

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

**Act 1165 of the Regular Session**

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

*As Engrossed: H3/14/05*

**A Bill**

SENATE BILL 598

5 By: Senators Higginbothom, Lavery, Wilkins  
6 By: Representatives Roebuck, D. Evans, S. Prater  
7

**For An Act To Be Entitled**

10 AN ACT TO REQUIRE THAT THE LEGISLATIVE COUNCIL  
11 AND THE LEGISLATIVE JOINT AUDITING COMMITTEE  
12 RECEIVE REPORTS ON IMPROPRIETIES DETECTED BY THE  
13 LEGISLATIVE JOINT AUDITING COMMITTEE; AND FOR  
14 OTHER PURPOSES.  
15

**Subtitle**

16 AN ACT TO REQUIRE THAT THE LEGISLATIVE  
17 COUNCIL AND THE LEGISLATIVE JOINT  
18 AUDITING COMMITTEE RECEIVE REPORTS ON  
19 IMPROPRIETIES DETECTED BY THE  
20 LEGISLATIVE JOINT AUDITING COMMITTEE.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 10-4-111 is amended to read as follows:

27 10-4-111. Report of improper or illegal practices.

28 (a) If a state agency audit report or other statutorily allowed  
29 examination presented to the Legislative Joint Auditing Committee or the  
30 appropriate standing subcommittee ~~thereof~~ reflects evidence of improper  
31 practices of financial administration or inadequacy of fiscal records, the  
32 Legislative Auditor shall report the same to the Governor, the appropriate  
33 department head or heads affected thereby, and the governing body of the  
34 department.

35 (b) If an audit report or other statutorily allowed examination



1 presented to the Committee or the appropriate standing subcommittee ~~thereof~~  
2 reflects evidence of apparent unauthorized disbursements or unaccounted for  
3 funds or property by a public official or employee, the Legislative Auditor  
4 shall forthwith report the transactions in writing to the prosecuting  
5 attorney for the county in which the public agency or political subdivision  
6 is located, the Governor, the appropriate department head or heads affected  
7 thereby, and the governing body of the department or political subdivision.

8 (c) The Legislative Auditor shall notify and cooperate with the  
9 appropriate prosecuting attorney on all matters that appear to involve a  
10 criminal offense. Upon request and with the approval of the cochairs of the  
11 Committee, the Legislative Auditor shall cooperate in any other  
12 investigations by the appropriate prosecuting attorney, the Department of  
13 Arkansas State Police, or any other law enforcement agency.

14 (d) While the Committee is not established as an agency to effect  
15 through its own direct action the correction of improper practices of  
16 financial administration or inadequacy of fiscal records, the prosecution of  
17 defaulting public officials, or the improvement of accounting systems in any  
18 state department, nevertheless, it is determined that the action or nonaction  
19 on the part of the appropriate public officials in respect to the correction  
20 of such matters when called to their attention or in respect to the  
21 institution of criminal proceedings, where proper, has a pertinent bearing  
22 upon the question of the necessity for future remedial legislation. It is for  
23 this reason that the Committee is authorized to inform public officials to  
24 the extent provided by law of the findings of the Legislative Auditor in  
25 respect to any such matters.

26 (e)(1) By June 30 of each year, each prosecuting attorney to whom the  
27 Legislative Auditor has reported a matter under this section shall file with  
28 the Legislative Council and the Legislative Joint Auditing Committee a  
29 disposition report on the status of the matter.

30 (2) Each disposition report shall include, but is not limited  
31 to:

32 (A) The name and date of the report referred to the  
33 prosecuting attorney by the Legislative Auditor;

34 (B) The date the report was received by the prosecuting  
35 attorney;

36 (C) The amount of loss or funds unaccounted for in

1 connection with the matter;

2 (D) The status or disposition of the matter; and

3 (E) Other comments pertinent to the investigation or  
4 disposition of the matter.

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6 SECTION 2. Arkansas Code § 10-4-213 is amended to read as follows:  
7 10-4-213. Enforcement.

8 (a) If the Legislative Joint Auditing Committee determines that the  
9 municipality, county, or school district has not corrected the deficiencies  
10 noted in the last previous audit of such municipality, county, or school  
11 district presented to the Committee or that the financial records of the  
12 municipality, county, or school district are not being maintained in  
13 substantial compliance with law, the Committee shall give written notice  
14 ~~thereof~~ to the prosecuting attorney of the judicial district in which the  
15 municipality, county, or school district is located. The prosecuting attorney  
16 shall proceed to take appropriate legal action to assure that the municipal,  
17 county, or school district records are maintained in accordance with law.

18 (b) If the prosecuting attorney fails or refuses to take appropriate  
19 legal action within a reasonable time after receipt of notice from the  
20 Committee that a municipality, county, or school district is not maintaining  
21 its records in substantial compliance with law, the Committee shall give  
22 notice ~~thereof~~ to the Attorney General. It shall be the duty of the Attorney  
23 General to take such appropriate action as may be necessary to assure that  
24 the municipal, county, or school district financial records are maintained in  
25 compliance with law.

26 (c)(1) By June 30 of each year, the Attorney General and each  
27 prosecuting attorney to whom the Legislative Joint Auditing Committee has  
28 reported a matter under this section shall file with the Legislative Council  
29 and the Legislative Joint Auditing Committee a disposition report on the  
30 status of the matter.

31 (2) Each disposition report shall include, but is not limited  
32 to:

33 (A) The date the matter was reported to the Attorney  
34 General or the prosecuting attorney;

35 (B) The amount of loss or funds unaccounted for in  
36 connection with the matter;

1                   (C) The status or disposition of the matter; and  
2                   (D) Other comments pertinent to the investigation or  
3 disposition of the matter.  
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5           SECTION 3. Arkansas Code § 10-4-217 is amended to read as follows:  
6           10-4-217. Claims against sureties.

7           (a) It shall be the duty of the Director of the Division of Local  
8 Affairs and Audits of the Division of Legislative Audit, with the approval of  
9 the Legislative Joint Auditing Committee, to give notice and make proof of  
10 loss to and demand payment of the surety on any bond executed by any officer  
11 in which the audit report of the records of that officer reflects any  
12 shortage or other liability for which that officer and his surety may in any  
13 way be liable.

14           (b) Within a reasonable time after the director shall have given  
15 notice and made proof of loss and demand for payment as stated in subsection  
16 (a) of this section, the surety shall make payment to the director of the  
17 amounts so found to be due. The director shall forthwith transmit the amounts  
18 so received to the treasurers of the respective local taxing units with  
19 instructions to credit the amounts received to the accounts entitled to such  
20 funds.

21           (c)(1) In the event any surety shall fail or refuse to pay over the  
22 amounts so found to be due, the director shall give notice of the failure or  
23 refusal to the prosecuting attorney of the proper circuit or to the city  
24 attorney in the event the shortage applies to a municipality or incorporated  
25 town. The attorney shall forthwith take such legal actions as shall be  
26 necessary to collect the amount so found to be due from the officer and his  
27 or her surety.

28           (2)(A) In cases involving funds belonging to cities, upon the  
29 failure or refusal of the city attorney or in the event the municipality does  
30 not have a city attorney, then the director shall so inform the prosecuting  
31 attorney of the proper circuit, and it shall be the prosecuting attorney's  
32 duty to forthwith take such legal action as shall be necessary to collect the  
33 amounts to be due from the officer and his surety.

34           (B)(i) Upon the failure or refusal of the prosecuting  
35 attorney to take such action within a reasonable time thereafter, then the  
36 director shall give notice of such failure or refusal to the Attorney

1 General, and it shall be the Attorney General's duty to forthwith take such  
2 action as shall be necessary to enforce collection of both the shortage and  
3 penalty.

4 (ii) All recovery of the principal amount of the  
5 loss shall be paid over to the director for transmittal to the taxing units  
6 entitled to it.

7 (d)(1) In all criminal or civil actions brought as the result of the  
8 findings set forth in any audit report, the auditors making the audit, upon  
9 request of the proper officers of the court, shall give testimony and  
10 otherwise make their services available in the prosecution of any action.

11 (2) Auditors shall not be entitled to witness fees.

12 (e)(1) By June 30 of each year, the Attorney General and each  
13 prosecuting attorney or city attorney to whom the director has reported a  
14 matter under this section shall file with the Legislative Council and the  
15 Legislative Joint Auditing Committee a disposition report on the status of  
16 the matter.

17 (2) Each disposition report shall include, but is not limited  
18 to:

19 (A) The date the matter was reported to the Attorney  
20 General or the prosecuting attorney or city attorney;

21 (B) The amount of loss or funds unaccounted for in  
22 connection with the matter;

23 (C) The status or disposition of the matter; and

24 (D) Other comments pertinent to the investigation or  
25 disposition of the matter.

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27 */s/ Higginbothom, et al*  
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30 *APPROVED: 3/22/2005*  
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