

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 18-137—sSB 175

*Government Administration and Elections Committee
Finance, Revenue and Bonding Committee*

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
AUDITORS OF PUBLIC ACCOUNTS**

SUMMARY: This act makes numerous changes in statutes concerning government administration. Among other things, it:

1. allows the auditors of public accounts to (a) delay a full report of certain misuses of state and quasi-public agency funds, including actual or contemplated security breaches, for a reasonable amount of time to allow the subject agency to complete its investigation into those activities and (b) permit aggregate reporting by state and quasi-public agencies to the auditors of these activities (§§ 1-2);
2. expands who must report certain suspected ethics violations to the Office of State Ethics (OSE) to include state agencies' human resources directors (§ 3);
3. allows the auditors of public accounts to conduct a full audit of a state agency foundation that did not have its own audit completed by the deadline set in the act (§§ 4-5);
4. requires executive branch agencies to receive approval from the attorney general or governor before making certain payments to departing state employees (§ 8) and prohibits quasi-public agencies from making a payment in excess of \$50,000 to a departing employee (§ 26);
5. requires the Office of Policy and Management (OPM) secretary to notify the auditors whenever he receives a state agency's request for a sole source procurement of audit services (§ 9);
6. allows OSE to receive complaints and investigate alleged violations of state or quasi-public agencies retaining lobbyists (§§ 17-22);
7. increases the statutory limit on the number of days each year that retired state employees may be reemployed by the state without reimbursing it for their pension benefits (generally aligning it to existing labor agreements, Office of Labor Relations notices, and Executive Orders) (§ 23); and
8. requires the Commissioner of Early Childhood to recommend a precertification process for prospective employees of day care centers or group day homes (§ 25).

The act also (1) requires the auditors to audit biennially, rather than annually, reimbursements from the Bradley Enterprise Fund to the Department of Emergency Services and Public Protection (the reimbursements support State Police patrols at Bradley Airport) (§ 6); (2) requires quasi-public agencies to include a complete set of financial statements in their annual report to the

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governor and the auditors (prior law requires that they include a balance sheet only) (§ 7); and (3) reduces, from \$500,000 to \$100,000, the required amount in the Brokered Transaction Guaranty Fund (§ 24).

The act makes minor and technical changes, including (1) eliminating conflicting language related to the Surety Bail Bond Agent Examination Account to clarify that account funds can lapse (§ 10) and (2) repealing obsolete statutes concerning sheriffs (§ 27).

EFFECTIVE DATE: Various, see below; provisions on the bail bond account (§ 10) and guaranty fund (§ 24) take effect July 1, 2018.

§§ 1 & 2 — MISUSE OF STATE FUNDS

Under existing law, the auditors of public accounts must immediately report, to the governor, comptroller, House and Senate clerks, and attorney general, any actual or contemplated (1) unauthorized, illegal, irregular, or unsafe handling or expenditure of state agency funds or (2) breakdowns in the safekeeping of any other state agency resources. The act extends these requirements to quasi-public agency funds and resources.

By law, boards of trustees of state institutions, state agency heads, boards, commissions, other state agencies responsible for state property and funds, and quasi-public agencies must promptly notify the auditors and the comptroller of any misuses of state funds described above. The act additionally requires them to do so for security data breaches, defined as unauthorized access to or unauthorized acquisition of electronic files, media, databases, or computerized data containing personal information when access has not been encrypted or secured by another method that renders the information unreadable or unusable.

The act allows the auditors to permit aggregate reporting of any of these matters in a manner and schedule that they determine. In cases where a state or quasi-public agency is still investigating such a matter, and subject to the attorney general's approval, the act also allows the auditors to give the agency a reasonable period of time to conduct the investigation before the auditors notify the governor, comptroller, and House and Senate clerks. The auditors must immediately notify the attorney general of such a delay.

EFFECTIVE DATE: Upon passage, except the provisions on the irregular handling of state and quasi-public funds and security breaches and aggregate reporting to auditors (§ 2) are effective October 1, 2018.

§ 3 — REPORTS OF SUSPECTED ETHICS VIOLATIONS

The act requires any person in charge of a state agency's human resources to report to OSE when he or she reasonably believes that a person has violated the Code of Ethics for Public Officials or any law or regulation concerning ethics in state contracting. Existing law already requires commissioners, deputy commissioners, state or quasi-public agency heads or deputies, and state agency procurement and contracting heads to report these suspected violations.

EFFECTIVE DATE: October 1, 2018

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§§ 4 & 5 — FOUNDATION AUDITS

State law requires that certain state agency foundations (i.e., nonprofit entities established for fundraising purposes) be audited every year or once every three years, depending on their total earnings per fiscal year. The act increases the threshold for annual audits from \$100,000 to \$250,000, thus generally requiring foundations with receipts and investment earnings under \$250,000 to have audits completed every three years. By law, the audits must be conducted by an independent certified public accountant or, if the agency requests it, by the auditors of public accounts.

The act requires that these audits be completed, and copies submitted to the attorney general and state agency's executive authority, within six months after the audited fiscal year ends. (Prior law did not establish a submission deadline.) In addition, the act allows the auditors of public accounts to conduct a full audit of a foundation that did not have its own audit completed by the six-month deadline.

EFFECTIVE DATE: October 1, 2018

§§ 8 & 26 — PAYMENTS TO DEPARTING STATE & QUASI-PUBLIC AGENCY EMPLOYEES

Beginning October 1, 2018, the act generally prohibits state and quasi-public agencies from making a payment in excess of \$50,000 to a departing employee in order to avoid litigation costs or as part of a non-disparagement agreement. Under the act, "state agency" means executive branch agencies, boards, councils, commissions, and the constituent units and public institutions of higher education.

For state agencies, the act allows such a payment if (1) it is made under a settlement agreement that the attorney general enters into on the agency's behalf or (2) the governor, upon the attorney general's recommendation, authorized it in order to settle a disputed claim by or against the state. Under the act, a settlement or non-disparagement agreement cannot prohibit a state agency employee from making a complaint or providing information in accordance with the whistleblower or false claims act. Similarly, a settlement or non-disparagement agreement cannot prohibit a quasi-public agency employee from making a complaint or providing information under the whistleblower law.

EFFECTIVE DATE: October 1, 2018

§ 9 — PERSONAL SERVICE AGREEMENTS (PSA) FOR AUDIT SERVICES

The act requires the OPM secretary to notify the auditors of public accounts whenever he receives a request for a sole source purchase for audit services. He must allow the auditors to review the application and advise him on whether the services are necessary and, if so, could be provided by the auditors. Under existing law, the secretary must allow the auditors to review requests for audit services PSAs that cost more than \$50,000.

EFFECTIVE DATE: October 1, 2018

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§§ 11-16 — AUDITS FOR THE CAPITAL REGION DEVELOPMENT AUTHORITY (CRDA)

The act eliminates the requirement that CRDA's board of directors (1) contract with a person, firm, or corporation for a compliance audit of the authority's activities in the preceding fiscal year and (2) submit the audit report to the governor, auditors of public accounts, and Finance, Revenue and Bonding Committee. Existing law, unchanged by the act, requires the auditors of public accounts to conduct biennial compliance audits of CRDA.

EFFECTIVE DATE: Upon passage

§§ 17-22 — PROHIBITED LOBBYING ACTIVITIES

The State Code of Ethics prohibits state or quasi-public agencies from retaining lobbyists. The act expands OSE's jurisdiction to include violations of this law and extends penalties under the code to such violations (i.e., a class A misdemeanor; see Table on Penalties). It requires OSE to investigate allegations of these lobbying activities and follow the same procedures it uses for alleged ethics code violations. OSE must, among other things, determine whether a violation occurred and impose penalties for violations. The act also explicitly prohibits lobbyists, under the Code of Ethics for Lobbyists, from representing a state or quasi-public agency (§ 22).

EFFECTIVE DATE: October 1, 2018

§ 23 — REEMPLOYMENT OF RETIRED STATE EMPLOYEES

The act increases, from 90 days to 120 days, the limit on the number of calendar year days that retired state employees may be reemployed by the state without reimbursing the retirement fund for retirement payments received during reemployment. In doing so, it generally aligns the statute to existing labor agreements, Office of Labor Relations notices, Governor Rell's Executive Order No. 27-A, and Governor Malloy's Executive Order No. 3.

EFFECTIVE DATE: July 1, 2018

§ 25 — PRECERTIFICATION FOR PROSPECTIVE CHILDCARE EMPLOYEES

By January 1, 2019, the act requires the commissioner of the Office of Early Childhood (OEC) to make recommendations to the Education Committee on how to implement a precertification process for prospective employees of day care centers or group day care homes in lieu of the current background check requirement (CGS §19a-80(c)). PA 17-2, June Special Session (§ 174) prohibits unsupervised access to children in child care centers or group child care homes by a prospective employee until (1) a comprehensive background check is completed and (2) permission to work in such a childcare setting is granted to the employee by the OEC commissioner.

EFFECTIVE DATE: Upon passage