by IC 5-28-3 and the corporation's funds, accounts, and financial affairs shall be examined by the state board of accounts unless the examination is waived under subsection (j); and
- (2) department of financial institutions established by IC 28-11-1-1 and the department's funds, accounts, and financial affairs shall be examined by the state board of accounts.

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

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



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

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

The examinations may be made without notice.

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

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

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

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

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

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

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

The state examiner, deputy examiner, and any field examiner may administer oaths and examine witnesses under oath orally or by interrogatories concerning the matters under investigation and examination. Under the authority of the state examiner, the oral examinations may be transcribed with the reasonable expense paid by the examined person in the same manner as the compensation of the field examiner is paid. The subpoenas shall be served by any person authorized to serve civil process from any court in this state. If a witness **or officer** duly subpoenaed refuses to attend, refuses to produce information required in the subpoena, or attends and refuses to be sworn or affirmed, or to testify when called upon to do so, the



examiner may apply to the circuit court having jurisdiction of the witness **or officer** for the enforcement of attendance and answers to questions as provided by the law governing the taking of depositions **or to enforce the filing of any report referred to in this subsection.**

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

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

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

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

(B) the nonprofit subsidiary corporation;

for the year;

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

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

(k) Notwithstanding the waiver of an examination of the Indiana economic development corporation and its nonprofit subsidiary corporation by the state examiner, the state board of accounts may examine the Indiana economic development corporation and its nonprofit subsidiary corporation at any time.

SECTION 5. 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, "audit committee" refers to the audit and financial reporting subcommittee of the legislative council established by IC 2-5-1.1-6.3(b).

(d) 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.

(e) 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. 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.

(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.



(g) 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.**

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

- (1) fails to make, verify, and file with the state examiner any report required by this chapter;
- (2) fails to follow the directions of the state examiner in keeping the accounts of the officer's office;
- (3) refuses the state examiner, deputy examiner, field examiner, or private examiner access to the books, accounts, papers, documents, cash drawer, or cash of the officer's office; or
- (4) interferes with an examiner in the discharge of the examiner's official duties;

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

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

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

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

- ~~(1) The state examiner in the sum of five thousand dollars (\$5,000); to be approved by the governor;~~
- ~~(2) Each deputy examiner in the sum of three thousand dollars (\$3,000); to be approved by the governor;~~
- ~~(3) Each field examiner in the sum of one thousand dollars~~



(\$1,000); to be approved by the state examiner: **in an amount determined by the audit committee and based on applicable risk considerations.** However, field examiners may be covered by a blanket bond or crime insurance policy endorsed to include faithful performance under IC 5-4-1-15.1 subject to approval of the **audit committee and** state examiner.

(b) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

SECTION 8. IC 5-11-1-16, AS AMENDED BY P.L.257-2019, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. (a) As used in this article, "municipality" means any county, township, city, town, school corporation, special taxing district, or other political subdivision of Indiana.

(b) As used in this article, "state" means any board, commission, department, division, bureau, committee, agency, governmental subdivision, military body, authority, or other instrumentality of the state, but does not include a municipality.

(c) As used in this article, "public office" means the office of any and every individual who for or on behalf of the state or any municipality or any public hospital holds, receives, disburses, or keeps the accounts of the receipts and disbursements of any public funds.

(d) As used in this article, "public officer" means any individual who holds, receives, disburses, or is required by law to keep any account of public funds or other funds for which the individual is accountable by virtue of the individual's public office.

(e) As used in this article, "entity" means any provider of goods, services, or other benefits that is:

- (1) maintained in whole or in part at public expense; or
- (2) supported in whole or in part by appropriations or public funds or by taxation.

The term does not include the state or a municipality (as defined in this section).

(f) As used in this article, a "public hospital" means either of the following:

- (1) An institution licensed under IC 16-21 and which is owned by the state or an agency of the state or one which is a municipal corporation. A hospital is a municipal corporation if its governing board members are appointed by elected officials of a municipality.
- (2) A state institution (as defined in IC 12-7-2-184).

(g) As used in this article, "audit committee" refers to the audit and financial reporting subcommittee of the legislative council established



by IC 2-5-1.1-6.3.

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

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

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

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

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

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

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

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

commits a Class B misdemeanor.

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

(b) As an alternative to an order to forfeit office under subsection (a), a court in which an action described in subsection (a) is filed may impose a civil penalty that does not exceed five hundred dollars (\$500) for each day, beginning on the day that the



court imposes the civil penalty and each day thereafter, that the public officer or responsible officer continues to violate an obligation described in subsection (a). The individual is personally liable for a civil penalty imposed on the individual under this section.

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

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

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

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

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

- (1) An audited entity has a newly elected or appointed fiscal officer.
- (2) An audited entity:
 - (A) has not timely filed; or
 - (B) has filed a materially incorrect or incomplete; annual financial report required by section 4 of this chapter.



(3) A ratings agency that rates debt maintained by an audited entity has determined an examination of the audited entity is required more frequently than once every four (4) years.

~~(3)~~ **(4)** Any other factor determined by the state examiner and approved by the audit committee.

(c) Examinations must be conducted annually for the following:

(1) The state.

(2) An audited entity (other than a school corporation) that requires an annual audit:

(A) because of the receipt of federal financial assistance in an amount that subjects the audited entity to an annual federal audit;

(B) due to continuing disclosure requirements; or

(C) as a condition of a public bond issuance.

(3) A development authority.

An audited entity shall, under the guidelines established by the state board of accounts, provide notice to the state examiner not later than sixty (60) days after the close of the audited entity's fiscal year that the audited entity is required to have an annual audit under subdivision (2).

(d) As permitted under this section since September 1, 1986 (the effective date of P.L.3-1986, SECTION 16), examinations of school corporations shall be conducted biennially.

SECTION 13. IC 5-11-5-1, AS AMENDED BY P.L.209-2019, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Whenever an examination is made under this article, a report of the examination shall be made. The report must include a list of findings and shall be signed and verified by the examiner making the examination. A finding that is critical of an examined entity must be based upon one (1) of the following:

(1) Failure of the entity to observe a uniform compliance guideline established under IC 5-11-1-24(a).

(2) Failure of the entity to comply with a specific law.

A report that includes a finding that is critical of an examined entity must designate the uniform compliance guideline or the specific law upon which the finding is based. **Except as provided in subsection (g), the state board of accounts may also issue confidential management letters, based on professional auditing standards, to an audited entity (as defined in section 1.5(a) of this chapter) in a situation involving noncompliance that does not result in the establishment of a corrective action plan but that must be brought to the attention of the audited entity's governing body. If issues addressed in the confidential management letter become part of a**



finding in the subsequent audit period, it shall be noted in the public report. The reports shall immediately be filed with the state examiner, and, after inspection of the report, the state examiner shall immediately file one (1) copy with the officer or person examined, one (1) copy with the auditing department of the municipality examined and reported upon (if the subject of the report is a municipality), and one (1) copy in an electronic format under IC 5-14-6 with the legislative services agency, as staff to the audit committee and the general assembly. Upon filing, the report becomes a part of the public records of the office of the state examiner, of the office or the person examined, of the auditing department of the municipality examined and reported upon, and of the legislative services agency, as staff to the audit committee and the general assembly. A report is open to public inspection at all reasonable times after it is filed. If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general and the inspector general. The attorney general shall diligently institute and prosecute civil proceedings against the delinquent officer **or employee**, or upon the officer's **or employee's** official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

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

- (1) All information discussed and materials presented or delivered by any person during an exit conference are confidential and may not be discussed or shared publicly until the earliest of the



occurrences set forth in subsection (g). However, the information discussed and materials presented or delivered during an exit conference may be shared with an officer, employee, consultant, adviser, or attorney of the officer or chief executive officer of the state office, municipality, or entity examined who was not present at the exit conference. An individual with whom information and materials are shared must maintain the confidentiality of the information and materials as provided in this subdivision until the earliest of the occurrences set forth in subsection (g).

(2) An individual attending an exit conference may not electronically record the exit conference.

(3) If a majority of a governing body (as defined in IC 5-14-1.5-2(b)) is present during an exit conference, the governing body shall be considered in an executive session under IC 5-14-1.5. However, the governing body has no obligation to give notice as prescribed by IC 5-14-1.5-5 when it participates in the exit conference.

(4) If the state examiner determines after the exit conference that additional actions must be undertaken by a deputy examiner, field examiner, or private examiner with respect to information discussed or materials presented at the exit conference, the state examiner may call for an additional exit conference to be held.

(5) Not more than thirty (30) days after the initial exit conference is held under this subsection, the legislative body of the municipality or entity examined and reported upon may adopt a resolution, approved by at least a two-thirds (2/3) vote of the legislative body, requesting that an additional exit conference be held. The legislative body shall notify the state board of accounts if the legislative body adopts a resolution under this subdivision. If a legislative body adopts a resolution under this subdivision, the state board of accounts shall conduct an additional exit conference not more than sixty (60) days after the state board of accounts receives notice of the adoption of the resolution. The municipality or entity examined must pay the travel and staff costs incurred by the state board of accounts in conducting an additional exit conference under this subdivision.

(6) Except as provided in subdivision (7), a final report under subsection (a) may not be issued earlier than forty-five (45) days after the initial exit conference is held under this subsection.

(7) If:

(A) the state examiner does not call for an additional exit conference to be held as described in subdivision (4); and



(B) the:

(i) legislative body of the municipality or entity examined and reported upon provides written notice to the state examiner that the legislative body waives an additional exit conference described in subdivision (5); or

(ii) state examiner determines that a final report under subsection (a) must be issued as soon as possible;

the final report may be issued earlier than forty-five (45) days after the initial exit conference is held under this subsection.

(c) Except as provided by subsections (b), (d), and (e), it is unlawful for any person, before an examination report is made public as provided by this section, to make any disclosure of the result of any examination of any public account, except:

(1) to the state examiner;

(2) if directed to give publicity to the examination report by the state examiner or by any court;

(3) to another deputy examiner, field examiner, or private examiner engaged in conducting the examination; or

(4) if directed by the state examiner, to the chair of the audit committee or the members of the audit committee acting in executive session, or both.

If an examination report shows or discloses the commission of a crime by any person, it is the duty of the state examiner to transmit and present the examination report to the prosecuting attorney of the county in which the crime was committed. The state examiner shall furnish to the prosecuting attorney all evidence at the state examiner's command necessary in the investigation and prosecution of the crime.

(d) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that the following conditions are satisfied, the examiner shall report the determination to the state examiner:

(1) A substantial amount of public funds has been misappropriated or diverted.

(2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of the public funds was committed by the officer or an employee of the office **or entity**.

(e) After receiving a preliminary report under subsection (d), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or



employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

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

(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), 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.

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

- (1) A public agency (as defined in IC 5-14-3-2), a public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency commits a Class A infraction under IC 5-14-3-10.
- (2) If the disclosure is by a person who is not described in subdivision (1), the person commits a Class A infraction.

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

- (1) employees and members of the state board of accounts;
- (2) the audit committee;
- (3) law enforcement officers, the attorney general, a prosecuting attorney, or any other legal representative of the state in any action with respect to the misappropriation or diversion of public funds;
- (4) an authorized representative of the United States;
- (5) a successor examiner or auditor, in accordance with applicable professional auditing standards; or
- (6) another individual for any other factor that constitutes good



cause as set forth in criteria established by the state examiner and approved by the audit committee.

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

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

- (1) A state agency (as defined in IC 4-13-1-1).
- (2) A public hospital.
- (3) A municipality.
- (4) A body corporate and politic.
- (5) A state educational institution.
- (6) An entity to the extent that the entity is required to be examined under IC 5-11-1-9 or another law.

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

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

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

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

- (1) the examination report finding;
- (2) the corrective action plan;



- (3) the manner by which the examination report finding was or was not addressed; and
- (4) a recommended course of action.

(f) The state board of accounts shall present to the audit committee established by IC 2-5-1.1-6.3 a memorandum described in subsection (e). If the audit committee determines that further action should be taken, the audit committee may do any of the following:

- (1) Request a written statement from the public officer of the audited entity.
- (2) Request the personal attendance of the public officer of the audited entity at the next audit committee meeting.
- (3) Request that the public officer of the audited entity take corrective action.
- (4) Notify the:

- (A) office of management and budget (in the case of an audited entity that is a state agency, a body corporate and politic, or a state educational institution); or

- (B) officer or chief executive officer, legislative body, and fiscal body of the audited entity and the department of local government finance (in the case of any other audited entity);

that the audited entity refused to correct the audited entity's failure to observe a uniform compliance guideline established under IC 5-11-1-24(a), or refused to comply with a specific law, with notice of the recommendation described in subsection (e)(4) published on the general assembly's Internet web site.

- (5) Refer the facts drawn from the examination and the actions taken under this section for investigation and prosecution of a violation of IC 5-11-1-10 or IC 5-11-1-21 to the:

- (A) inspector general, in the case of an audited entity that is a state agency, a body corporate and politic, or a state educational institution; or

- (B) prosecuting attorney of the county in which a violation of IC 5-11-1-10 or IC 5-11-1-21 may have been committed, in the case of any other audited entity;

with notice of the referral published on the general assembly's Internet web site. Notice of a referral described in clause (B) must be sent to the officer or chief executive officer, legislative body, and fiscal body of the audited entity.

- (6) Recommend that legislation be introduced in the general assembly to amend any statute under which the audited entity is found to be noncompliant.

- (7) Recommend that the state board of accounts examine the



audited entity within the calendar year following the year in which the audited entity was required to file a corrective action plan under subsection (c).

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

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

- (1) The state.
- (2) A municipality.
- (3) A state educational institution.

(b) Each audited entity shall during the month of January of each year prepare, make, and sign a certified report, correctly and completely showing the names and business addresses of ~~each and all~~ **the** officers, employees, and agents in their respective offices, departments, boards, commissions, and institutions, ~~and of the audited entity.~~ **The report shall indicate** the respective duties and compensation of each ~~and~~ **officer, employee, and agent of the audited entity.** ~~The audited entity shall forthwith file said the~~ report in the office of the state examiner of the state board of accounts. The report must also indicate whether the political subdivision offers a health plan, a pension, and other benefits to full-time and part-time employees. However, no more than one (1) report covering the same officers, employees, and agents need be made from the state or any county, city, town, township, or school unit in any one year. The certification must be filed electronically in the manner prescribed under IC 5-14-3.8-7.

~~(b)~~ **(c)** The department of local government finance may not approve the budget of a county, city, town, or township or a



supplemental appropriation for a county, city, town, or township until the county, city, town, or township files an annual report under subsection ~~(a)~~ **(b)** for the preceding calendar year.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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