

Regular Session, 2014

HOUSE BILL NO. 439

BY REPRESENTATIVE GREENE

AUDITS/AUDITING: Provides with respect to misappropriation of public funds and restitution and recovery related thereto

1 AN ACT

2 To amend and reenact R.S. 24:523 and to enact R.S. 24:524, relative to misappropriation of  
3 public funds or assets; to require certain notifications by agency heads; to provide  
4 for recovery of misappropriated funds and for restitution of related costs; to provide  
5 relative to the expungement of records of persons convicted of misappropriation and  
6 theft; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 24:523 is hereby amended and reenacted and R.S. 24:524 is hereby  
9 enacted to read as follows:

10 §523. Notification of the legislative auditor and district attorney

11 A. An agency head of an auditee who reasonably suspects, because of an  
12 action, including but not limited to an investigation, filing of a police report, or an  
13 internal audit finding, or who has actual knowledge of any misappropriation of the  
14 public funds or assets of his agency shall immediately notify, in writing, the  
15 legislative auditor and the district attorney of the parish in which the agency is  
16 domiciled of such misappropriation. The district attorney, or other prosecutorial  
17 agency, notified of such misappropriation may request audit assistance from the  
18 legislative auditor with respect to the misappropriation.

1           B. When misappropriation is discovered and reported, the attorney general,  
2           at the request of the legislative auditor, may recover misappropriated funds or assets  
3           from the responsible party by civil suit. The attorney general shall also seek  
4           restitution from the responsible party of those costs incurred by the legislative  
5           auditor to audit, investigate, or report on allegations of misappropriation.

6           C. For the purposes of this Section:

7           (1) ~~the~~ The terms "agency head" and "his agency" shall have the same  
8           meanings as provided in R.S. 42:1102.

9           (2) "Responsible party" means the person or entity actually responsible for  
10          the reported misappropriation.

11          §524. Restitution of audit costs

12          A. All costs incurred by the legislative auditor to audit, investigate, or report  
13          possible fraud, theft, or other misappropriation shall be recoverable by civil suit  
14          against the responsible party. The attorney general, at the request of the legislative  
15          auditor, may seek recovery on behalf of the legislative auditor of such costs through  
16          civil suit against the responsible party.

17          B. The attorney general may also seek recovery from the responsible party  
18          of all costs and reasonable attorney fees incurred by the attorney general in a civil  
19          suit instituted at the request of the legislative auditor as provided in Subsection A of  
20          this Section.

21          C. The attorney general or the local district attorney prosecuting such crimes  
22          shall also seek restitution of such costs incurred by the legislative auditor.

23          D. If costs for an audit that were previously reimbursed pursuant to R.S.  
24          24:517.1 or 517.3 are recovered pursuant to this Section, those costs shall be paid to  
25          the appropriate public or quasi public entity.

26          E. No person convicted of misappropriation or theft shall have his record  
27          expunged until he has made restitution and at least five years have passed since his  
28          conviction.

1                    F. For purposes of this Section, "responsible party" means the person or  
 2                    entity actually responsible for the misappropriation.

### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Greene

HB No. 439

**Abstract:** Relative to misappropriation of public funds and assets, requires certain notifications by agency heads, provides for recovery of misappropriated funds or assets and for recovery and restitution of related costs, and provides relative to expungement of records of persons convicted of misappropriation or theft.

Present law requires an agency head of an auditee who has actual knowledge of any misappropriation of the public funds or assets of his agency to immediately notify, in writing, the legislative auditor and the district attorney of the parish in which the agency is domiciled of such misappropriation. Authorizes the district attorney, or other prosecutorial agency, so notified to request audit assistance from the legislative auditor with respect to the misappropriation. Defines "agency head" and "his agency" as defined in the Code of Governmental Ethics.

Proposed law retains present law and additionally requires an agency head who reasonably suspects, because of an action, including but not limited to an investigation, filing of a police report, or an internal audit finding, any misappropriation of public funds or agency assets to give written notice of such misappropriation to the legislative auditor and the district attorney.

Proposed law further authorizes the attorney general, at the request of the legislative auditor, to recover misappropriated funds or assets from the responsible party by civil suit when misappropriation is discovered and reported. Requires the attorney general also to seek restitution from the responsible party of costs incurred by the legislative auditor to audit, investigate, or report on allegations of misappropriation.

Proposed law provides that all costs incurred by the legislative auditor to audit, investigate, or report possible fraud, theft, or other misappropriation shall be recoverable by civil suit against the responsible party. Authorizes the attorney general, at the request of the legislative auditor, to seek recovery of such costs on behalf of the legislative auditor through such a suit. Requires the attorney general or the local district attorney prosecuting such crimes to also seek restitution of such costs incurred by the legislative auditor. Further authorizes the attorney general to seek recovery from the responsible party of all costs and reasonable attorney fees incurred by the attorney general in a civil suit instituted at the request of the legislative auditor as provided by proposed law.

Proposed law further specifies that if costs for an audit that were previously reimbursed pursuant to present law (R.S. 24:517.1 or 517.3) are recovered pursuant to proposed law, those costs shall be paid to the appropriate public or quasi public entity.

Proposed law provides that no person convicted of misappropriation or theft shall have his record expunged until he has made restitution and at least five years have passed since his conviction.

Proposed law provides that "responsible party" means the person or entity actually responsible for the reported misappropriation.

(Amends R.S. 24:523; Adds R.S. 24:524)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Adds that the attorney general may seek recovery of his costs and attorney fees in a civil suit.
2. Specifies that if costs are recovered for an audit that were previously reimbursed, those costs shall be paid to the appropriate public or quasi public entity.

House Floor Amendments to the engrossed bill.

1. Adds provision that no person convicted of misappropriation or theft shall have his record expunged until he has made restitution and at least five years have passed since his conviction.