

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 271

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOSKINS.

0684H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 29.200 and 29.235, RSMo, and to enact in lieu thereof two new sections relating to authority of the state auditor.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 29.200 and 29.235, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 29.200 and 29.235, to read as follows:

29.200. 1. Except as provided under subsection 2 of this section, all audits conducted
2 under this chapter may be made at the discretion of the auditor without advance notice to the
3 organization being audited. An audit also shall be conducted upon the request of the governor
4 as provided under section 26.060, and the expenses for any such audit conducted upon the
5 request of the governor shall be paid as provided in section 26.090.

6 2. The auditor, on his or her initiative and as often as he or she deems necessary, to the
7 extent deemed practicable and consistent with the overall responsibility as contained in this
8 chapter, shall make or cause to be made audits of all or any part of the activities of the state
9 agencies.

10 3. The auditor shall make, or cause to be made, audits of all or any parts of political
11 subdivisions and other entities as authorized in this chapter or any other law of this state.

12 4. In selecting audit areas and in evaluating current audit activity, the auditor may, at his
13 or her discretion, consider and utilize, in whole or in part, the relevant audit coverage and
14 applicable reports of the audit staffs of the various state agencies, independent contractors, and
15 federal agencies.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 5. The auditor shall be authorized to contract with federal audit agencies, or any
17 governmental agency, on a cost-reimbursement basis, to perform audits of federal grant programs
18 administered by the state departments and institutions in accordance with agreements negotiated
19 between the auditor and the contracting federal audit agencies or any governmental agency. In
20 instances where the grantee state agency shall subgrant such federal funds to local governments,
21 regional councils of government, other local groups, or private or semiprivate institutions or
22 agencies, the auditor shall have the authority to examine the books and records of these
23 subgrantees to the extent necessary to determine eligibility and proper use in accordance with
24 state and federal laws and regulations. The auditor shall charge and collect from the contracting
25 federal audit agencies, or any governmental agencies, the actual cost of all the audits of the grants
26 and programs that are conducted by the auditor under the contract. Amounts collected under
27 these arrangements shall be deposited into the state treasury and be credited to the state auditor-
28 federal fund and shall be available to hire sufficient personnel to perform these contracted audits
29 and to pay for related travel, supplies, and other necessary expenses.

30 6. In the auditor's reports of audits and reports of special investigations, the auditor shall
31 make any comments, suggestions, or recommendations deemed appropriate concerning any
32 aspect of such agency's activities and operations.

33 7. The auditor shall audit the state treasury at least once annually.

34 8. The auditor may examine the banking accounts and records of the state treasurer, state
35 agency, or any political subdivision at any bank or financial institution provided that the bank
36 or financial institution shall not be required to produce the requested accounts or records until
37 the auditor, treasurer, state agency, or political subdivision reimburses the reasonable document
38 production costs of the bank or financial institution.

39 9. The auditor may, as often as the auditor deems necessary, conduct a detailed review
40 of the bookkeeping and accounting systems in use in the various state agencies that are supported
41 partially or entirely by state funds. Such examinations shall be for the purpose of evaluating the
42 adequacy of systems in use by such agencies. In instances where the auditor determines that
43 existing systems are outmoded, inefficient, or otherwise inadequate, the auditor shall recommend
44 changes to the state agency and notify the general assembly of the recommended changes.

45 10. The auditor shall, through appropriate tests, determine the propriety of the data
46 presented in the state comprehensive annual financial report, and shall express the auditor's
47 opinion in accordance with generally accepted government auditing standards.

48 11. The auditor shall provide a report to the governor, attorney general, and other
49 appropriate officials of facts in the auditor's possession which pertain to the apparent violation
50 of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer
51 or employee.

52 12. At the conclusion of an audit, the auditor or the auditor's designated representative
53 shall supply a copy of a draft report of the audit to, and discuss such draft with, the official, or
54 that official's designated representative, whose office is subject to audit. On any audit of a state
55 agency or political subdivision of the state, the auditee shall provide responses to any
56 recommendations contained in the draft report within thirty days from the receipt of the draft
57 report.

58 13. The auditor shall notify the general assembly, the governor, the director of each
59 agency audited, and other persons as the auditor deems appropriate that an audit report has been
60 published, its subject and title, and the locations, including state libraries, at which the report is
61 available. The auditor then shall distribute copies of the report only to those who request a
62 report. The copies shall be available in written form or available on the official website of the
63 auditor. The auditor may charge a reasonable fee for providing a written copy of an audit report.
64 The auditor also shall file a copy of the audit report in the auditor's office; this copy shall be a
65 permanent public record. Nothing in this subsection shall be construed to authorize or permit
66 the publication of information that is otherwise prohibited by law from being disclosed.

67 14. Nothing in this chapter shall be construed to infringe upon or deprive the legislative,
68 executive, or judicial branches of state government of any rights, powers, or duties vested in or
69 imposed upon them by statute or the constitution of this state.

70 15. Nothing in this chapter shall be construed by the courts of this state in a manner
71 inconsistent with Article II of the Constitution of Missouri.

72 16. The auditor shall be responsible for receiving reports of allegations of improper
73 governmental activities as provided in section 29.221. The auditor shall adopt policies and
74 procedures necessary to provide for the investigation or referral of such allegations.

75 17. In accordance with the state's records retention schedule, the auditor shall maintain
76 a complete file of all audit reports and reports of other examinations, investigations, surveys, and
77 reviews issued under the auditor's authority. Audit workpapers and other evidence and related
78 supportive material directly pertaining to the work of the auditor's office shall be retained
79 according to an agreement between the auditor and the state archives. To promote
80 intergovernmental cooperation and avoid unnecessary duplication of audit effort, pertinent
81 workpapers and other supportive material related to [issued] **any** audit [reports] may be, at the
82 discretion of the auditor and unless otherwise prohibited by law, made available for inspection
83 by duly authorized representatives of the state and federal government who desire access to, and
84 inspection of, such records in connection with a matter officially before them, including criminal
85 investigations. Except as provided in this section, audit workpapers and related supportive
86 material shall be kept confidential, including any interpretations, advisory opinions, or other
87 information or materials used and relied on in performing the audit.

29.235. 1. The auditor and the auditor's authorized agents are authorized to:

2 (1) Examine all books, accounts, records, reports, **or** vouchers of any state agency or
3 entity subject to audit, insofar as they are necessary to conduct an audit under this chapter,
4 provided that the auditor complies with state and federal financial privacy requirements prior to
5 accessing financial records including provisions presented in chapter 408 and provided that the
6 auditor or other public entity reimburses the reasonable documentation and production costs
7 relating to compliance with examination by the auditor or auditor's authorized agents that pertain
8 to:

9 (a) Amounts received under a grant or contract from the federal government or the state
10 or its political subdivisions;

11 (b) Amounts received, disbursed, or otherwise handled on behalf of the federal
12 government or the state;

13 (2) Examine and inspect all property, equipment, and facilities in the possession of any
14 state agency, political subdivision, or quasi-governmental entity that were furnished or otherwise
15 provided through grant, contract, or any other type of funding by the state of Missouri or the
16 federal government; and

17 (3) Review state tax returns[, except such review shall be limited to matters of official
18 business, and the auditor's report shall not violate the confidentiality provisions of tax laws.
19 Notwithstanding confidentiality provisions of tax laws to the contrary, the auditor may use or
20 disclose information related to overdue tax debts in support of the auditor's statutory mission]
21 **only to the extent permitted under section 32.057.**

22 2. All [contracts or] **grant** agreements entered into as a result of the award of a grant by
23 state agencies or political subdivisions shall include, as a necessary part, a clause describing the
24 auditor's [access as provided under this section] **authority to examine and inspect property,**
25 **equipment, and facilities purchased with funds from the grant that are in possession of the**
26 **recipient state agency or political subdivision.**

27 3. The auditor may obtain the services of certified public accountants, qualified
28 management consultants, or other professional persons and experts as the auditor deems
29 necessary or desirable to carry out the duties and functions assigned under this chapter. Unless
30 otherwise authorized by law, no state agency shall enter into any contract for auditing services
31 without consultation with, and the prior written approval of, the auditor.

32 4. (1) Insofar as necessary to conduct an audit under this chapter, the auditor or the
33 auditor's authorized representatives shall have the power to subpoena witnesses, to take
34 testimony under oath, to cause the deposition of witnesses residing within or without the state
35 to be taken in a manner prescribed by law, and to assemble records and documents, by subpoena

36 or otherwise. The subpoena power granted by this section shall be exercised only at the specific
37 written direction of the auditor or the auditor's chief deputy.

38 (2) If any person refuses to comply with a subpoena, the auditor shall seek to enforce the
39 subpoena before a court of competent jurisdiction to require the attendance and testimony of
40 witnesses and the production of books, papers, correspondence, memoranda, contracts,
41 agreements, and other records. Such court may issue an order requiring such person to appear
42 before the auditor or officers designated by the auditor to produce records or to give testimony
43 relating to the matter under investigation or in question. Any failure to comply with such order
44 of the court may be punished by such court as contempt.

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