

HOUSE BILL No. 1201

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-1.1-6.3; IC 4-34; IC 5-11-5.

Synopsis: State board of accounts. Defines "pertinent information" for purposes of statutes concerning the state board of accounts. Makes changes to the procedure that governs how an examination report is to be filed with the audit committee. Provides that the state board of accounts must prepare and submit the following in an electronic format before the fifteenth day of each month: (1) Pertinent information from each examination of an audited entity in the previous month to the agency reports portal. (2) A letter that contains a list of each examination report issued for the previous month to the agency reports portal. (3) A link to each report on the state board of accounts Internet web site that is included in the pertinent information and letter of each examination report conducted in the previous month. Repeals the Indiana technology fund and requires the budget agency to transfer any unencumbered money in the fund to the state general fund.

Effective: July 1, 2019.

Gutwein

January 10, 2019, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1201

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, 2019]: 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 (4) "Pertinent information" refers to the following:



- 1 **(A) An examination report that contains a finding of**
 2 **noncompliance under IC 5-11-5-1.**
 3 **(B) A finding of noncompliance with a corrective action**
 4 **plan during the time frame established by IC 5-11-5-1.5,**
 5 **including any repeat or subsequent findings that result**
 6 **from an examination report of the audited entity.**
 7 **(C) Any other information resulting from an examination**
 8 **that raises a question about policy or compliance that the**
 9 **state board of accounts determines is relevant and must be**
 10 **communicated to the audit committee or legislative**
 11 **council.**

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

- 33 (c) It is the responsibility of the audit committee to provide
 34 independent review and oversight of the state board of accounts and the
 35 examination process used by the state board of accounts. To carry out
 36 this responsibility, the audit committee shall do at least the following:
 37 (1) Review and monitor the independence and objectivity of the
 38 state board of accounts and the effectiveness of the examination
 39 process, taking into consideration relevant professional and
 40 regulatory requirements.
 41 (2) Evaluate the findings and recommendations of any peer
 42 review of the state board of accounts that is required by



1 recognized government auditing standards.

2 (3) Receive and review reports ~~of that~~ **include pertinent**
 3 **information from** examinations submitted under ~~IC 5-11-5-1~~
 4 **IC 5-11-5-9** or another law to monitor the integrity of the
 5 financial reporting process and the effectiveness of the state board
 6 of accounts in evaluating the internal accounting controls of
 7 audited entities.

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

10 (5) Review the policy on the engagement of the state board of
 11 accounts, its field examiners, and private examiners to supply
 12 nonaudit services, taking into account relevant ethical guidance
 13 regarding the provision of nonaudit services by the state board of
 14 accounts.

15 (6) Provide guidance to the state board of accounts on any
 16 accounting, examination, or financial reporting matter requested
 17 by the state board of accounts.

18 (7) At least annually, report to the legislative council on how the
 19 audit committee has discharged its duties and met its
 20 responsibilities.

21 (d) An examined entity shall provide the audit committee with
 22 information, including any reports of internal auditors and annual
 23 internal audit work plans, that the audit committee requests as
 24 necessary or appropriate to carry out the responsibilities of the audit
 25 committee.

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

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

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

42 SECTION 2. IC 4-34 IS REPEALED [EFFECTIVE JULY 1, 2019].



1 (INDIANA TECHNOLOGY FUND).

2 SECTION 3. IC 5-11-5-1, AS AMENDED BY P.L.188-2016,
3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2019]: Sec. 1. (a) Whenever an examination is made under
5 this article, a report of the examination shall be made. The report must
6 include a list of findings and shall be signed and verified by the
7 examiner making the examination. A finding that is critical of an
8 examined entity must be based upon one (1) of the following:

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

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

12 A report that includes a finding that is critical of an examined entity
13 must designate the uniform compliance guideline or the specific law
14 upon which the finding is based. The reports shall immediately be filed
15 with the state examiner, and, after inspection of the report, the state
16 examiner shall immediately file one (1) copy with the officer or person
17 examined **and** one (1) copy with the auditing department of the
18 municipality examined and reported upon (if the subject of the report
19 is a municipality). ~~and one (1) copy in an electronic format under~~
20 ~~IC 5-14-6 with the legislative services agency, as staff to the audit~~
21 ~~committee and the general assembly.~~ Upon filing, the report becomes
22 a part of the public records of the office of the state examiner, of the
23 office or the person examined, **and** of the auditing department of the
24 municipality examined and reported upon. ~~and of the legislative~~
25 ~~services agency, as staff to the audit committee and the general~~
26 ~~assembly.~~ A report is open to public inspection at all reasonable times
27 after it is filed. If an examination discloses malfeasance, misfeasance,
28 or nonfeasance in office or of any officer or employee, a copy of the
29 report, signed and verified, shall be placed by the state examiner with
30 the attorney general and the inspector general. The attorney general
31 shall diligently institute and prosecute civil proceedings against the
32 delinquent officer, or upon the officer's official bond, or both, and
33 against any other proper person that will secure to the state or to the
34 proper municipality the recovery of any funds misappropriated,
35 diverted, or unaccounted for.

36 (b) Before an examination report is signed, verified, and filed as
37 required by subsection (a), the officer or the chief executive officer of
38 the state office, municipality, or entity examined must have an
39 opportunity to review the report and to file with the state examiner a
40 written response to that report. If a written response is filed, it becomes
41 a part of the examination report that is signed, verified, and filed as
42 required by subsection (a). As part of the review of the examination



1 report, the state examiner shall hold a gathering of the officer or chief
2 executive officer of the state office, municipality, or entity examined,
3 any employees or agents of the state office, municipality, or entity
4 examined who are requested to attend by the officer or chief executive
5 officer of the state office, municipality, or entity examined, and the
6 members of the legislative and fiscal bodies of the municipality or
7 entity examined. Such a gathering is referred to as an "exit conference"
8 for purposes of this subsection. The following apply to an exit
9 conference:

10 (1) All information discussed and materials presented or delivered
11 by any person during an exit conference are confidential and may
12 not be discussed or shared publicly until the earliest of the
13 occurrences set forth in subsection (g). However, the information
14 discussed and materials presented or delivered during an exit
15 conference may be shared with an officer, employee, consultant,
16 adviser, or attorney of the officer or chief executive officer of the
17 state office, municipality, or entity examined who was not present
18 at the exit conference. An individual with whom information and
19 materials are shared must maintain the confidentiality of the
20 information and materials as provided in this subdivision until the
21 earliest of the occurrences set forth in subsection (g).

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

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

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

35 (5) Not more than thirty (30) days after the initial exit conference
36 is held under this subsection, the legislative body of the
37 municipality or entity examined and reported upon may adopt a
38 resolution, approved by at least a two-thirds (2/3) vote of the
39 legislative body, requesting that an additional exit conference be
40 held. The legislative body shall notify the state board of accounts
41 if the legislative body adopts a resolution under this subdivision.
42 If a legislative body adopts a resolution under this subdivision, the



1 state board of accounts shall conduct an additional exit
 2 conference not more than sixty (60) days after the state board of
 3 accounts receives notice of the adoption of the resolution. The
 4 municipality or entity examined must pay the travel and staff
 5 costs incurred by the state board of accounts in conducting an
 6 additional exit conference under this subdivision.

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

10 (7) If:

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

13 (B) the:

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

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

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

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

26 (1) to the state examiner;

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

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

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

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

40 (d) If, during an examination under this article, a deputy examiner,
 41 field examiner, or private examiner acting as an agent of the state
 42 examiner determines that the following conditions are satisfied, the



- 1 examiner shall report the determination to the state examiner:
2 (1) A substantial amount of public funds has been
3 misappropriated or diverted.
4 (2) The deputy examiner, field examiner, or private examiner
5 acting as an agent of the state examiner has a reasonable belief
6 that the malfeasance or misfeasance that resulted in the
7 misappropriation or diversion of the public funds was committed
8 by the officer or an employee of the office.
9 (e) After receiving a preliminary report under subsection (d), the
10 state examiner may provide a copy of the report to the attorney general.
11 The attorney general may institute and prosecute civil proceedings
12 against the delinquent officer or employee, or upon the officer's or
13 employee's official bond, or both, and against any other proper person
14 that will secure to the state or to the proper municipality the recovery
15 of any funds misappropriated, diverted, or unaccounted for.
16 (f) In an action under subsection (e), the attorney general may attach
17 the defendant's property under IC 34-25-2.
18 (g) Except as permitted in this section, the information and materials
19 that are part of an exit conference under subsection (b) and the results
20 of an examination, including a preliminary report under subsection (d),
21 are confidential until the occurrence of the earliest of the following:
22 (1) The final report is made public under subsection (a).
23 (2) The results of the examination are publicized under subsection
24 (c)(2).
25 (3) The attorney general institutes an action under subsection (e)
26 on the basis of the preliminary report.
27 (h) Except as permitted in this section, an individual, a public
28 agency (as defined in IC 5-14-3-2), a public employee, a public official,
29 or an employee or officer of a contractor or subcontractor of a public
30 agency that knowingly or intentionally discloses information in
31 violation of subsection (b) or (g), regardless of whether the information
32 is received orally or by any other means, is subject to the following:
33 (1) A public agency (as defined in IC 5-14-3-2), a public
34 employee, a public official, or an employee or officer of a
35 contractor or subcontractor of a public agency commits a Class A
36 infraction under IC 5-14-3-10.
37 (2) If the disclosure is by a person who is not described in
38 subdivision (1), the person commits a Class A infraction.
39 (i) Unless in accordance with a judicial order or as otherwise
40 provided in this section, the state board of accounts or its employees,
41 former employees, counsel, or agents, or any other person may not
42 divulge the examination workpapers and investigation records of a



1 deputy examiner, a field examiner, or a private examiner acting as an
2 agent of the state examiner, except to:

- 3 (1) employees and members of the state board of accounts;
4 (2) the audit committee;
5 (3) law enforcement officers, the attorney general, a prosecuting
6 attorney, or any other legal representative of the state in any
7 action with respect to the misappropriation or diversion of public
8 funds; or
9 (4) an authorized representative of the United States.

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

14 SECTION 4. IC 5-11-5-9 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2019]: **Sec. 9. (a) As used in this section, "pertinent information"**
17 **has the meaning set forth in IC 2-5-1.1-6.3.**

18 **(b) The state board of accounts shall, before the fifteenth day of**
19 **each month, prepare and upload to the agency reports portal on**
20 **the general assembly's Internet web site:**

- 21 **(1) a report in an electronic format under IC 5-14-6 that**
22 **contains pertinent information from each examination report**
23 **of an audited entity filed in the previous month; and**
24 **(2) a letter in an electronic format under IC 5-14-6 that**
25 **contains a list of the examination reports of audited entities**
26 **filed in the previous month.**

27 **(c) The report of pertinent information that is prepared and**
28 **uploaded under subsection (b)(1) must contain a link to the state**
29 **board of accounts Internet web site for each examination report**
30 **that is referenced in the report of pertinent information.**

31 **(d) The letter that is prepared and uploaded under subsection**
32 **(b)(2) must contain a link to the state board of accounts Internet**
33 **web site for each examination report that is listed in the letter.**

34 **(e) The state board of accounts shall label as confidential any**
35 **material contained in the information submitted under this section**
36 **that is confidential by law.**

37 **(f) The reports and letters uploaded under this section are**
38 **public records.**

39 SECTION 5. [EFFECTIVE JULY 1, 2019] **(a) On July 1, 2019, the**
40 **budget agency shall transfer any unencumbered money in the**
41 **Indiana technology fund established by IC 4-34-2-1, as repealed by**
42 **this act, as of June 30, 2019, to the state general fund.**



1 **(b) This SECTION expires January 1, 2020.**

