

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 985 Session of 2019

INTRODUCED BY RYAN, DUSH, GABLER, GROVE, HILL-EVANS, STAATS AND GREINER, MARCH 27, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 19, 2019

AN ACT

1 Providing for auditor qualifications for the Department of the
2 Auditor General, for new department employees, for current
3 department employees, for employee certification, for
4 forensic audits, for fraud audits and for committee
5 standards.

6 The General Assembly finds and declares as follows:

7 (1) Auditors employed by the Department of the Auditor
8 General should attain the proper professional certifications
9 necessary to conduct the various types of audits that the
10 position of auditor requires.

11 (2) Audits conducted by the Department of the Auditor
12 General should comply with the standards instituted by the
13 organizations governing the profession and should protect
14 taxpayer resources and ensure that audits conducted by the
15 Department of the Auditor General are of the highest quality
16 and benefit to the entities and programs audited.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Short title.

1 This act shall be known and may be cited as the Auditor
2 General Employee Qualification Act.

3 Section 2. Definitions.

4 The following words and phrases when used in this act shall
5 have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Certified fraud examiner." An individual who has satisfied
8 the requirements of the Association of Certified Fraud Examiners
9 to become a certified fraud examiner.

10 "Certified public accountant." The term shall have the same
11 meaning as defined in the act of May 26, 1947 (P.L.318, No.140),
12 known as the CPA Law.

13 "Department." The Department of the Auditor General of the
14 Commonwealth.

15 "Forensic audit." An examination of an entity's financial
16 information with the purposes of determining if the entity's
17 financial information is accurate and lawful.

18 "Fraud audit." An examination of an entity's financial
19 information for the purposes of proving or disproving whether
20 fraudulent activity has occurred.

21 "Qualified forensic auditor." An individual who is a
22 certified public accountant and a certified fraud examiner.

23 "Qualified fraud auditor." A certified fraud examiner.

24 "State agency." An office, department, authority, board or
25 commission of the executive branch.

26 Section 3. Auditor qualifications.

27 Department employees conducting an audit shall be adequately
28 qualified to conduct the type of audit involved. Employees shall
29 possess the following qualifications:

30 (1) Employees conducting forensic audits shall be

1 qualified forensic auditors.

2 (2) Employees conducting fraud audits shall be qualified
3 fraud auditors.

4 Section 4. New department employees.

5 An employee hired by the department after the effective date
6 of this section may not conduct audits or participate in the
7 auditing process of audits for which the employee is not
8 qualified under section 3.

9 Section 5. Current department employees.

10 A department employee hired prior to the effective date of
11 this section shall be permitted to continue conducting the same
12 type of audits which the employee conducted prior to the
13 effective date of this section.

14 Section 6. Employee certification.

15 (a) Department policy.--The department shall develop a
16 policy encouraging an employee to obtain the proper
17 certification necessary to conduct an audit which the employee's
18 job requires. The policy shall:

19 (1) Direct an employee to the resources necessary to
20 obtain a certification under section 3.

21 (2) Include provisions that allow the department to
22 collaborate with an employee to ensure that the employee has
23 adequate time and resources to complete a certification.

24 (b) Financial incentives.--The department shall provide
25 financial incentives for an employee who becomes certified in
26 order to assist the employee with the cost of continued
27 professional education.

28 Section 7. Forensic audits.

29 (a) Department forensic audits.--The department may perform
30 a forensic audit if any of the following occur:

1 (1) A forensic audit is requested by a State agency. The
2 department may appoint a qualified forensic auditor not
3 currently employed by the Commonwealth to perform the
4 forensic audit, and the requesting State agency shall be
5 responsible for the cost incurred by the performance of the
6 forensic audit.

7 (2) The department receives an indication, when lawfully
8 performing an audit on an entity, that sufficient records or
9 information are not available to complete the audit.

10 (3) A forensic audit is requested by the Governor, the
11 chairperson or minority chairperson of the Appropriations
12 Committee of the Senate or the chairperson or minority
13 chairperson of the Appropriations Committee of the House of
14 Representatives.

15 (b) Forensic audit results.--

16 (1) The department shall provide the results of a
17 forensic audit to the Governor, the chairperson and minority
18 chairperson of the Appropriations Committee of the Senate and
19 the chairperson and minority chairperson of the
20 Appropriations Committee of the House of Representatives.

21 (2) If the results contain evidence of suspected
22 criminal activity, the department shall provide the results
23 to the Office of Attorney General.

24 Section 8. Fraud audits.

25 (a) Department fraud audits.--The department may perform a
26 fraud audit if any of the following occur:

27 (1) A fraud audit is requested by a State agency. If
28 requested by a State agency, the department may appoint a
29 qualified fraud auditor not currently employed by the
30 Commonwealth to perform the fraud audit, and the requesting

1 State agency shall be responsible for the cost incurred in
2 the performance of the fraud audit.

3 (2) The department receives an indication when lawfully
4 performing an audit on an entity that fraudulent activity or
5 other criminal activity may have occurred.

6 (3) A fraud audit is requested by the Governor, the
7 chairperson or minority chairperson of the Appropriations
8 Committee of the Senate or the chairperson or minority
9 chairperson of the Appropriations Committee of the House of
10 Representatives.

11 (b) Fraud audit results.--

12 (1) The department shall provide the results of a fraud
13 audit to the Governor, the chairperson or minority
14 chairperson of the Appropriations Committee of the Senate and
15 the chairperson or minority chairperson of the Appropriations
16 Committee of the House of Representatives.

17 (2) If the results contain evidence of suspected
18 criminal activity, the department shall provide the results
19 to the Office of Attorney General.

20 Section 9. Committee standards.

21 When conducting audits, the department may use, as a guide,
22 the standards and best practices specified by the Committee of
23 Sponsoring Organizations of the Treadway Commission.

24 Section 10. Authority to issue subpoenas.

25 (a) General rule.--The Auditor General may issue subpoenas
26 requiring the attendance of witnesses and the production of
27 books, accounts, papers, records, documents and files and may
28 examine the witnesses and documents. Issuance of subpoenas does
29 not prevent or repeal other powers granted under law to the
30 Auditor General.

1 (b) Service of subpoenas.--A subpoena issued under
2 subsection (a) may be served by the Auditor General, a
3 designated representative from the department or a sheriff of
4 the county where the person or persons reside. Subpoenas may be
5 served in person or by certified mail.

6 (c) Enforcement.--If a person or entity fails to comply with
7 a subpoena issued by the Auditor General, the Auditor General or
8 his representative may file a petition to enforce the subpoena
9 with the Commonwealth Court or a court of record. The court may
10 issue an order holding a person or entity in contempt for
11 failure to comply with the subpoena and order the production of
12 books, accounts, papers, records, documents and files within no
13 later than 10 days of the order.

14 (d) Confidentiality.--Information gathered through the
15 subpoena power under this section is not ~~subject to~~ ACCESSIBLE <--
16 UNDER the act of February 14, 2008 (P.L.6, No.3), known as the
17 Right-to-Know Law, FROM THE DEPARTMENT and may not be disclosed <--
18 by the department absent an order from the Commonwealth Court or
19 other court of record.

20 Section 11. Construction.

21 Nothing in this act may be construed to prohibit the
22 department from performing its obligations under the laws of
23 this Commonwealth.

24 Section 12. Effective date.

25 This act shall take effect in 60 days.