

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.

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 Higginbotham, 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.

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.
21

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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
36 presented to the Committee or the appropriate standing subcommittee ~~thereof~~



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

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

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

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

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

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

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

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

1 (D) The status or disposition of the matter; and
2 (E) Other comments pertinent to the investigation or
3 disposition of the matter.
4

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

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

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

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

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

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

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

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

1 (D) Other comments pertinent to the investigation or
2 disposition of the matter.

3
4 SECTION 3. Arkansas Code § 10-4-217 is amended to read as follows:
5 10-4-217. Claims against sureties.

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

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

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

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

33 (B)(i) Upon the failure or refusal of the prosecuting
34 attorney to take such action within a reasonable time thereafter, then the
35 director shall give notice of such failure or refusal to the Attorney
36 General, and it shall be the Attorney General's duty to forthwith take such

1 action as shall be necessary to enforce collection of both the shortage and
2 penalty.

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

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

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

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

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

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

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

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

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

25
26 /s/ Higginbothom, et al
27
28
29
30
31
32
33
34
35
36