

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 160 (as introduced 2-11-03)
Sponsor: Senator Bruce Patterson
Committee: Judiciary

Date Completed: 2-18-03

CONTENT

The bill would create a new act to specify the responsibilities and authority of the Auditor General, which would include conducting audits and examinations of all State departments and agencies, issuing subpoenas, and compelling the production of documents. "Auditor General" would mean the individual appointed to that office under Article 4, Section 53 of the State Constitution.

The bill would require the Auditor General to conduct audits and examinations of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of the State. In connection with the audits and examinations, the Auditor General could examine, or cause to be examined, the books, accounts, documents, records, activities, and affairs of each of those bodies.

Upon demand of the Auditor General, deputy Auditor General, or any person appointed by the Auditor General to make audits and examinations, the officers and employees of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of the State would have to produce for examination all books, accounts, documents, and records of their respective activities and affairs, and answer truthfully all questions relating to those materials.

The Auditor General, deputy Auditor General, or any person appointed to make audits and examinations could do any of the following:

- Issue subpoenas, direct the service of the subpoena by any police officer, and compel the attendance and testimony of witnesses.
- Administer oaths and examine any person, as necessary.
- Compel the production of books, accounts, papers, documents, and records.

The orders and subpoenas could be enforced upon application to any circuit court, as provided by law.

The Auditor General could employ and compensate auditors, examiners, and assistants as he or she considered necessary. In addition, the auditors, examiners, and assistants would have to be paid their necessary traveling expenses while engaging in the duties provided under the bill. The Auditor General and the deputy Auditor General also would have to receive their actual traveling expenses incurred while engaging in the duties provided under the bill. Compensation and expenses would have to be paid out of the funds appropriated for that purpose.

BACKGROUND

Article 4, Section 53 of the State Constitution requires the Legislature to appoint an Auditor General, for an eight-year term. The Legislative Auditor General must conduct post audits and

performance post audits of the financial transactions and accounts of the State and its departments, offices, agencies, boards, and commissions, and report at least annually to the Legislature and the Governor. Upon the direction of the Legislature, the Auditor General may employ independent accounting firms or legal counsel, and make investigations pertinent to the conduct of audits. Section 53 states that the Auditor General “shall be assigned no duties other than those specified in this section”.

In the past, many statutes authorized the Auditor General to execute pay warrants, audit plats, perform duties related to property taxes, and perform many other functions. Public Act 43 of 1959 transferred the warrant functions of the Auditor General to the Department of Treasury. Further, the Executive Organization Act of 1965 transferred all of the Auditor General’s powers to the Department of Treasury, except those granted in Article 4, Section 53 of the State Constitution, and abolished the office of elected auditor general. A series of Public Acts enacted in 2002 (Public Act 83 et al.) amended various statutes to remove references to the Auditor General. (For further information on that legislation, please see the Senate Fiscal Agency enrolled summary of Senate Bill 884 et al. of 2001-2002.)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bill Bowerman