

SENATE BILL No. 19

AN ACT concerning the legislative post audit act; prescribing the confidentiality of responses to surveys administered for audits; access to information and records for audits; amending K.S.A. 46-1119 and K.S.A. 2004 Supp. 46-1106 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) As used in this section:

(1) "Audit" means any financial-compliance audit, performance audit or any other audit or audit work conducted by the division of post audit or by a firm under the legislative post audit act;

(2) "survey" means any questionnaire or other survey instrument administered by the division of post audit or by a firm under the legislative post audit act for the purposes and in the course of an audit, regardless of form or characteristics; and

(3) any other words and phrases used in this section shall have the meanings respectively ascribed thereto by K.S.A. 46-1112 and amendments thereto.

(b) A response to any survey administered for the purposes and in the course of an audit approved by the legislative post audit committee shall be confidential and shall not be disclosed pursuant to the provisions of the open records act or under any other law except as required pursuant to the legislative post audit act. Nothing in this section shall limit the use of any information contained in responses to any survey by the division of post audit for the purposes of any audit or for any other purpose authorized or required under the legislative post audit act.

Sec. 2. K.S.A. 2004 Supp. 46-1106 is hereby amended to read as follows: 46-1106. (a) (1) A financial-compliance audit shall be conducted each year of the general purpose financial statements prepared by the division of accounts and reports for its annual financial report. This audit shall be conducted in accordance with generally accepted governmental auditing standards. The resulting written audit report shall be issued as soon after the end of the fiscal year as is practicable.

(2) In addition, separate written audit reports on the financial management practices of the office of the state treasurer and the pooled money investment board shall be prepared addressing the adequacy of financial management practices and compliance with applicable state laws. The separate audit of the pooled money investment board also shall include a comparative investment performance review and an analysis of the investment program, including an evaluation of investment policies and practices and of specific investments in the pooled money investment portfolio. The analysis of the specific investments in the pooled money investment portfolio shall review whether such investments meet the investment priorities of safety, liquidity and performance. The performance of such investments shall be measured by comparison to an appropriate market index.

(3) Copies of the reports of audits conducted pursuant to this subsection (a) shall be furnished to the governor, director of accounts and reports, director of the budget, each state agency, the legislative post audit committee and other persons or agencies as may be required by law or by the specifications of the audit.

(4) Any additional costs associated with preparing the separate additional reports on the office of the state treasurer and the pooled money investment board shall be borne by the office of the state treasurer and the pooled money investment board in accordance with K.S.A. 46-1121, and amendments thereto.

(b) Including financial-compliance audit work conducted as part of the audit conducted pursuant to subsection (a), financial-compliance audit work shall be conducted at each state agency at least once every three years as directed by the legislative post audit committee. Written reports on the results of such auditing shall be furnished to the governor, director of accounts and reports, director of the budget, the state agency which is audited, the legislative post audit committee and such other persons or agencies as may be required by law or by the specifications of the audit.

(c) Books and accounts of the state treasurer and the director of accounts and reports, including the bond register of the state treasurer, may be examined monthly if the legislative post audit committee so determines, and such examination may include detailed checking of every transaction or test checking.

Any person receiving tax information under the provisions of subsection (a) or (b) shall be subject to the same duty of confidentiality imposed

by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(d) The post auditor shall report immediately in writing to the legislative post audit committee, governor and attorney general whenever it appears in the opinion of the post auditor that there may have occurred any violation of penal statutes or any instances of misfeasance, malfeasance or nonfeasance by a public officer or employee disclosed by any audit or audit work conducted under the legislative post audit act. The post auditor shall furnish the attorney general all information in the possession of the post auditor relative to any report referred to the attorney general. The attorney general shall institute and prosecute civil proceedings against any such delinquent officer or employee, or upon such officer or employee's official bond, or both, as may be needed to recover for the state any funds or other assets misappropriated. The attorney general shall also prosecute such ouster and criminal proceedings as the evidence in the case warrants. Any person receiving tax information under the provisions of this subsection shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(e) The post auditor shall immediately report to the committee on surety bonds and insurance when any audit or audit work conducted under the legislative post audit act discloses a shortage in the accounts of any state agency, officer or employee.

(f) In the discharge of the duties imposed under the legislative post audit act, the post auditor may require state agencies to preserve and make available their accounts, records, documents, vouchers, requisitions, payrolls, canceled checks or vouchers and coupons, and other evidence of financial transactions.

(g) In the discharge of the duties imposed under the legislative post audit act, the post auditor or firm conducting a financial-compliance audit or conducting *any* other ~~financial-compliance audit~~ or audit work shall have access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, of any person or state agency subject to the legislative post audit act or in the custody of any such person or state agency. Except as otherwise provided in this subsection, the post auditor or firm conducting a financial-compliance audit or other ~~financial-compliance audit~~ or audit work *under the legislative post audit act* and all employees and former employees of the division of post audit or firm performing a financial-compliance audit or other ~~financial-compliance audit~~ or audit work shall be subject to the same duty of confidentiality imposed by law on any such person or state agency with regard to any such books, accounts, records, files, documents and correspondence, and any information contained therein, and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. The duty of confidentiality imposed on the post auditor and on firms conducting financial-compliance audits or *any* other ~~financial-compliance audits~~ or audit work *under the legislative post audit act* and all employees of the division of post audit and all employees of such firms shall be subject to the provisions of subsection (d), and the post auditor may furnish all such books, accounts, records, files, documents and correspondence, and any information contained therein to the attorney general pursuant to subsection (d). Upon receipt thereof, the attorney general and all assistant attorneys general and all other employees and former employees of the office of attorney general shall be subject to the same duty of confidentiality with the exceptions that any such information contained therein may be disclosed in civil proceedings, ouster proceedings and criminal proceedings which may be instituted and prosecuted by the attorney general in accordance with subsection (d), and any such books, accounts, records, files, documents and correspondence furnished to the attorney general in accordance with subsection (d) may be entered into evidence in any such proceedings. Nothing in this subsection shall be construed to supersede any requirement of federal law.

(h) Any firm or firms which develop information in the course of conducting a financial-compliance audit or other ~~financial-compliance audit~~ or audit work *under the legislative post audit act* which the post auditor is required to report under subsection (d) or (e) shall immediately report

such information to the post auditor. The post auditor shall then make the report required in subsection (d) or (e).

Sec. 3. K.S.A. 46-1119 is hereby amended to read as follows: 46-1119. The provisions of K.S.A. 46-1101 through ~~46-1127~~ 46-1128 and section 1 and amendments thereto and any other acts contained in article 11 of chapter 46 of the Kansas Statutes Annotated and any acts amendatory thereof or made specifically supplemental thereto, shall be construed together and may be cited as the legislative post audit act.

Sec. 4. K.S.A. 46-1119 and K.S.A. 2004 Supp. 46-1106 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.