



House of Representatives

General Assembly

File No. 435

January Session, 2009

Substitute House Bill No. 6591

House of Representatives, April 2, 2009

The Committee on Planning and Development reported through REP. SHARKEY of the 88th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CONNECTICUT STATE SINGLE AUDIT REVISIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-230 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in sections 4-230 to 4-236, inclusive, as amended by this act:

4 (1) "Cognizant agency" means a state agency which is assigned by
5 the secretary the responsibility for implementing the requirements of
6 sections 4-230 to 4-236, inclusive, as amended by this act;

7 (2) "Secretary" means the Secretary of the Office of Policy and
8 Management;

9 (3) "State financial assistance" means assistance that a nonstate
10 entity receives or administers which is provided by a state agency or
11 pass-through entity in the form of grants, contracts, loans, loan

12 guarantees, property, cooperative agreements, interest subsidies,
13 insurance or direct appropriations, but does not include direct state
14 cash assistance to individuals or payments to a vendor;

15 (4) "State agency" means any department, board, commission,
16 institution or other agency of the state;

17 (5) "Generally accepted accounting principles" has the meaning
18 specified in the generally accepted auditing standards issued by the
19 American Institute of Certified Public Accountants (AICPA);

20 (6) "Generally accepted government auditing standards" (GAGAS)
21 means the generally accepted government auditing standards issued
22 by the Comptroller General of the United States that are applicable to
23 financial audits;

24 (7) "Independent auditor" means a public accountant who is
25 licensed to practice in the state and meets the independence standards
26 included in generally accepted government auditing standards;

27 (8) "Internal controls" means a process, effected by an entity's board
28 of directors, management and other personnel, designed to provide
29 reasonable assurance regarding the achievement of objectives in: (A)
30 Reliability of financial reporting, (B) effectiveness and efficiency of
31 operations and (C) compliance with applicable laws and regulations;

32 (9) "Municipality" means a town, consolidated town and city,
33 consolidated town and borough, city or borough, including a local
34 board of education as described in subsection (c) of section 7-392;

35 (10) "Audited agency" means a [fire district, fire and sewer district,
36 sewer district or other municipal utility] district, as defined in section
37 7-324, the Metropolitan District of Hartford County, a regional board
38 of education, a regional planning agency, any other political
39 subdivision of similar character which is created or any other agency
40 created or designated by a municipality to act for such municipality
41 whose [average] annual receipts from all sources exceed [two hundred
42 thousand] one million dollars or any tourism district established under

43 section 10-397;

44 (11) "Nonprofit agency" means any organization that is not a for-
45 profit business and provides services contracted for by (A) the state or
46 (B) a nonstate entity. It also means private institutions of higher
47 learning which receive state financial assistance;

48 (12) "Major state program" means any program, excluding an
49 exempt program, [for which total expenditures of state financial
50 assistance by a nonstate entity during the applicable year exceed the
51 larger of (A) one hundred thousand dollars or (B) one per cent of the
52 total amount of state financial assistance expended, excluding
53 expenditures of an exempt program by the nonstate entity during the
54 audited year] determined to be a major state program by the
55 independent auditor pursuant to the requirements of the risk-based
56 approach, provided such requirements shall (A) encompass factors
57 consistent with requirements established by the United State Office of
58 Management and Budget, and (B) include, but not be limited to,
59 current and prior audit experience, oversight by state agencies and
60 pass-through entities and the risk inherent in state programs;

61 (13) "Public accountant" means an individual who meets the
62 standards included in generally accepted government auditing
63 standards for personnel performing government audits and the
64 licensing requirements of the State Board of Accountancy;

65 (14) "Subrecipient" means a nonstate entity that receives state
66 financial assistance from a pass-through entity, but does not include an
67 individual who receives such assistance;

68 (15) "Tourism district" means a district established under section 10-
69 397;

70 (16) "Nonstate entity" means a municipality, tourism district,
71 audited agency or nonprofit agency;

72 (17) "Pass-through entity" means a nonstate entity that provides
73 state financial assistance to a subrecipient;

74 (18) "Program-specific audit" means an audit of a single state
75 program conducted in accordance with the regulations adopted under
76 section 4-236;

77 (19) "Expended" and "expenditures" have the meanings attributed to
78 those terms in generally accepted accounting principles, except that
79 (A) state financial assistance received which does not specify a
80 required use shall be assumed to be fully expended in the fiscal year of
81 receipt, and (B) exempt programs shall be assumed to be expended in
82 the fiscal year that the state financial assistance is received;

83 (20) "Exempt program" means any [of the following programs:
84 Education cost sharing, pursuant to sections 10-262f to 10-262j,
85 inclusive; public and nonpublic school pupil transportation, pursuant
86 to sections 10-54, 10-97, 10-266m, 10-273a, 10-277 and 10-281; special
87 education, excess costs equity and excess costs student-based,
88 pursuant to subsection (e) of section 10-76d, subsections (a), (b) and (c)
89 of section 10-76g and section 10-253; school building grants-principal
90 and interest subsidy, pursuant to chapter 173 and section 10-264h; and
91 school construction grants pursuant to public act 97-265 and public act
92 97-11 of the June 18 Special Session*] state program designated to be
93 exempt by the secretary after consultation with the Auditors of Public
94 Accounts and the commissioner of the state agency that awarded the
95 state financial assistance; [and]

96 (21) "Vendor" means a dealer, distributor, merchant or other seller
97 providing goods or services that are required for the conduct of a state
98 program. Such goods or services may be for an organization's own use
99 or for the use of beneficiaries of the state program; and

100 (22) "Single audit" means an audit, as provided in section 4-235, as
101 amended by this act, that encompasses an entity's financial statements
102 and state financial assistance.

103 Sec. 2. Section 4-231 of the general statutes is repealed and the
104 following is substituted in lieu thereof (*Effective from passage*):

105 (a) (1) Each nonstate entity which expends a total amount of state
106 financial assistance equal to or in excess of [one] three hundred
107 thousand dollars in any fiscal year of such nonstate entity beginning
108 on or after July 1, [1998] 2009, shall have either a single audit or a
109 program-specific audit made for such fiscal year, in accordance with
110 the provisions of subdivision (2) or (3) of this subsection and the
111 requirements of regulations adopted pursuant to section 4-236. [If a
112 provision of the general statutes or an administrative rule, regulation,
113 guideline, standard or policy, which is effective on July 1, 1992,
114 requires a nonstate entity to conduct a biennial audit, the audit
115 required under this section shall be conducted on the same biennial
116 basis and shall cover both years of the biennial period.]

117 (2) If the total amount of state financial assistance expended in any
118 such fiscal year is for a single program, such nonstate entity may elect
119 to have a program-specific audit made in lieu of a single audit,
120 provided a grant agreement or a statutory or regulatory provision
121 governing the program of state financial assistance does not require a
122 financial statement audit of such nonstate entity.

123 (3) If the total amount of state financial assistance expended in any
124 such fiscal year is for more than one program, such entity shall have a
125 single audit made for such fiscal year.

126 (b) Notwithstanding any provision of the general statutes or any
127 regulation adopted under any provision of the general statutes, each
128 nonstate entity that expends total state financial assistance of less than
129 [one] three hundred thousand dollars in any fiscal year of such
130 nonstate entity beginning on or after July 1, [1998] 2009, shall be
131 exempt with respect to such year from complying with any statutory
132 or regulatory requirements concerning financial or financial and
133 compliance audits that would otherwise be applicable.

134 (c) No provision of this section shall be deemed to exempt a
135 nonstate entity from complying with any statutory or regulatory
136 provision requiring the entity to (1) maintain records concerning state
137 financial assistance or (2) provide access to such records to a state

138 agency.

139 Sec. 3. Section 4-232 of the general statutes is repealed and the
140 following is substituted in lieu thereof (*Effective from passage*):

141 (a) Each nonstate entity which is required to be audited pursuant to
142 sections 4-230 to 4-236, inclusive, as amended by this act, shall
143 designate an independent auditor to conduct such audit. Not later than
144 thirty days before the end of the fiscal period for which the audit is
145 required, the nonstate entity shall file the name of such auditor with
146 the cognizant agency. If a nonstate entity fails to make such filing, the
147 cognizant agency may designate an independent auditor to conduct
148 the audit. A nonstate entity shall be responsible for paying the costs of
149 any audit conducted by an independent auditor designated by a
150 cognizant agency.

151 (b) (1) Upon the completion of the audit, pursuant to sections 4-230
152 to 4-236, inclusive, as amended by this act, the nonstate entity shall file
153 [copies] a copy of the audit report with [state grantor agencies,] the
154 cognizant agency and, if applicable, state grantor agencies and pass-
155 through entities. Once filed, such report shall be made available by the
156 nonstate entity for public inspection. Copies of the report shall be filed
157 not later than thirty days after completion of such report, if possible,
158 but not later than six months after the end of the audit period. The
159 cognizant agency may grant an extension of not more than thirty days,
160 if the auditor [making] conducting the audit and the chief executive
161 officer of the nonstate entity jointly submit a request in writing to the
162 cognizant agency [stating] that includes the reasons for such extension
163 and an estimate of the time needed for completion of such audit, at
164 least thirty days prior to the end of such six-month period. If the
165 reason for the extension relates to deficiencies in the accounting system
166 of the nonstate entity, the request shall be accompanied by a corrective
167 action plan. The auditor or chief executive officer shall promptly
168 provide any additional information the cognizant agency may require.
169 Before determining whether to grant an extension request, the
170 cognizant agency may [, after a hearing with] require the auditor and

171 officials of the nonstate entity [, grant an additional extension if
172 conditions warrant] to meet with representatives of the cognizant
173 agency.

174 (2) Any nonstate entity, or auditor of such nonstate entity, which
175 fails to have the audit report filed on its behalf within six months after
176 the end of the fiscal year or within the time granted by the cognizant
177 agency may be assessed, by the Secretary of the Office of Policy and
178 Management, a civil penalty of not less than one thousand dollars but
179 not more than ten thousand dollars. In addition to, or in lieu of such
180 penalty, the cognizant agency may assign an auditor to perform the
181 audit of such nonstate entity. In such case, the nonstate entity shall be
182 responsible for the costs related to the audit. The secretary may, upon
183 receipt of a written request from an official of the nonstate entity or its
184 auditor, waive all such penalties if the secretary determines that there
185 appears to be reasonable cause for the entity not having completed or
186 provided the required audit report.

187 Sec. 4. Section 4-233 of the general statutes is repealed and the
188 following is substituted in lieu thereof (*Effective from passage*):

189 (a) Each audit required by sections 4-230 to 4-236, inclusive, as
190 amended by this act, shall:

191 (1) Be conducted in accordance with generally accepted government
192 auditing standards, except that, for the purposes of said sections such
193 standards shall not be construed to require economy and efficiency
194 audits, program results audits, or program evaluations; and

195 (2) Except in the case of program-specific audits, cover the entire
196 operations, including financial operations, of the nonstate entity,
197 except that such audit may exclude public hospitals.

198 (b) Each such audit shall determine and report whether: (1) The
199 financial statements of the nonstate entity are presented fairly in all
200 material respects in conformity with generally accepted accounting
201 principles; (2) the schedule of expenditures of state financial assistance

202 of the nonstate entity is presented fairly in all material respects in
203 relation to the financial statements taken as a whole; (3) in addition to
204 the requirements of generally accepted government auditing
205 standards, the auditor has performed procedures to obtain an
206 understanding of internal control over state programs sufficient to (A)
207 plan the audit to support a low assessed level of control risk for major
208 state programs, (B) plan the testing of internal control over major state
209 programs to support a low assessed level of control risk for the
210 assertions relevant to the compliance requirement for each major state
211 program, and (C) perform testing of internal controls; and (4) the
212 nonstate entity has complied with laws, regulations and grant or
213 contract provisions that may have a material effect upon individual
214 compliance requirements for each major state program. In complying
215 with the requirements of subdivision (4) of this subsection, the
216 independent auditor shall select and test a representative number of
217 transactions from each major state program to provide the auditor
218 sufficient evidence to support an opinion of compliance. Each audit
219 report shall identify which programs were tested for compliance.

220 (c) [(1)] When the total expenditures of a nonstate entity's major
221 state programs are less than fifty per cent of such nonstate entity's total
222 expenditures of state financial assistance, excluding exempt program
223 expenditures, the independent auditor shall select and test additional
224 programs as major state programs as may be necessary to achieve
225 audit coverage of at least fifty per cent of the nonstate entity's total
226 expenditures of state financial assistance, excluding exempt program
227 expenditures. [The provisions of this subsection shall be carried out in
228 accordance with the regulations adopted pursuant to section 4-236 and
229 shall be subject to the provisions of subdivision (2) of this subsection.

230 (2) In achieving the audit coverage in accordance with subdivision
231 (1) of this subsection, no more than two programs which each have
232 total state financial assistance expenditures of twenty-five thousand
233 dollars or more but not more than one hundred thousand dollars shall
234 be tested, if such programs are required to be tested to achieve the
235 audit coverage of subdivision (1) of this subsection.]

236 (d) If an audit conducted pursuant to this section finds any material
237 or reportable noncompliance by a nonstate entity with applicable laws,
238 regulations and grant or contract provisions, or finds any [reportable
239 condition] significant deficiency or material weakness with respect to
240 the internal controls of the nonstate entity concerning the matters
241 described in subsection (b) of this section, the nonstate entity shall
242 submit to appropriate state officials a plan for corrective action to
243 eliminate such material or reportable noncompliance, [reportable
244 condition] significant deficiency or material weakness.

245 Sec. 5. Section 4-235 of the general statutes is repealed and the
246 following is substituted in lieu thereof (*Effective from passage*):

247 (a) The secretary shall designate cognizant agencies for audits
248 conducted pursuant to sections 4-230 to 4-236, inclusive, as amended
249 by this act.

250 (b) A cognizant agency shall: (1) Ensure through coordination with
251 state agencies, that audits are made in a timely manner and in
252 accordance with the requirements of sections 4-230 to 4-236, inclusive,
253 as amended by this act; (2) ensure that corrective action plans made
254 pursuant to section 4-233, as amended by this act, are transmitted to
255 the appropriate state officials; and (3) (A) coordinate, to the extent
256 practicable, audits done by or under contract with state agencies that
257 are in addition to the audits conducted pursuant to sections 4-230 to 4-
258 236, inclusive, as amended by this act; and (B) ensure that such
259 additional audits build upon the audits conducted pursuant to said
260 sections.

261 (c) (1) Each pass-through entity which is subject to the audit
262 requirements of sections 4-230 to 4-236, inclusive, as amended by this
263 act, shall:

264 (A) Advise subrecipients of requirements imposed on them by state
265 laws, regulations, and the provisions of contracts or grant agreements,
266 and any supplemental requirements imposed by the pass-through
267 entity;

268 (B) If the subrecipient is subject to an audit in accordance with the
 269 requirements of said sections 4-230 to 4-236, inclusive, as amended by
 270 this act, review such audit and ensure that prompt and appropriate
 271 corrective action is taken with respect to material or reportable
 272 findings of noncompliance with individual compliance requirements
 273 or [reportable conditions] significant deficiencies or material
 274 weaknesses in internal controls pertaining to state financial assistance
 275 provided to the subrecipient by the pass-through entity; or

276 (C) If the subrecipient is not subject to an audit in accordance with
 277 the requirements of said sections 4-230 to 4-236, inclusive, as amended
 278 by this act, monitor the activities of subrecipients as necessary to
 279 ensure that state financial assistance is used for authorized purposes in
 280 compliance with laws, regulations, and the provisions of contracts or
 281 grant agreements.

282 (2) Each pass-through entity, as a condition of receiving state
 283 financial assistance, shall require each of its subrecipients to permit the
 284 independent auditor of the pass-through entity to have such access to
 285 the subrecipient's records and financial statements as may be necessary
 286 for the pass-through entity to comply with sections 4-230 to 4-236,
 287 inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4-230
Sec. 2	<i>from passage</i>	4-231
Sec. 3	<i>from passage</i>	4-232
Sec. 4	<i>from passage</i>	4-233
Sec. 5	<i>from passage</i>	4-235

Statement of Legislative Commissioners:

In subsection (b) of section 2, "[three]" was changed to "[one] three" for consistency with the general statutes and the intent of the bill and other changes were made throughout the bill for clarity.

PD *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Various State Agencies	GF - Potential Savings	Potential Indeterminate	Potential Indeterminate
Auditors; Policy & Mgmt., Off.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

Under current law, if a non-state entity subject to auditing requirements fails to make a filing and designate an independent auditor, the cognizant state agency may designate one. The bill directs the entity to pay for the costs of any audit designated by a cognizant agency, thus resulting in a potential cost savings. The bill results in no fiscal impact to the Office of Policy and Management nor the Auditors of Public Accounts.

The Out Years

The annualized ongoing fiscal impact will result in future cost savings, the magnitude of which are indeterminate.

OLR Bill Analysis**sHB 6591*****AN ACT CONCERNING CONNECTICUT STATE SINGLE AUDIT REVISIONS.*****SUMMARY:**

By law, municipalities and other nonstate entities that receive substantial amounts of state funding must undergo a single audit. This bill defines a single audit as an audit that covers an entity's financial statements and state financial assistance. It increases, from \$100,000 to \$300,000, the amount of fiscal assistance a nonstate entity can receive from the state before it becomes subject to the state single audit law. It increases, from \$200,000 to \$1 million the total amount of annual revenue certain entities must have before they becomes subject to the law. It modifies what constitutes a political subdivision for this purpose to include all types of special districts, rather than just fire district, fire and sewer districts, and municipal utilities. By law, political subdivisions also include such entities as the Metropolitan District Commission, regional school boards, regional planning agencies, and tourism districts.

Current law allows a nonstate entity to choose to have a program specific audit instead of a single audit if all of the state financial assistance that it expended in the audit year was for a single program. The bill specifies that this option is not available if a grant agreement, state, or regulatory provision governing the state financial assistance program requires a financial statement audit.

The bill gives auditors and the Office of Policy and Management greater discretion in determining which programs to audit. It also makes a number of related minor, and technical changes.

EFFECTIVE DATE: Upon passage

AUDITOR AND OPM DISCRETION

In addition to provisions that apply to all state programs, the law has a number of provisions that apply to major state programs. For example, the auditor must perform procedures to obtain an understanding of internal controls sufficient to plan the audit and the testing of internal controls to support a low assessed level of control risk for such programs.

Current law defines “major state program” as any non-exempt program for which total expenditures of state financial assistance by a nonstate entity during the applicable year exceeds the larger of (1) \$100,000 or (B) 1% of the total amount of state financial assistance expended, excluding expenditures of an exempt program by the nonstate entity during the audited year. The bill instead allows the auditor to determine which programs are major using a risk-based approach. The auditor’s determination must (1) include factors consistent with requirements established by the U.S. Office of Management and Budget and (2) include current and prior audit experience, oversight by state agencies and pass-through entities, and the risk inherent in state programs. (An example of a pass-through entity is a grantee who passes state funding on to a sub-grantee.)

Current law defines “exempt programs” as education cost sharing and various other educational grant programs. The bill instead allows the OPM secretary to designate programs as exempt after consulting with the Auditors of Public Accounts and the commissioner of the state agency that awarded the state financial assistance.

RELATED CHANGES

By law, if a nonstate entity subject to the auditing requirements fails to designate an auditor to conduct its audit, the cognizant agency (the agency designated by OPM to be responsible for the audit) must do so. The bill makes the nonstate entity responsible for paying the costs of any audit conducted by an auditor a cognizant agency designates.

By law, the cognizant agency may extend, by up to 30 days, the

deadline for a nonstate entity to file copies of its audit with the relevant state agencies if the auditor making the audit and the entity's chief executive officer submit a joint request to the cognizant agency stating the reasons for the extension. The bill additionally requires that the request include an estimate of the time needed to complete the audit. It requires the auditor or chief executive officer to promptly provide any additional information the cognizant agency requires. Current law allows the cognizant agency to hold a hearing on the request. The bill instead allows the agency to require the auditor and officials of the nonstate entity to meet with its representatives.

By law, the audit must determine whether a nonstate entity has complied with the laws, regulations, and grant provisions of major state programs, and the auditor must select and test a representative number of transactions from each such program. The bill specifies that the auditor must do this to provide him or her with sufficient evidence of compliance.

By law, when the total expenditures of a nonstate entity's major state programs are less than 50% of its total expenditures of state financial assistance, excluding exempt program expenditures, the auditor must select and test additional programs to cover at least 50% of this total. The bill eliminates, in such cases, requirements that (1) the selection be carried out in accordance with relevant OPM regulations and (2) no more than two programs which each has total state financial assistance expenditures between \$25,000 and \$100,000 be tested if needed to achieve the audit coverage.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 17 Nay 1 (03/13/2009)