

By: Pitts

H.B. No. 593

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the state auditor's office.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 321.001, Government Code, is amended by amending Subdivisions (1) and (2) and adding Subdivision (3-a) to read as follows:

(1) "Audit plan" means the outline of work ~~[approved by the committee]~~ for the State Auditor's Office in a year for the performance of audits and related services, including technical assistance, data analysis, consulting and oversight functions, investigations, and the preparation of audit reports and other types of communications.

(2) "Audit working paper" means all documentation ~~[documentary]~~ and other information prepared or maintained in conducting an audit, review, or investigation, including all intra-agency and interagency communications and risk assessment information relating to an audit, review, or investigation and all draft reports or portions thereof.

(3-a) "Coordinating council" means the Audit and Investigative Coordinating Council established under Section 321.0221.

SECTION 2. Chapter 321, Government Code, is amended by adding Section 321.0014 to read as follows:

Sec. 321.0014. APPLICABILITY TO CERTAIN ENTITIES. This

1 chapter applies to the following entities in the same manner as if
2 each entity were a department:

3 (1) an independent organization certified by the
4 Public Utility Commission of Texas under Section 39.151, Utilities
5 Code;

6 (2) a regional mobility authority;

7 (3) the Texas Economic Development Corporation;

8 (4) a nonprofit organization that is established by or
9 for a state officer or department and that solicits gifts, grants,
10 and other donations for the Texas Enterprise Fund under Section
11 481.078 or any other purpose; and

12 (5) any public or private person or entity, including
13 a local governmental entity or political subdivision of this state,
14 receiving funds that were made available by or provided under the
15 American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

16 SECTION 3. Sections 321.011(a), (c), and (d), Government
17 Code, are amended to read as follows:

18 (a) The State Auditor may employ a professional staff,
19 including assistant auditors and other [~~stenographic and clerical~~]
20 personnel.

21 (c) The State Auditor may discharge any [~~assistant auditors~~
22 ~~or stenographic or clerical~~] personnel at any time for any reason
23 satisfactory to the State Auditor and without a hearing.

24 (d) The State Auditor and staff are to be free from partisan
25 politics, and the State Auditor is free to select the most efficient
26 personnel available for each position in the State Auditor's [~~his~~]
27 office so that the State Auditor may render to the legislature the

1 service the legislature has a right to expect. It is against public
2 policy and illegal for a member of the legislature, an officer or
3 employee of the state, or an officer or employee of a state
4 department to recommend or suggest that the State Auditor appoint a
5 person to a position on the state auditor's staff.

6 SECTION 4. Section 321.012, Government Code, is amended to
7 read as follows:

8 Sec. 321.012. BUDGET [~~EXPENDITURES~~] AND SALARIES. (a) The
9 State Auditor shall submit an operating budget to the committee not
10 later than September 1 of each year [~~directs and controls the~~
11 ~~expenditure of any money appropriated to the office of the State~~
12 ~~Auditor and must approve the State Auditor's appropriation requests~~
13 ~~and audit plan~~].

14 (b) [~~Before payment may be made on a voucher issued for~~
15 ~~payment of the salaries and expenses of the office, the State~~
16 ~~Auditor must approve the voucher.~~

17 [~~(c) The salaries of the assistant auditors and~~
18 ~~stenographic and clerical personnel may not exceed the amounts paid~~
19 ~~by other departments for similar services.~~

20 [~~(d)~~] Salaries shall be paid monthly.

21 SECTION 5. Sections 321.013(b), (c), (d), (e), (f), and
22 (j), Government Code, are amended to read as follows:

23 (b) The State Auditor shall conduct the audits in accordance
24 with generally accepted government auditing standards as
25 prescribed by one of the following:

26 (1) the United States Government Accountability
27 Office;

1 (2) the American Institute of Certified Public
2 Accountants; [~~the Governmental Accounting Standards Board, the~~
3 ~~United States General Accounting Office,~~] or

4 (3) other professionally recognized entities that
5 prescribe auditing standards.

6 (c) The State Auditor shall submit an annual [~~recommend the~~
7 audit plan for the state [~~for each year~~] to the committee not later
8 than September 1 of each year. The annual audit plan is considered
9 approved if the committee does not take action on the plan before
10 November 1 of the year the plan is submitted. The State Auditor
11 shall notify the committee of any changes to the plan. In devising
12 the plan, the State Auditor shall consider recommendations
13 concerning coordination of agency functions made jointly by
14 representatives of the Legislative Budget Board, Sunset Advisory
15 Commission, and State Auditor's Office. The State Auditor shall
16 also consider the extent to which a department has received a
17 significant increase in appropriations, including a significant
18 increase in federal or other money passed through to the
19 department, and shall review procurement activities for compliance
20 with Section 2161.123. The plan shall provide for auditing of
21 federal programs at least as often as required under federal law and
22 shall ensure that audit requirements of all bond covenants and
23 other credit or financial agreements are satisfied. An audit plan
24 created under this subsection is considered an audit working paper
25 and is exempt from disclosure under Section 552.116. [~~The committee~~
26 ~~shall review and approve the plan.~~]

27 (d) At any time during an audit or investigation, the State

1 Auditor may require the assistance of the chief executive officer,
2 the administrative head, an official, a board or commission member,
3 an auditor, an accountant, or other officers or employees of the
4 entity being audited or investigated. During an investigation, the
5 State Auditor, or the State Auditor's designated representative,
6 may take possession of any property the State Auditor has
7 reasonable cause to believe was purchased with public funds after
8 making a determination that the property is necessary for the
9 purposes of the investigation.

10 (e) The State Auditor is entitled to access and make copies
11 of [~~to~~] all of the books, accounts, confidential or nonconfidential
12 [~~unconfidential~~] reports, vouchers, or other records of
13 information in any department or entity subject to audit, including
14 [~~access to~~] all electronic data. However, the State Auditor is
15 entitled to [~~has~~] access and make copies of [~~to~~] information and
16 data the release of which is restricted under federal law only with
17 the approval of the appropriate federal administrative agency, and
18 the State Auditor is entitled to [~~shall have~~] access and make copies
19 of [~~to~~] copyrighted or restricted information obtained by the
20 Office of the Comptroller of Public Accounts under subscription
21 agreements and utilized in the preparation of economic estimates
22 only for audit purposes.

23 (f) The State Auditor may conduct financial audits,
24 compliance audits, [~~and~~] investigations, [~~and, with specific~~
25 ~~authority from the committee,~~] economy and efficiency audits,
26 effectiveness audits, and special audits as defined by this chapter
27 and specified in the audit plan.

1 (j) In devising the audit plan under Subsection (c), the
2 State Auditor shall perform risk assessments as required by law.
3 The process of assessing risks to the state is the first stage of
4 auditing, and all records of risk assessment are part of the audit
5 working papers of the State Auditor. Accordingly, all documentation
6 of risk assessments by the State Auditor is exempt from disclosure
7 under Section 552.116 and may be withheld or redacted in response to
8 a request under Chapter 552 without the necessity of requesting a
9 decision from the attorney general under Subchapter G, Chapter 552.

10 SECTION 6. Section 321.0131, Government Code, is amended to
11 read as follows:

12 Sec. 321.0131. FINANCIAL AUDIT. A financial audit is an
13 audit to determine:

14 (1) in the case of the state or a department, whether
15 the records, books, and accounts of the audited entity accurately
16 reflect its financial and fiscal operations and condition;

17 (2) whether the audited entity is maintaining
18 effective accounting control over revenues, encumbrances,
19 obligations, expenditures, assets, [~~and~~] liabilities, and other
20 resources;

21 (2-a) whether the audited entity is complying with
22 laws, rules, regulations, and contract and grant provisions as the
23 laws, rules, regulations, and provisions relate to financial
24 transactions, systems, and processes;

25 (3) whether the accounting and record-keeping of
26 collections of state revenues and receipts by the audited entity
27 are fair, accurate, and in accordance with law;

1 (4) whether the accounting and record-keeping of money
2 or negotiable securities or similar assets handled by the audited
3 entity on behalf of the state or received from the state and held in
4 trust by the audited entity are proper, accurate, and in accordance
5 with law; or [~~and~~]

6 (5) whether financial statements and other financial,
7 program, and statistical reports of the audited entity are fairly
8 presented.

9 SECTION 7. Section 321.0132, Government Code, is amended to
10 read as follows:

11 Sec. 321.0132. COMPLIANCE AUDIT. A compliance audit is an
12 audit to determine:

13 (1) whether the audited entity has obligated,
14 expended, received, and used state funds in accordance with the
15 purpose for which those funds have been appropriated or otherwise
16 authorized by law;

17 (2) whether the audited entity has obligated,
18 expended, received, and used state funds in accordance with any
19 limitations, restrictions, conditions, or mandatory directions
20 imposed by law on those obligations, expenditures, receipts, or
21 uses;

22 (3) in the case of a local or private entity or agency,
23 whether the records, books, and accounts of the audited entity
24 fairly and accurately reflect its financial and fiscal operations
25 relating to the obligation, receipt, expenditure, and use of state
26 funds or funds represented as being collected for a state purpose;

27 (4) whether the collections of state revenues and

1 receipts by the audited entity are in accordance with applicable
2 laws, rules, and regulations; [~~and~~]

3 (5) whether money or negotiable securities or similar
4 assets handled by the audited entity on behalf of the state or
5 received from the state and held in trust by the audited entity have
6 been properly and legally administered; and

7 (6) whether an entity that has contracted with a
8 department or received funds through a grant with a department is
9 complying with the provisions of the contract or grant, as
10 applicable.

11 SECTION 8. Chapter 321, Government Code, is amended by
12 adding Section 321.01365 to read as follows:

13 Sec. 321.01365. AUDIT WORKING PAPERS RELATED TO AN
14 INVESTIGATION. All audit working papers of the State Auditor
15 related to an investigation or complaint, including all records of
16 communications related to the investigation or complaint, are
17 confidential and are not subject to disclosure under Chapter 552.

18 SECTION 9. Section 321.014, Government Code, is amended by
19 adding Subsections (b-1) and (e-1) and amending Subsections (c),
20 (d), (e), and (f) to read as follows:

21 (b-1) If the State Auditor determines that any information
22 to be included in a report would affect the security of a computer
23 network of a department, the State Auditor may report that
24 information to the chief executive officer of the affected
25 department in a separate report. The separate report is an audit
26 working paper of the State Auditor.

27 (c) The State Auditor shall submit each report to the

1 committee prior to publication. After a report is published, the
2 ~~[The]~~ State Auditor shall file a copy of each report prepared under
3 this section with:

- 4 (1) the governor;
- 5 (2) the lieutenant governor;
- 6 (3) the speaker of the house of representatives;
- 7 (4) the secretary of state;
- 8 (5) the Legislative Reference Library;
- 9 (6) each member of the governing body and the
10 administrative head of each entity that is the subject of the
11 report; and
- 12 (7) members of the legislature on a committee with
13 oversight responsibility for the entity or program that is the
14 subject of the report.

15 (d) The State Auditor shall maintain a complete file
16 containing:

- 17 (1) copies of each audit report; and
- 18 (2) audit working ~~[work]~~ papers and other evidence
19 relating to the work of the State Auditor.

20 (e) The State Auditor shall maintain the audit working
21 papers ~~[files]~~ required by Subsection (d) for at least seven
22 ~~[eight]~~ years after the date ~~[on which]~~ the report is published
23 ~~[information is filed]~~.

24 (e-1) Each department or entity shall file a written
25 response with the State Auditor within the period established by
26 the State Auditor. The written response must:

- 27 (1) identify whether the department or entity agrees

1 or disagrees with each recommendation;

2 (2) if the department or entity disagrees with the
3 recommendation, state the reason why the department or entity
4 disagrees with the recommendation; and

5 (3) state whether the department or entity intends to
6 implement the recommendation.

7 (f) Each audited department or entity shall report on the
8 manner in which the department or entity has addressed the findings
9 and recommendations that are included in a report prepared by the
10 state auditor under this section and on the status of the
11 department's or entity's responsive efforts. The state auditor
12 shall prescribe the form and schedule for a report by the department
13 or entity under this subsection.

14 SECTION 10. Section 321.017, Government Code, is amended to
15 read as follows:

16 Sec. 321.017. AUDIT [~~REVIEW~~] AND OVERSIGHT OF FUNDS AND
17 ACCOUNTS RECEIVING COURT COSTS. (a) The state auditor may audit
18 [~~review~~] each fund and account into which money collected as a court
19 cost is directed by law to be deposited to determine whether:

20 (1) the money is being used for the purpose or purposes
21 for which the money is collected; and

22 (2) the amount of the court cost is appropriate,
23 considering the purpose or purposes for which the cost is
24 collected.

25 (b) The state auditor may perform audits [~~reviews~~] under
26 this section as specified in the audit plan developed under Section
27 321.013.

1 (c) The state auditor shall make the findings of an audit [~~a~~
2 ~~review~~] performed under this section available to the public and
3 shall report the findings to the governor, the chief justice of the
4 supreme court, the presiding judge of the court of criminal
5 appeals, and the committee. The report may include the state
6 auditor's recommendations for legislation or policy changes.

7 SECTION 11. Section 321.018, Government Code, is amended by
8 amending Subsection (b) and adding Subsection (f) to read as
9 follows:

10 (b) Each subpoena issued under Subsection (a) must be signed
11 by either of the joint chairs of the committee or the secretary of
12 the committee.

13 (f) The State Auditor may subpoena witnesses, computers,
14 equipment, books, records, or other documents in order to perform
15 the State Auditor's duties under this chapter. A subpoena issued
16 under this subsection may be served and enforced in the manner
17 provided for a subpoena issued under Subsection (a).

18 SECTION 12. Section 321.022, Government Code, is amended by
19 adding Subsection (d) to read as follows:

20 (d) The State Auditor may produce a public report for any
21 investigation or complaint. The report shall be marked as a public
22 report.

23 SECTION 13. Chapter 321, Government Code, is amended by
24 adding Sections 321.0221 through 321.0226 to read as follows:

25 Sec. 321.0221. AUDIT AND INVESTIGATIVE COORDINATING
26 COUNCIL. (a) The Audit and Investigative Coordinating Council is
27 composed of:

1 (1) the State Auditor; and

2 (2) individuals appointed by the State Auditor from
3 any of the following:

4 (A) internal auditors;

5 (B) inspectors general appointed or employed at
6 any department;

7 (C) chief fiscal officers;

8 (D) information technology specialists; or

9 (E) any other employee of a department.

10 (b) The State Auditor shall serve as the chair of the
11 coordinating council. A member serves at the will of the State
12 Auditor and as an additional duty of the member's office or
13 employment.

14 (c) The coordinating council shall meet at least quarterly
15 and at other times at the call of the chair.

16 (d) The coordinating council may:

17 (1) cooperate on and coordinate the planning and
18 performance of audits, reviews, and investigations, as necessary;
19 and

20 (2) cooperate on and coordinate fraud prevention
21 activities.

22 (e) The coordinating council shall submit a report of the
23 coordinating council's activities at least once each year to:

24 (1) the governor;

25 (2) the lieutenant governor;

26 (3) the speaker of the house of representatives;

27 (4) the State Auditor; and

1 (5) the appropriate legislative oversight committees.

2 (f) Chapters 551 and 2110 do not apply to the coordinating
3 council.

4 (g) The coordinating council's activities under this
5 section do not include making management decisions or directing the
6 operations of a department.

7 Sec. 321.0222. INSPECTORS GENERAL: COOPERATION AND
8 COORDINATION WITH STATE AUDITOR. (a) The State Auditor may, on
9 request of a department's inspector general, provide appropriate
10 information or other assistance to the inspector general.

11 (b) An inspector general and the State Auditor may meet to
12 share information, coordinate audits, investigations, or reviews,
13 or schedule work plans.

14 (c) The State Auditor is entitled to access all information
15 maintained by an inspector general, including:

16 (1) information made confidential by state or federal
17 law;

18 (2) vouchers;

19 (3) electronic data;

20 (4) internal records; and

21 (5) other information.

22 (d) Any documentation or other information prepared or
23 maintained by or for the State Auditor in connection with the State
24 Auditor's work with an inspector general to conduct an audit,
25 investigation, or review is confidential and not subject to
26 disclosure under Chapter 552.

27 Sec. 321.0223. INSPECTORS GENERAL: STATE AUDITOR AUDITS,

1 INVESTIGATIONS, AND ACCESS TO INFORMATION NOT IMPAIRED. Provisions
2 in this chapter or other law related to the operation of an
3 inspector general do not:

4 (1) take precedence over the authority of the State
5 Auditor to conduct an audit, review, or investigation under this
6 chapter or other law;

7 (2) prohibit the State Auditor from conducting an
8 audit, investigation, or review; or

9 (3) prohibit the State Auditor from having full and
10 complete access to all records and other information, including
11 witnesses and electronic data, that the State Auditor considers
12 necessary for the audit, investigation, or review.

13 Sec. 321.0224. INSPECTORS GENERAL: ACCESS TO STATE AUDITOR
14 INFORMATION. Except as authorized by the State Auditor, this
15 chapter or other law related to the operation of an inspector
16 general does not permit an inspector general or any other person to
17 access any working papers, including any documents, notes, and
18 other information, collected or maintained by the State Auditor's
19 Office.

20 Sec. 321.0225. REPORTING BY INSPECTORS GENERAL. (a) On the
21 request of the State Auditor, an inspector general shall in a timely
22 manner provide the State Auditor with the status of an ongoing
23 audit, investigation, or review.

24 (b) An inspector general shall provide a final report to the
25 State Auditor for each audit, investigation, or review conducted by
26 the inspector general. The final report must include:

27 (1) a summary of the activities performed by the

1 inspector general in conducting the audit, investigation, or
2 review;

3 (2) a determination of whether wrongdoing was found;
4 and

5 (3) a description of any findings of wrongdoing.

6 (c) An inspector general's final reports are subject to
7 disclosure under Chapter 552.

8 (d) The State Auditor shall prescribe the form and content
9 of a report submitted under this section.

10 Sec. 321.0226. INFORMATION SHARING. The State Auditor, by
11 providing the coordinating council or an inspector general with
12 information that is confidential or otherwise excepted from
13 required disclosure under law, does not waive or affect the
14 confidentiality of the information for purposes of state or federal
15 law or waive the right to assert exceptions to required disclosure
16 of the information in the future.

17 SECTION 14. Chapter 321, Government Code, is amended by
18 adding Sections 321.024 through 321.027 to read as follows:

19 Sec. 321.024. USE OF STATE RESOURCES. The State Auditor may
20 enter into an agreement with a department under which the State
21 Auditor is permitted to use resources of the department, including
22 the services of law enforcement officers commissioned or employed
23 by the department.

24 Sec. 321.025. ASSISTANCE BY DEPARTMENT EMPLOYEES. The
25 State Auditor may require employees of a department to provide
26 assistance in connection with the State Auditor's duties relating
27 to the investigation of fraud, waste, and abuse in the provision of

1 services for programs at a department or in state or federally
2 funded programs implemented, administered, or overseen by or for
3 the department.

4 Sec. 321.026. ASSISTANCE OF LOCAL GOVERNMENTAL ENTITIES.
5 The State Auditor may enter into an agreement with a municipality or
6 county in this state that permits the State Auditor to use the
7 resources of the municipality or county, including the services of
8 law enforcement officers.

9 Sec. 321.027. ASSISTANCE OF INSPECTORS GENERAL. The State
10 Auditor may enter into an agreement with a department's inspector
11 general under which the State Auditor is permitted to use resources
12 of the inspector general, including the services of law enforcement
13 officers commissioned or employed by the department or the
14 inspector general.

15 SECTION 15. Sections 441.185(c) and (d), Government Code,
16 are amended to read as follows:

17 (c) The state records administrator and the state archivist
18 shall review the schedule and recommend the schedule's approval or
19 disapproval to the director and librarian [~~and the state auditor.~~
20 ~~The state auditor, based on a risk assessment and subject to the~~
21 ~~legislative audit committee's approval of including the review in~~
22 ~~the audit plan under Section 321.013, may review the schedule].~~

23 (d) If the director and librarian [~~and the state auditor,~~
24 ~~if the state auditor reviewed the schedule under Subsection (c),]~~
25 approve the schedule, the schedule may be used as the basis for the
26 lawful disposition of state records under Section 441.187 for a
27 period to be determined by the commission.

1 SECTION 16. Section 481.123, Government Code, is amended to
2 read as follows:

3 Sec. 481.123. DUTIES. The permit office shall:

4 (1) provide comprehensive information on permits
5 required for business enterprises in the state and make that
6 information available to applicants and other persons;

7 (2) assist applicants in obtaining timely and
8 efficient permit review and in resolving issues arising from the
9 review;

10 (3) facilitate contacts between applicants and state
11 agencies responsible for processing and reviewing permit
12 applications;

13 (4) assist applicants in the resolution of outstanding
14 issues identified by state agencies, including delays experienced
15 in permit review;

16 (5) develop comprehensive application procedures to
17 expedite the permit process;

18 (6) compile a comprehensive list of all permits
19 required of a person desiring to establish, operate, or expand a
20 business enterprise in the state;

21 (7) encourage and facilitate the participation of
22 federal and local government agencies in permit coordination;

23 (8) make recommendations for eliminating,
24 consolidating, simplifying, expediting, or otherwise improving
25 permit procedures affecting business enterprises by initiating
26 [~~requesting that the state auditor, with the advice and support of~~
27 ~~the permit office, initiate~~] a business permit reengineering review

1 process involving all state agencies;

2 (9) develop and implement an outreach program to
3 publicize and make small business entrepreneurs and others aware of
4 services provided by the permit office;

5 (10) adopt rules, procedures, instructions, and forms
6 required to carry out the functions, powers, and duties of the
7 permit office under this subchapter; and

8 (11) except as provided in Section 481.129, complete
9 the implementation of the business permit review process on or
10 before September 1, 1994, and provide all recommended statutory
11 changes as needed to the legislature on or before January 1, 1995.

12 SECTION 17. Section 531.454, Government Code, is amended to
13 read as follows:

14 Sec. 531.454. ELIGIBILITY SYSTEM REVIEW [~~DURING TRANSITION~~
15 ~~PERIOD~~]. [~~(a)~~] The eligibility system, including all records,
16 contracts, and other related information, is subject to audit by
17 the state auditor in accordance with Chapter 321 [~~auditor's office~~
18 ~~shall establish, in consultation with the Department of Information~~
19 ~~Resources, an independent validation and verification program for~~
20 ~~the eligibility system during the period of the transition plan~~
21 ~~developed under Section 531.453. The state auditor's office shall~~
22 ~~also coordinate and consult with the commission, including the~~
23 ~~commission's office of inspector general, in establishing the~~
24 ~~program~~].

25 [~~(b)~~] ~~The independent validation and verification program~~
26 ~~must allow for a determination of:~~

27 [~~(1)~~] ~~whether the goals set by the commission in the~~

1 ~~transition plan are being met in accordance with the timetable~~
2 ~~required by Section 531.453(a),~~

3 ~~[(2) whether the eligibility system is progressing~~
4 ~~toward becoming fully functional relative to the needs of eligible~~
5 ~~Texas residents,~~

6 ~~[(3) what actions are necessary to achieve full~~
7 ~~functionality of the eligibility system,~~

8 ~~[(4) whether the commission is making progress toward~~
9 ~~meeting the goals of the enhanced eligibility system described in~~
10 ~~Section 531.452; and~~

11 ~~[(5) what additional actions are necessary to achieve~~
12 ~~the goals of the enhanced eligibility system.~~

13 ~~[(c) The state auditor's office shall present the proposed~~
14 ~~independent validation and verification program to the committee~~
15 ~~and seek the committee's recommendations for modifications to the~~
16 ~~proposed program. The state auditor's office shall consider the~~
17 ~~committee's recommendations and modify the proposed program as~~
18 ~~necessary.~~

19 ~~[(d) The state auditor's office may:~~

20 ~~[(1) enter into a contract with a person to perform the~~
21 ~~duties required of the office under Subsection (a), subject to the~~
22 ~~requirements of Subsection (c), and~~

23 ~~[(2) enter into a contract with a person to implement~~
24 ~~the independent validation and verification program, or may~~
25 ~~implement the program using a contractor with which the commission~~
26 ~~contracts as provided by Subsection (c).~~

27 ~~[(e) The commission may enter into a contract with a person~~

1 ~~before September 1, 2007, to operate an independent validation and~~
2 ~~verification program for the eligibility system.~~

3 ~~[(f) The quality assurance team shall establish a schedule~~
4 ~~for periodic monitoring of the eligibility system during the period~~
5 ~~of the transition plan developed under Section 531.453.~~

6 ~~[(g) The state auditor's office and the quality assurance~~
7 ~~team shall share information as necessary to fulfill their~~
8 ~~respective duties under this section.]~~

9 SECTION 18. Section 654.016(d), Government Code, is
10 amended to read as follows:

11 (d) An action of the classification officer under this
12 section is subject to:

13 (1) any limitation established for the agency in the
14 General Appropriations Act, including limitations on the number of
15 positions and amount of appropriations; and

16 (2) the approval of the state auditor ~~[with advice~~
17 ~~from the Legislative Audit Committee].~~

18 SECTION 19. Sections 654.032 through 654.036, Government
19 Code, are amended to read as follows:

20 Sec. 654.032. EMPLOYMENT ~~[APPOINTMENT]~~ OF CLASSIFICATION
21 OFFICER. The state auditor may employ a ~~[shall appoint the]~~
22 classification officer~~[, subject to the advice and approval of the~~
23 ~~Legislative Audit Committee].~~

24 Sec. 654.033. QUALIFICATIONS OF CLASSIFICATION OFFICER. To
25 be eligible to be employed ~~[for appointment]~~ as classification
26 officer, an individual must have:

27 (1) at least six years' experience in position

1 classification or human resource management; or

2 (2) a period of experience equivalent to that
3 described in Subdivision (1) in related work in state employment
4 that specially qualifies the person for the position.

5 Sec. 654.034. SALARY OF CLASSIFICATION OFFICER. The state
6 auditor shall set the salary of the classification officer [~~is~~
7 ~~entitled to the salary set by the General Appropriations Act~~].

8 Sec. 654.035. FIRST ASSISTANT CLASSIFICATION OFFICER. The
9 [~~classification officer, subject to the approval of the~~] state
10 auditor [~~and the Legislative Audit Committee,~~] may employ [~~appoint~~]
11 a first assistant classification officer [~~to whom the~~
12 ~~classification officer may delegate the statutory powers and duties~~
13 ~~of the classification officer when the classification officer is~~
14 ~~absent~~].

15 Sec. 654.036. GENERAL DUTIES OF CLASSIFICATION OFFICER.
16 Subject to approval by the state auditor, the [~~The~~] classification
17 officer shall:

18 (1) maintain and keep current the position
19 classification plan;

20 (2) advise and assist state agencies in equitably and
21 uniformly applying the plan;

22 (3) conduct classification compliance reviews
23 [~~audits~~] to ensure conformity with the plan; [~~and~~]

24 (4) make recommendations [~~that the classification~~
25 ~~officer finds necessary and desirable about the operation and~~] for
26 improvement of the plan to the governor and the legislature; and

27 (5) study the compensation of positions that are

1 exempt from the plan.

2 SECTION 20. Section 654.037, Government Code, is amended by
3 amending Subsection (a) and adding Subsection (a-1) to read as
4 follows:

5 (a) The classification officer shall:

6 (1) make periodic studies of salary rates in other
7 governmental units and in industry for similar work performed in
8 state government;

9 (1-a) conduct a periodic study of compensation of
10 positions that are exempt from the position classification plan;
11 and

12 (2) subject to approval by the state auditor, report
13 the [~~classification officer's~~] findings from the studies made under
14 Subdivisions [~~Subdivision~~] (1) and (1-a) to the governor's budget
15 office and the Legislative Budget Board not later than October 1
16 preceding each regular session of the legislature.

17 (a-1) A study of the compensation of exempt positions
18 conducted under Subsection (a) must compare exempt positions from
19 different agencies and take into account the following:

20 (1) the size of an agency's annual appropriations;

21 (2) the number of full-time equivalent positions at
22 the agency;

23 (3) the market average compensation for a similar
24 executive position;

25 (4) the exempt position salary as compared to a
26 similar classified position within the agency; and

27 (5) other objective criteria as determined by the

1 study team.

2 SECTION 21. Section 654.038, Government Code, is amended to
3 read as follows:

4 Sec. 654.038. CLASSIFICATION COMPLIANCE REVIEWS [~~AUDITS~~];
5 NOTIFICATION AND VOLUNTARY CORRECTION OF NONCONFORMITY. (a) After
6 approval by the state auditor, the [~~The~~] classification officer
7 shall notify the governor, the comptroller, the Legislative Audit
8 Committee, and the chief executive of the agency in writing when a
9 classification compliance review [~~audit~~] reveals nonconformity
10 with the position classification plan or with prescribed salary
11 ranges. The notification shall specify the points of
12 nonconformity.

13 (b) The chief executive is entitled to a reasonable
14 opportunity to resolve the nonconformity by:

15 (1) reclassifying the employee to a position title or
16 classification [~~class~~] consistent with the work performed;

17 (2) changing the employee's duties to conform to the
18 assigned classification [~~class~~]; or

19 (3) recommending to the state auditor's office
20 [~~obtaining~~] a new [~~class~~] description of work and salary range for
21 the classification, subject to legislative approval.

22 SECTION 22. Section 654.039, Government Code, is amended to
23 read as follows:

24 Sec. 654.039. REPORT OF INACTION. Subject to approval by
25 the state auditor, the [~~The~~] classification officer shall make a
26 written report of the facts to the governor and the Legislative
27 Budget Board if the chief executive of an agency does not comply

1 with Section 654.038(b) before the 21st day after the date of the
2 classification officer's written notification.

3 SECTION 23. Section 654.041, Government Code, is amended to
4 read as follows:

5 Sec. 654.041. EXAMINATION FOR COMPLIANCE BY STATE AUDITOR;
6 REPORTS. The state auditor, in accordance with Chapter 321
7 ~~[subject to a risk assessment and to the Legislative Audit~~
8 ~~Committee's approval of including the examination in the audit plan~~
9 ~~under Section 321.013]~~, may:

10 (1) examine or cause to be examined, in periodic
11 postaudits of their expenditures and by methods the auditor
12 considers appropriate and adequate, whether departments and
13 agencies are in compliance with this chapter; and

14 (2) report the findings to the governor, the
15 comptroller, and the Legislative Audit Committee.

16 SECTION 24. Section 654.043, Government Code, is amended to
17 read as follows:

18 Sec. 654.043. FREE USE OF COMPTROLLER'S DATA PROCESSING
19 CENTER. The state auditor's office ~~[classification officer]~~ may
20 use, without charge, the comptroller's data processing center to
21 process position classification information when the center is
22 available.

23 SECTION 25. Sections 825.4041(f) and (g), Government Code,
24 are amended to read as follows:

25 (f) At the end of each school year, the retirement system
26 shall certify to the commissioner of education ~~[and to the state~~
27 ~~auditor]~~:

1 (1) the name of each employer that has failed to remit,
2 within the period required by Section 825.408, all payments
3 required under this section for the school year; and

4 (2) the amounts of the unpaid required payments.

5 (g) If the commissioner of education [~~or the state auditor~~]
6 receives a certification under Subsection (f), the commissioner [~~or~~
7 ~~the state auditor~~] shall direct the comptroller to withhold the
8 amount certified, plus interest computed at the rate and in the
9 manner provided by Section 825.408, from the first state money
10 payable to the employer. The amount withheld shall be deposited to
11 the credit of the appropriate accounts of the retirement system.
12 Any action taken under this subsection is subject to audit by the
13 state auditor in accordance with Chapter 321.

14 SECTION 26. Section 1231.044(a), Government Code, is
15 amended to read as follows:

16 (a) In accordance with Chapter 321 [~~On the board's request~~],
17 the state auditor may [~~shall~~] review the disposition of state
18 security proceeds.

19 SECTION 27. Section 2102.009, Government Code, is amended
20 to read as follows:

21 Sec. 2102.009. ANNUAL REPORT. The internal auditor shall
22 prepare an annual report and submit the report before November 1 of
23 each year to the governor, the Legislative Budget Board, the Sunset
24 Advisory Commission, the state auditor, the state agency's
25 governing board, and the administrator. The state auditor shall
26 prescribe the form and content of the report[~~, subject to the~~
27 ~~approval of the legislative audit committee~~].

1 SECTION 28. Section 2102.0091, Government Code, is amended
2 by adding Subsection (d) to read as follows:

3 (d) A report required under this section shall be posted on
4 a state agency's Internet website not later than the 30th day after
5 the date the report is submitted to the state agency's governing
6 board or to the administrator of the state agency if the state
7 agency does not have a governing board.

8 SECTION 29. Chapter 2102, Government Code, is amended by
9 adding Section 2102.0092 to read as follows:

10 Sec. 2102.0092. STATE AUDITOR ACCESS TO DRAFT REPORTS. The
11 state auditor is entitled to inspect and make copies of all drafts
12 of an internal audit report.

13 SECTION 30. Section 2104.0215(a), Government Code, is
14 amended to read as follows:

15 (a) A state agency that agrees to enter into a
16 rehabilitation plan shall engage the services of an independent
17 management consulting team approved by the governor and by the
18 joint chairs [~~presiding officer and assistant presiding officer~~] of
19 the legislative audit committee. The independent management
20 consulting team may include the state auditor, one or more
21 appropriate state agencies, and private consultants.

22 SECTION 31. Section 2263.005, Government Code, is amended
23 by amending Subsections (a), (c), and (e) and adding Subsection (f)
24 to read as follows:

25 (a) A financial advisor or service provider described by
26 Section 2263.004 shall disclose in writing to the administrative
27 head of the applicable state governmental entity [~~and to the state~~

1 ~~auditor~~]:

2 (1) any relationship the financial advisor or service
3 provider has with any party to a transaction with the state
4 governmental entity, other than a relationship necessary to the
5 investment or funds management services that the financial advisor
6 or service provider performs for the state governmental entity, if
7 a reasonable person could expect the relationship to diminish the
8 financial advisor's or service provider's independence of judgment
9 in the performance of the person's responsibilities to the state
10 governmental entity; and

11 (2) all direct or indirect pecuniary interests the
12 financial advisor or service provider has in any party to a
13 transaction with the state governmental entity, if the transaction
14 is connected with any financial advice or service the financial
15 advisor or service provider provides to the state governmental
16 entity or to a member of the governing body in connection with the
17 management or investment of state funds.

18 (c) A financial advisor or service provider described by
19 Section 2263.004 shall file annually a statement with the
20 administrative head of the applicable state governmental entity
21 ~~[and with the state auditor]~~. The statement must disclose each
22 relationship and pecuniary interest described by Subsection (a) or,
23 if no relationship or pecuniary interest described by that
24 subsection existed during the disclosure period, the statement must
25 affirmatively state that fact.

26 (e) The financial advisor or service provider shall
27 promptly file a new or amended statement with the administrative

1 head of the applicable state governmental entity [~~and with the~~
2 ~~state auditor~~] whenever there is new information to report under
3 Subsection (a).

4 (f) The annual statement filed with a state governmental
5 entity under this section is subject to audit by the state auditor
6 under Chapter 321.

7 SECTION 32. Section 2306.074(a), Government Code, is
8 amended to read as follows:

9 (a) The department's books and accounts must be audited each
10 fiscal year by a certified public accountant or, in accordance with
11 Chapter 321 [~~if requested by the department and if the legislative~~
12 ~~audit committee approves including the audit in the audit plan~~
13 ~~under Section 321.013(c)~~], by the state auditor. A copy of the
14 audit must be filed with the governor, the comptroller, and the
15 legislature not later than the 30th day after the submission date
16 for the annual financial report as required by the General
17 Appropriations Act. If the state auditor is conducting the audit
18 and it is not available by the 30th day after the submission date as
19 required by the General Appropriations Act for annual financial
20 reporting, it must be filed as soon as it is available.

21 SECTION 33. Sections 2306.560(a) and (b), Government Code,
22 are amended to read as follows:

23 (a) The [~~corporation shall hire an independent certified~~
24 ~~public accountant to audit the~~] corporation's books and accounts
25 shall be audited by a certified public accountant or by the state
26 auditor [~~for~~] each fiscal year. The corporation shall file a copy
27 of the audit with the department and shall submit the audit report

1 to the governor, lieutenant governor, speaker of the house of
2 representatives, comptroller, Bond Review Board, State Auditor's
3 Office, and Legislative Budget Board not later than the 30th day
4 after the submission date established in the General Appropriations
5 Act for the annual financial report.

6 (b) The corporation is subject to audit by the state auditor
7 in accordance with Chapter 321.

8 SECTION 34. Section 1506.004(b), Insurance Code, is amended
9 to read as follows:

10 (b) The state auditor shall be reimbursed for the cost of an
11 audit performed under Subsection (a) [~~report the cost of each audit~~
12 ~~conducted under this section to the board and the comptroller. The~~
13 ~~board shall remit that amount to the comptroller].~~

14 SECTION 35. Section 2210.054, Insurance Code, is amended by
15 amending Subsection (a) and adding Subsection (c) to read as
16 follows:

17 (a) The association shall file annually with the department
18 and the state auditor's office a statement covering periods
19 designated by the department that summarizes the transactions,
20 conditions, operations, and affairs of the association during the
21 preceding year.

22 (c) The association is subject to audit by the state
23 auditor. The association shall pay the costs incurred by the state
24 auditor for performing an audit of the association under this
25 section. The association shall pay the costs promptly after
26 receipt of a statement from the state auditor's office regarding
27 the incurred costs.

1 SECTION 36. Section 391.0095(e), Local Government Code, is
2 amended to read as follows:

3 (e) A commission shall send to the governor, the state
4 auditor, the comptroller, and the Legislative Budget Board a copy
5 of each report and audit required under this section or under
6 Section 391.009. The state auditor may review each audit and
7 report[, ~~subject to a risk assessment performed by the state~~
8 ~~auditor and to the legislative audit committee's approval of~~
9 ~~including the review in the audit plan under Section 321.013,~~
10 ~~Government Code~~]. If the state auditor reviews the audit or report,
11 the state auditor must be given access to working papers and other
12 supporting documentation that the state auditor determines is
13 necessary to perform the review, in accordance with Chapter 321,
14 Government Code. If the state auditor finds significant issues
15 involving the administration or operation of a commission or its
16 programs, the state auditor shall report its findings and related
17 recommendations to the legislative audit committee, the governor,
18 and the commission. The governor and the legislative audit
19 committee may direct the commission to prepare a corrective action
20 plan or other response to the state auditor's findings or
21 recommendations. [~~The legislative audit committee may direct the~~
22 ~~state auditor to perform any additional audit or investigative work~~
23 ~~that the committee determines is necessary.~~]

24 SECTION 37. Section 366.183, Transportation Code, is
25 amended to read as follows:

26 Sec. 366.183. AUDIT. (a) An authority shall have a
27 certified public accountant audit the authority's books and

1 accounts at least annually. The cost of the audit may be treated as
2 part of the cost of construction or operation of a turnpike project.

3 (b) An authority's records are subject to audit by the state
4 auditor. If an authority is audited by the state auditor, the
5 authority shall reimburse the state auditor for the expense of the
6 audit.

7 SECTION 38. Subchapter B, Chapter 371, Transportation Code,
8 is amended by adding Section 371.053 to read as follows:

9 Sec. 371.053. AUDIT AUTHORITY. A comprehensive development
10 agreement entered into by a toll project entity is subject to audit
11 by the state auditor. If a comprehensive development agreement is
12 audited by the state auditor, the toll project entity that entered
13 into the agreement shall reimburse the state auditor for the
14 expense of the audit.

15 SECTION 39. Sections 321.014(g) and 654.042, Government
16 Code, are repealed.

17 SECTION 40. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2011.