

HOUSE BILL No. 1313

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-11-5-1.

Synopsis: State board of accounts. Specifies that the state board of accounts shall hold an exit conference that includes 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, and the members of the legislative and fiscal bodies of the municipality or entity examined. Provides that 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 examination report is filed by the state board of accounts. Allows the information to be shared with certain individuals. Prohibits an individual from electronically recording an exit conference. Specifies that an exit conference is not a meeting for purposes of the open door law. Requires the state board of accounts to hold an additional exit conference upon request by two-thirds of the legislative body of the municipality or entity examined. Provides that an audit report may not be issued earlier than 45 days after the initial exit conference is held. Provides that a person who violates these provisions commits a Class B infraction and (in the case of a public officer) forfeits the individual's office.

Effective: July 1, 2015.

Riecken

January 13, 2015, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1313

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 5-11-5-1, AS AMENDED BY P.L.104-2014,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 1. (a) Whenever an examination is made under
4 this article, a report of the examination shall be made. The report must
5 include a list of findings and shall be signed and verified by the
6 examiner making the examination. A finding that is critical of an
7 examined entity must be based upon one (1) of the following:
8 (1) Failure of the entity to observe a uniform compliance
9 guideline established under IC 5-11-1-24(a).
10 (2) Failure of the entity to comply with a specific law.
11 A report that includes a finding that is critical of an examined entity
12 must designate the uniform compliance guideline or the specific law
13 upon which the finding is based. The reports shall immediately be filed
14 with the state examiner, and, after inspection of the report, the state
15 examiner shall immediately file one (1) copy with the officer or person



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

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

36 (1) **All information discussed and materials presented or
37 delivered by any person during an exit conference are
38 confidential and may not be discussed or shared publicly until
39 the examination report is filed as set forth in subsection (a).
40 However, the information and materials may be shared with
41 an officer, employee, consultant, adviser, or attorney of the
42 officer or chief executive officer of the state office,**



1 municipality, or entity examined who was not present at the
2 exit conference. Such an individual with whom information
3 and materials are shared must maintain the confidentiality of
4 the information and materials as provided in this subdivision.

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

7 (3) An exit conference is not a meeting (as defined in
8 IC 5-14-1.5-2(c)) for purposes of IC 5-14-1.5 or any other law.

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

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

30 (6) A final report under subsection (a) may not be issued
31 earlier than forty-five (45) days after the initial exit
32 conference is held under this subsection.

33 **A person who violates this subsection commits a Class B infraction**
34 **and (in the case of a public officer) forfeits the person's office.**

35 (c) Except as required by subsections (b) and (d), it is unlawful for
36 any deputy examiner, field examiner, or private examiner, before an
37 examination report is made public as provided by this section, to make
38 any disclosure of the result of any examination of any public account,
39 except to the state examiner or if directed to give publicity to the
40 examination report by the state examiner or by any court. If an
41 examination report shows or discloses the commission of a crime by
42 any person, it is the duty of the state examiner to transmit and present



1 the examination report to the grand jury of the county in which the
2 crime was committed at its first session after the making of the
3 examination report and at any subsequent sessions that may be
4 required. The state examiner shall furnish to the grand jury all evidence
5 at the state examiner's command necessary in the investigation and
6 prosecution of the crime.

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

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

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

18 (e) After receiving a preliminary report under subsection (d), the
19 state examiner may provide a copy of the report to the attorney general.
20 The attorney general may institute and prosecute civil proceedings
21 against the delinquent officer or employee, or upon the officer's or
22 employee's official bond, or both, and against any other proper person
23 that will secure to the state or to the proper municipality the recovery
24 of any funds misappropriated, diverted, or unaccounted for.

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

27 (g) A preliminary report under subsection (d) is confidential until
28 the final report under subsection (a) is issued, unless the attorney
29 general institutes an action under subsection (e) on the basis of the
30 preliminary report.

