

**As Reported by the House State Government and Elections
Committee**

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Sub. H. B. No. 166

Representative Schindel

**Cosponsors: Representatives Adams, Bulp, Combs, DeWine, Flowers,
Gibbs, Seitz, Stebelton, Widener, Zehringer**

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A B I L L

To amend section 124.341 and to enact sections 126.40 1
to 126.43 of the Revised Code to create an Office 2
of Internal Auditing within the Office of Budget 3
and Management, to establish the State Audit 4
Committee, and to prescribe their respective and 5
interrelated functions. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 124.341 be amended and sections 7
126.40, 126.41, 126.42, and 126.43 of the Revised Code be enacted 8
to read as follows: 9

Sec. 124.341. (A) If an employee in the classified or 10
unclassified civil service becomes aware in the course of 11
employment of a violation of state or federal statutes, rules, or 12
regulations or the misuse of public resources, and the employee's 13
supervisor or appointing authority has authority to correct the 14
violation or misuse, the employee may file a written report 15
identifying the violation or misuse with the supervisor or 16
appointing authority. In addition to or instead of filing a 17

written report with the supervisor or appointing authority, the 18
employee may file a written report with the office of internal 19
auditing created under section 126.40 of the Revised Code. 20

If the employee reasonably believes that a violation or 21
misuse of public resources is a criminal offense, the employee, in 22
addition to or instead of filing a written report with the 23
supervisor or appointing authority, may report it to a prosecuting 24
attorney, director of law, village solicitor, or similar chief 25
legal officer of a municipal corporation, to a peace officer, as 26
defined in section 2935.01 of the Revised Code, or, if the 27
violation or misuse of public resources is within the jurisdiction 28
of the inspector general, to the inspector general in accordance 29
with section 121.46 of the Revised Code. In addition to that 30
report, if the employee reasonably believes the violation or 31
misuse is also a violation of Chapter 102., section 2921.42, or 32
section 2921.43 of the Revised Code, the employee may report it to 33
the appropriate ethics commission. 34

(B) Except as otherwise provided in division (C) of this 35
section, no officer or employee in the classified or unclassified 36
civil service shall take any disciplinary action against an 37
employee in the classified or unclassified civil service for 38
making any report authorized by division (A) of this section, 39
including, without limitation, doing any of the following: 40

- (1) Removing or suspending the employee from employment; 41
- (2) Withholding from the employee salary increases or 42
employee benefits to which the employee is otherwise entitled; 43
- (3) Transferring or reassigning the employee; 44
- (4) Denying the employee promotion that otherwise would have 45
been received; 46
- (5) Reducing the employee in pay or position. 47

(C) An employee in the classified or unclassified civil service shall make a reasonable effort to determine the accuracy of any information reported under division (A) of this section. The employee is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, for purposely, knowingly, or recklessly reporting false information under division (A) of this section.

(D) If an appointing authority takes any disciplinary or retaliatory action against a classified or unclassified employee as a result of the employee's having filed a report under division (A) of this section, the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the state personnel board of review within thirty days after receiving actual notice of the appointing authority's action. If the employee files such an appeal, the board shall immediately notify the employee's appointing authority and shall hear the appeal. The board may affirm or disaffirm the action of the appointing authority or may issue any other order as is appropriate. The order of the board is appealable in accordance with Chapter 119. of the Revised Code.

(E) As used in this section:

(1) "Purposely," "knowingly," and "recklessly" have the same meanings as in section 2901.22 of the Revised Code.

(2) "Appropriate ethics commission" has the same meaning as in section 102.01 of the Revised Code.

(3) "Inspector general" means the inspector general appointed under section 121.48 of the Revised Code.

Sec. 126.40. (A) As used in sections 126.40 to 126.43 of the Revised Code, "state agency" means the administrative departments listed in section 121.02 of the Revised Code, the department of

taxation, and the bureau of workers' compensation. 78

(B) The office of internal auditing is hereby created in the 79
office of budget and management to conduct internal audits of 80
state agencies or divisions of state agencies to improve their 81
operations in the areas of risk management, internal controls, and 82
governance. The director of budget and management, with the 83
approval of the governor, shall appoint for the office of internal 84
auditing a chief internal auditor who meets the qualifications 85
specified in division (C) of this section. The chief internal 86
auditor shall serve at the director's pleasure and be responsible 87
for the administration of the office of internal auditing 88
consistent with sections 126.40 to 126.43 of the Revised Code. 89

The office of internal auditing shall conduct programs for 90
the internal auditing of state agencies. The programs shall 91
include an annual internal audit plan, approved by the state audit 92
committee, that utilizes risk assessment techniques and identifies 93
the specific audits to be conducted during the year. The programs 94
also shall include periodic audits of each state agency's major 95
systems and controls, including those systems and controls 96
pertaining to accounting, administration, and electronic data 97
processing. Upon the request of the office of internal auditing, 98
each state agency shall provide office employees access to all 99
records and documents necessary for the performance of an internal 100
audit. 101

(C) The chief internal auditor of the office of internal 102
auditing shall hold at least a bachelor's degree and be one of the 103
following: 104

(1) A certified internal auditor, a certified government 105
auditing professional, or a certified public accountant, who also 106
has held a PA registration or a CPA certificate authorized by 107
Chapter 4701. of the Revised Code for at least four years and has 108
at least six years of auditing experience; 109

(2) An auditor who has held a PA registration or a CPA certificate authorized by Chapter 4701. of the Revised Code for at least four years and has at least ten years of auditing experience. 110
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(D) The chief internal auditor, subject to the direction and control of the director of budget and management, may appoint and maintain any staff necessary to carry out the duties assigned by sections 126.40 to 126.43 of the Revised Code to the office of internal auditing or to the chief internal auditor. 114
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Sec. 126.41. (A)(1) There is hereby created the state audit committee, consisting of the following five members: the director of budget and management; two public members appointed by the speaker of the house of representatives; and two public members appointed by the president of the senate. 119
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Each public member of the committee shall serve a three-year term commencing on the first day of August in the appropriate year and ending on the thirty-first day of July in the appropriate year, except for the initial public members. With respect to the initial appointments of the public members, the term of the first public member appointed by the speaker of the house of representatives shall be for a one-year term, the term of the second public member appointed by the speaker of the house of representatives shall be for a three-year term, and the term of the initial public members appointed by the president of the senate shall be for two-year terms. The term for the initial public members shall begin on August 1, 2007. Public members may be reappointed to serve one additional term. 124
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The committee shall include one public member who is a financial expert; one public member who is an active, inactive, or retired certified public accountant; one public member who is familiar with governmental financial accounting; and one public 137
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member who is a representative of the public. 141

Any vacancy on the committee shall be filled in the same 142
manner as provided in this division, and, when applicable, the 143
person appointed to fill a vacancy shall serve the remainder of 144
the predecessor's term. 145

(2) Members of the committee shall receive reimbursement for 146
actual and necessary expenses incurred in the discharge of their 147
duties. 148

(3) The director of budget and management shall serve as the 149
committee's chairperson. 150

(B) The state audit committee shall do all of the following: 151

(1) Ensure that the internal audits conducted by the office 152
of internal auditing in the office of budget and management 153
conform to the institute of internal auditors' international 154
standards for the professional practice of internal auditing and 155
to the institute of internal auditors' code of ethics; 156

(2) Review the process used by the office of budget and 157
management to prepare its annual budgetary financial report and 158
the state's comprehensive annual financial report required under 159
division (A)(9) of section 126.21 of the Revised Code; 160

(3) Review unaudited financial statements submitted to the 161
auditor of state and communicate with external auditors as 162
required by government auditing standards; 163

(4) Perform the additional functions imposed upon it by 164
section 126.42 of the Revised Code. 165

(C) As used in this section, "financial expert" means a 166
person who has all of the following: 167

(1) An understanding of generally accepted accounting 168
principles and financial statements; 169

(2) The ability to assess the general application of those 170

principles in connection with accounting for estimates, accruals, and reserves; 171
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(3) Experience preparing, auditing, analyzing, or evaluating financial statements presenting accounting issues that generally are of comparable breadth and level of complexity to those likely to be presented by a state agency's financial statements, or experience actively supervising one or more persons engaged in those activities; 173
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(4) An understanding of internal controls and procedures for financial reporting; and 179
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(5) An understanding of audit committee functions. 181

Sec. 126.42. (A) The state audit committee created by section 126.41 of the Revised Code shall ensure that the office of internal auditing in the office of budget and management has an annual internal audit plan that identifies the internal audits of state agencies or divisions of state agencies scheduled for the next fiscal year. The chief internal auditor of the office of internal auditing shall submit the plan to the state audit committee for approval before the beginning of each fiscal year. The chief internal auditor may submit a revised internal audit plan for approval at any time the director of budget and management believes there is reason to modify the previously submitted plan for a fiscal year. 182
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(B) To determine the state agencies or divisions of state agencies that are to be internally audited, the office of internal auditing, in the formulation of an annual or revised internal audit plan, and the state audit committee, in approving a submitted annual or revised internal audit plan, shall consider the following factors: 194
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(1) The risk for fraud, waste, or abuse of public money 200

within an agency or division; 201

(2) The length of time since an agency or division was last 202
subject to an internal audit; 203

(3) The size of an agency or division, and the amount of time 204
and resources necessary to audit it; 205

(4) Any other factor the state audit committee determines to 206
be relevant. 207

(C) All internal audits shall be conducted only by employees 208
of the office of internal auditing. 209

(D) After the conclusion of an internal audit, the chief 210
internal auditor shall submit a preliminary report of the internal 211
audit's findings and recommendations to the state audit committee 212
and to the director of the state agency involved. The state agency 213
or division of the state agency covered by the preliminary report 214
shall be provided an opportunity to respond within thirty days 215
after receipt of the preliminary report. The response shall 216
include a corrective action plan for any recommendations in the 217
preliminary report that are not disputed by the agency or 218
division. Any response received by the office of internal auditing 219
within that thirty-day period shall be included in the office's 220
final report of the internal audit's findings and recommendations. 221
The final report shall be issued by the office of internal 222
auditing within thirty days after the termination of the 223
thirty-day response period. Copies of the final report shall be 224
submitted to the state audit committee, the governor, and the 225
director of the state agency involved. The state audit committee 226
shall determine an appropriate method for making the preliminary 227
and final reports available for public inspection in a timely 228
manner. 229

Any suspected fraud or other illegal activity discovered by 230
the office of internal auditing during the conduct of an internal 231

audit shall be reported immediately to the state audit committee, 232
the director of the state agency in which the fraud or illegal 233
activity is suspected to have occurred, and the auditor of state. 234

(E) The chief internal auditor shall prepare an annual report 235
and submit the report to the governor, the president of the 236
senate, the speaker of the house of representatives, and the 237
auditor of state. The office of budget and management shall make 238
the report available to the public by posting it on the office's 239
web site before the first of July of each year. 240

Sec. 126.43. Any preliminary or final report of an internal 241
audit's findings and recommendations which is produced by the 242
office of internal auditing in the office of budget and management 243
and all work papers of the internal audit are confidential and are 244
not public records under section 149.43 of the Revised Code until 245
the final report of an internal audit's findings and 246
recommendations is submitted to the state audit committee, the 247
governor, and the director of the state agency involved. 248

Section 2. That existing section 124.341 of the Revised Code 249
is hereby repealed. 250

Section 3. (A) Not later than six months after the effective 251
date of this act, the Legislative Service Commission shall prepare 252
a report on the existing internal audit structures of each state 253
agency, as defined in section 126.40 of the Revised Code, and 254
identify all state employees who are classified as an internal 255
auditor or with job duties effectively similar to those of an 256
internal auditor. The report shall include information about the 257
total amounts budgeted for internal auditing purposes in each such 258
state agency. 259

Each such state agency, upon request, shall provide the 260
Legislative Service Commission with the requisite information to 261

complete the portion of the report pertaining to that state 262
agency. 263

The report shall be submitted to the Governor, the Speaker of 264
the House of Representatives, the President of the Senate, and the 265
Minority Leaders of the Senate and the House of Representatives 266
upon its completion. 267

(B) Subject to the layoff and displacement provisions of 268
Chapter 124. of the Revised Code, all state agency employees who 269
are classified as internal auditors or whose job duties are 270
effectively similar to those of an internal auditor, as determined 271
by the report described in division (A) of this section, shall be 272
transferred to the Office of Internal Auditing in the Office of 273
Budget and Management on the effective date of this section, and 274
shall retain their positions, compensation, and all associated 275
fringe benefits. 276