

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 117 Session of 2021

INTRODUCED BY RYAN, STAATS, KAUFFMAN, RAPP, JONES, GROVE, ROWE, B. MILLER, JAMES, MOUL AND KEEFER, JANUARY 11, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, SEPTEMBER 19, 2022

AN ACT

1 Providing for auditor qualifications for the Department of the
2 Auditor General, for new department employees, for current
3 department employees, for employee certification, for
4 forensic audits, for fraud audits and for committee
5 standards.

6 The General Assembly finds and declares as follows:

7 (1) Auditors employed by the Department of the Auditor
8 General should attain the proper professional certifications
9 necessary to conduct the various types of audits that the
10 position of auditor requires.

11 (2) Audits conducted by the Department of the Auditor
12 General should comply with the standards instituted by the
13 organizations governing the profession and should protect
14 taxpayer resources and ensure that audits conducted by the
15 Department of the Auditor General are of the highest quality
16 and benefit to the entities and programs audited.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Short title.

1 This act shall be known and may be cited as the Auditor
2 General Employee Qualification Act.

3 Section 2. Definitions.

4 The following words and phrases when used in this act shall
5 have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Certified fraud examiner." An individual who has satisfied
8 the requirements of the Association of Certified Fraud Examiners
9 to become a certified fraud examiner.

10 "Certified public accountant." The term shall have the same
11 meaning as defined in the act of May 26, 1947 (P.L.318, No.140),
12 known as the CPA Law.

13 "Department." The Department of the Auditor General of the
14 Commonwealth.

15 "Forensic audit." An examination of an entity's financial
16 information with the purposes of determining if the entity's
17 financial information is accurate and lawful.

18 "Fraud audit." An examination of an entity's financial
19 information for the purposes of proving or disproving whether
20 fraudulent activity has occurred.

21 "Qualified forensic auditor." An individual who is a
22 certified public accountant and a certified fraud examiner.

23 "Qualified fraud auditor." A certified fraud examiner.

24 "State agency." An office, department, authority, board or
25 commission of the executive branch.

26 Section 3. Auditor qualifications.

27 Department employees conducting an audit shall be adequately
28 qualified to conduct the type of audit involved. Employees shall
29 possess the following qualifications:

30 (1) Employees conducting forensic audits shall be

1 qualified forensic auditors.

2 (2) Employees conducting fraud audits shall be qualified
3 fraud auditors.

4 Section 4. New department employees.

5 An employee hired by the department after the effective date
6 of this section may not conduct audits or participate in the
7 auditing process of audits for which the employee is not
8 qualified under section 3.

9 Section 5. Current department employees.

10 A department employee hired prior to the effective date of
11 this section shall be permitted to continue conducting the same
12 type of audits which the employee conducted prior to the
13 effective date of this section.

14 Section 6. Employee certification.

15 (a) Department policy.--The department shall develop a
16 policy encouraging an employee to obtain the proper
17 certification necessary to conduct an audit which the employee's
18 job requires. The policy shall:

19 (1) Direct an employee to the resources necessary to
20 obtain a certification under section 3.

21 (2) Include provisions that allow the department to
22 collaborate with an employee to ensure that the employee has
23 adequate time and resources to complete a certification.

24 (b) Financial incentives.--The department shall provide
25 financial incentives for an employee who becomes certified in
26 order to assist the employee with the cost of continued
27 professional education.

28 Section 7. Forensic audits.

29 (a) Department forensic audits.--~~The~~ NOTWITHSTANDING ANY
30 OTHER PROVISION OF LAW TO THE CONTRARY, THE department may

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1 perform a forensic audit ON FINANCIAL INFORMATION RELATED TO <--
2 FEDERAL AND STATE FUNDING SOURCES if any of the following occur:

3 (1) A forensic audit is requested by a State agency. The
4 department may appoint a qualified forensic auditor not
5 currently employed by the Commonwealth to perform the
6 forensic audit, and the requesting State agency shall be
7 responsible for the cost incurred by the performance of the
8 forensic audit.

9 (2) The department receives an indication, when lawfully
10 performing an audit on an entity, that sufficient records or
11 information are not available to complete the audit.

12 (3) A forensic audit is requested by the Governor, the
13 chairperson or minority chairperson of the Appropriations
14 Committee of the Senate or the chairperson or minority
15 chairperson of the Appropriations Committee of the House of
16 Representatives.

17 (b) Forensic audit results.--

18 (1) The department shall provide the results of a
19 forensic audit to the Governor, ~~the chairperson and minority~~ <--
20 ~~chairperson of the Appropriations Committee of the Senate and~~
21 ~~the chairperson and minority chairperson of the~~
22 ~~Appropriations Committee of the House of Representatives.~~ AND <--
23 TO EACH MEMBER OF THE GENERAL ASSEMBLY.

24 (2) If the results contain evidence of suspected
25 criminal activity, the department shall provide the results
26 to the Office of Attorney General.

27 Section 8. Fraud audits.

28 (a) Department fraud audits.--~~The~~ NOTWITHSTANDING ANY OTHER <--
29 PROVISION OF LAW TO THE CONTRARY, THE department may perform a
30 fraud audit ON FINANCIAL INFORMATION RELATED TO FEDERAL AND <--

1 STATE FUNDING SOURCES if any of the following occur:

2 (1) A fraud audit is requested by a State agency. If
3 requested by a State agency, the department may appoint a
4 qualified fraud auditor not currently employed by the
5 Commonwealth to perform the fraud audit, and the requesting
6 State agency shall be responsible for the cost incurred in
7 the performance of the fraud audit.

8 (2) The department receives an indication, when lawfully
9 performing an audit on an entity, that fraudulent activity or
10 other criminal activity may have occurred.

11 (3) A fraud audit is requested by the Governor, the
12 chairperson or minority chairperson of the Appropriations
13 Committee of the Senate or the chairperson or minority
14 chairperson of the Appropriations Committee of the House of
15 Representatives.

16 (b) Fraud audit results.--

17 (1) The department shall provide the results of a fraud
18 audit to the Governor, ~~the chairperson and minority~~ <--
19 ~~chairperson of the Appropriations Committee of the Senate and~~
20 ~~the chairperson and minority chairperson of the~~
21 ~~Appropriations Committee of the House of Representatives.~~ AND <--
22 TO EACH MEMBER OF THE GENERAL ASSEMBLY.

23 (2) If the results contain evidence of suspected
24 criminal activity, the department shall provide the results
25 to the Office of Attorney General.

26 Section 9. Committee standards.

27 When conducting audits, the department may use, as a guide,
28 the standards and best practices specified by the Committee of
29 Sponsoring Organizations of the Treadway Commission.

30 SECTION 10. AUTHORITY TO ISSUE SUBPOENAS. <--

1 (A) GENERAL RULE.--THE AUDITOR GENERAL MAY ISSUE SUBPOENAS
2 REQUIRING THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF
3 BOOKS, ACCOUNTS, PAPERS, RECORDS, DOCUMENTS AND FILES AND MAY
4 EXAMINE THE WITNESSES AND DOCUMENTS. ISSUANCE OF SUBPOENAS DOES
5 NOT PREVENT OR REPEAL OTHER POWERS GRANTED UNDER LAW TO THE
6 AUDITOR GENERAL.

7 (B) SERVICE OF SUBPOENAS.--A SUBPOENA ISSUED UNDER
8 SUBSECTION (A) MAY BE SERVED BY THE AUDITOR GENERAL, A
9 DESIGNATED REPRESENTATIVE FROM THE DEPARTMENT, THE ATTORNEY
10 GENERAL OR A SHERIFF OF THE COUNTY WHERE THE PERSON OR PERSONS
11 RESIDE. SUBPOENAS MAY BE SERVED IN PERSON OR BY CERTIFIED MAIL.

12 (C) ENFORCEMENT.--IF A PERSON OR ENTITY FAILS TO COMPLY WITH
13 A SUBPOENA ISSUED UNDER SUBSECTION (A), THE AUDITOR GENERAL, THE
14 ATTORNEY GENERAL OR A REPRESENTATIVE OF THE AUDITOR GENERAL OR
15 ATTORNEY GENERAL MAY FILE A PETITION TO ENFORCE THE SUBPOENA
16 WITH THE COMMONWEALTH COURT OR A COURT OF RECORD. THE COURT MAY
17 ISSUE AN ORDER HOLDING A PERSON OR ENTITY IN CONTEMPT FOR
18 FAILURE TO COMPLY WITH THE SUBPOENA AND ORDER THE PRODUCTION OF
19 BOOKS, ACCOUNTS, PAPERS, RECORDS, DOCUMENTS AND FILES WITHIN NO
20 LATER THAN 10 DAYS OF THE ORDER.

21 (D) CONFIDENTIALITY.--INFORMATION GATHERED THROUGH THE
22 SUBPOENA POWER UNDER THIS SECTION IS NOT ACCESSIBLE UNDER THE
23 ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-
24 KNOW LAW, FROM THE DEPARTMENT AND MAY NOT BE DISCLOSED BY THE
25 DEPARTMENT ABSENT AN ORDER FROM THE COMMONWEALTH COURT OR OTHER
26 COURT OF RECORD.

27 Section ~~10~~ 11. Construction.

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28 Nothing in this act may be construed to prohibit the
29 department from performing its obligations under the laws of
30 this Commonwealth.

1 Section ~~11~~ 12. Effective date.

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2 This act shall take effect in 60 days.