

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 395

Short Title: Compliance Review Commission.

(Public)

Sponsors: Senator Perdue.

Referred to: Rules and Operation of the Senate.

February 24, 1993

A BILL TO BE ENTITLED

AN ACT CREATE THE LEGISLATIVE COMPLIANCE REVIEW COMMISSION
TO PROVIDE FOR LEGISLATIVE REVIEW OF AGENCY COMPLIANCE
WITH AUDIT RECOMMENDATIONS.

Whereas, the State Auditor is responsible for performing audits or directing the performance of audits of the agencies of State government and the community colleges; and

Whereas, there is no formal review mechanism to review whether and the extent to which agencies have corrected or addressed the problems cited in these audits; and

Whereas, it is the intent of the General Assembly to provide a legislative review mechanism to review agency compliance with audits and agency compliance with legislation originating from the Government Performance Audit Committee; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 12I.

"LEGISLATIVE COMPLIANCE REVIEW COMMISSION.

"§ 120-70.90. Commission; membership; definition.

(a) The Legislative Compliance Review Commission is hereby established. The Commission shall consist of the following members:

1 (1) Four members of the Senate appointed by the President Pro Tempore
2 of the Senate, one of whom shall be designated by the President Pro
3 Tempore of the Senate as cochair of the Commission; and

4 (2) Four members of the House of Representatives appointed by the
5 Speaker of the House of Representatives, one of whom shall be
6 designated by the Speaker of the House of Representatives as cochair
7 of the Commission.

8 (b) 'Commission' means the Legislative Compliance Review Commission.

9 **"§ 120-70.91. Audit review.**

10 (a) General. – The Compliance Review Commission shall review agency
11 compliance with audit findings and recommendations made by or at the direction of the
12 State Auditor. A compliance review shall be commenced within 18 months of issuance
13 of the audit report.

14 (b) Agency Response. – Each agency reviewed shall have an opportunity to
15 respond in writing to the compliance review findings, subject to deadlines imposed by
16 the Commission.

17 (c) Public Hearing. – After review of the agencies' responses, if the Commission
18 is not satisfied that the agency has addressed or is making substantial progress in
19 addressing the audit findings and recommendations, it shall schedule a public hearing,
20 prior to issuing a final report, to receive additional testimony on agency noncompliance.
21 The attendance of the head of the affected department or institution or other appropriate
22 officials may be compelled in accordance with the provisions of G.S. 120-19.2.
23 Additionally, the Commission, while in the discharge of its official duties, may exercise
24 all of the powers of a joint committee of the General Assembly provided for under the
25 provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4.

26 (d) Final Report. – The final report shall contain a list of audits reviewed,
27 findings concerning agency noncompliance, and recommendations for further action or
28 additional legislation. The Commission may issue one report that covers several audits.
29 A report shall be issued at least twice each year. The Commission may at any time
30 conduct a follow-up review of agency compliance.

31 (e) Government Performance Audit Legislation. – The Commission shall issue a
32 final interim report to the General Assembly no later than May 27, 1994, on agency
33 compliance with enacted legislation recommended by the Government Performance
34 Audit Committee. If the agency has been specifically directed by the Government
35 Performance Audit legislation to report to any other legislative commission created
36 pursuant to this Chapter, it shall also report to the Commission. The Commission may
37 review and report on the agency's compliance notwithstanding review by other
38 legislative commissions.

39 The Commission shall issue a final report to the General Assembly prior to the
40 convening of the 1995 General Assembly on agency compliance with Government
41 Performance Audit legislation.

42 **"§ 120-70.92. Meetings; funding; staffing; reimbursement.**

1 (a) The Commission may meet in the State Legislative Building or the
2 Legislative Office Building with the approval of the Legislative Services Commission.
3 Five members of the Commission present constitute a quorum.

4 (b) From funds available to the General Assembly, the Legislative Services
5 Commission shall allocate monies to fund the Commission.

6 (c) The Legislative Administrative Officer shall assign as staff to the
7 Commission professional employees of the General Assembly, as approved by the
8 Legislative Services Commission. Clerical staff shall be assigned to the Commission
9 through the Offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks
10 of the House of Representatives. The expenses of employment of clerical staff shall be
11 borne by the Commission.

12 (d) Legislative members of the Commission shall receive subsistence and travel
13 expenses at the rates set forth in G.S. 120-3.1."

14 Sec. 2. G.S. 147-64.6(c) reads as rewritten:

15 "(c) The Auditor shall be responsible for the following acts and activities:

16 (1) Audits made or caused to be made by the Auditor shall be conducted
17 in accordance with generally accepted auditing standards as prescribed
18 by the American Institute of Certified Public Accountants, the United
19 States General Accounting Office, or other professionally recognized
20 accounting standards-setting bodies.

21 (2) Financial and compliance audits may be made at the discretion of the
22 Auditor without advance notice to the organization being audited.
23 Audits of economy and efficiency and program results shall be
24 discussed in advance with the prospective auditee unless an
25 unannounced visit is essential to the audit.

26 (3) The Auditor, on his own initiative and as often as he deems necessary,
27 or as requested by the Governor or the General Assembly, shall, to the
28 extent deemed practicable and consistent with his overall
29 responsibility as contained in this act, make or cause to be made audits
30 of all or any part of the activities of the State agencies.

31 (4) The Auditor, at his own discretion, may, in selecting audit areas and in
32 evaluating current audit activity, consider and utilize, in whole or in
33 part, the relevant audit coverage and applicable reports of the audit
34 staffs of the various State agencies, independent contractors, and
35 federal agencies. He shall coordinate, to the extent deemed
36 practicable, the auditing conducted within the State to meet the needs
37 of all governmental bodies.

38 (5) The Auditor is authorized to contract with federal audit agencies, or
39 any governmental agency, on a cost reimbursable basis, for the
40 Auditor to perform audits of federal grants and programs administered
41 by the State Departments and institutions in accordance with
42 agreements negotiated between the Auditor and the contracting federal
43 audit agencies or any governmental agency. In instances where the
44 grantee State agency shall subgrant these federal funds to local

1 governments, regional councils of government and other local groups
2 or private or semiprivate institutions or agencies, the Auditor shall
3 have the authority to examine the books and records of these
4 subgrantees to the extent necessary to determine eligibility and proper
5 use in accordance with State and federal laws and regulations.

6 The Auditor shall charge and collect from the contracting federal
7 audit agencies, or any governmental agencies, the actual cost of all the
8 audits of the grants and programs contracted by him to do. Amounts
9 collected under these arrangements shall be deposited in the State
10 Treasury and be budgeted in the Department of State Auditor and shall
11 be available to hire sufficient personnel to perform these contracted
12 audits and to pay for related travel, supplies and other necessary
13 expenses.

14 (6) The Auditor is authorized and directed in his reports of audits or
15 reports of special investigations to make any comments, suggestions,
16 or recommendations he deems appropriate concerning any aspect of
17 such agency's activities and operations.

18 (7) The Auditor shall charge and collect from each examining and
19 licensing board the actual cost of each audit of such board. Costs
20 collected under this subdivision shall be based on the actual expense
21 incurred by the Auditor's office in making such audit and the affected
22 agency shall be entitled to an itemized statement of such costs.
23 Amounts collected under this subdivision shall be deposited into the
24 general fund as nontax revenue.

25 (8) The Auditor shall examine as often as may be deemed necessary the
26 accounts kept by the Treasurer, and if he discovers any irregularity or
27 deficiency therein, unless the same be rectified or explained to his
28 satisfaction, report the same forthwith in writing to the General
29 Assembly, with copy of such report to the Governor and Attorney
30 General. In addition to regular audits, the Auditor shall check the
31 treasury records at the time a Treasurer assumes office (not to succeed
32 himself), and therein charge him with the balance in the treasury, and
33 shall check the Treasurer's records at the time he leaves office to
34 determine that the accounts are in order.

35 (9) The Auditor may examine the accounts and records of any bank or
36 financial institution relating to transactions with the State Treasurer, or
37 with any State agency, or he may require banks doing business with
38 the State to furnish him information relating to transactions with the
39 State or State agencies.

40 (10) The Auditor may, as often as he deems advisable, conduct a detailed
41 review of the bookkeeping and accounting systems in use in the
42 various State agencies which are supported partially or entirely from
43 State funds. Such examinations will be for the purpose of evaluating
44 the adequacy of systems in use by these agencies and institutions. In

1 instances where the Auditor determines that existing systems are
2 outmoded, inefficient, or otherwise inadequate, he shall recommend
3 changes to the State Controller. The State Controller shall prescribe
4 and supervise the installation of such changes, as provided in G.S.
5 143B-426.39 (2).

6 (11) The Auditor shall, through appropriate tests, satisfy himself
7 concerning the propriety of the data presented in the Comprehensive
8 Annual Financial Report and shall express the appropriate auditor's
9 opinion in accordance with generally accepted auditing standards.

10 (12) The Auditor shall provide in a written statement to the ~~Governor and~~
11 Governor, the Legislative Compliance Review Commission, the
12 Attorney General, and other appropriate officials, such facts as are in
13 his possession which pertain to the apparent violation of penal statutes
14 or apparent instances of malfeasance, misfeasance, or nonfeasance by
15 an officer or employee.

16 (13) At the conclusion of an audit, the Auditor or his designated
17 representative shall discuss the audit with the official whose office is
18 subject to audit and submit necessary underlying facts developed for
19 all findings and recommendations which may be included in the audit
20 report. On audits of economy and efficiency and program results, the
21 auditee's written response shall be included in the final report if
22 received within 30 days from receipt of the draft report.

23 (14) The Auditor shall provide copies of each audit report to the Legislative
24 Compliance Review Commission of the General Assembly, the
25 Governor, the Chief Executive Officer of each agency audited, and
26 other persons as the Auditor deems appropriate. He shall also file a
27 copy of the audit report in the Auditor's office, which will be a
28 permanent public record; Provided, nothing in this subsection shall be
29 construed as authorizing or permitting the publication of information
30 whose disclosure is otherwise prohibited by law.

31 (15) It is not the intent of the audit function, nor shall it be so construed, to
32 infringe upon or deprive the General Assembly and the executive or
33 judicial branches of State government of any rights, powers, or duties
34 vested in or imposed upon them by statute or the Constitution.

35 (16) The Auditor shall be responsible for receiving reports of allegations of
36 the improper governmental activities set forth in G.S. 126-84. The
37 Auditor shall provide a telephone hotline to receive such allegations
38 and informant may choose whether to remain anonymous. The
39 Auditor shall implement the necessary policies and procedures to
40 investigate hotline allegations and recommend appropriate action.
41 When the allegation involves issues of substantial and specific danger
42 to the public health and safety, the Auditor shall notify the appropriate
43 agency immediately. In addition, the Auditor shall publicize the

1 hotline number periodically and shall report findings to the agencies
2 involved.

3 All records maintained by the State Auditor which involve
4 unsubstantiated allegations of improper governmental activities set
5 forth in G.S. 126-84 shall be destroyed within four years from the date
6 such allegation was received."

7 Sec. 3. G.S. 147-64.5 reads as rewritten:

8 "**§ 147-64.5. Cooperation with Joint Legislative Commission on ~~governmental~~
9 ~~operations~~ Governmental Operations, Legislative Compliance Review
10 Commission, and other governmental bodies.**

11 (a) ~~Joint Legislative Commission on Governmental Operations.~~ Operations and
12 Legislative Compliance Review Commission. – The Auditor shall furnish copies of any
13 and all audits requested by the Joint Legislative Commission on Governmental
14 ~~Operations.~~ Operations or Legislative Compliance Review Commission. Accordingly,
15 the Auditor shall, upon request by the ~~chairmen,~~ chairmen of either Commission, appear
16 before the requesting Commission to present findings and answer questions concerning
17 the results of these audits. The ~~Commission is~~ Commissions are hereby authorized to use
18 these audit findings in ~~its~~ their inquiries concerning the operations of State agencies and
19 ~~is~~ are empowered to require agency heads to advise ~~the Commission~~ them of actions
20 taken or to be taken on any recommendations made in the report or explain the reasons
21 for not taking action.

22 (b) Requests for Auditor Assistance. – Committees of the General Assembly, the
23 Governor, and other State officials may make written requests that the Auditor
24 undertake, to the extent deemed practicable and within the resources provided, a
25 specific audit or investigation; provide technical assistance and advice; and provide
26 recommendations on management systems, finance, accounting, auditing, and other
27 areas of management interest.

28 (c) Cooperation with Other Governmental Bodies. – The Auditor shall cooperate,
29 act, and function with other audit or evaluation organizations in the State, with
30 appropriate councils or committees of other states, with governing bodies of the
31 political subdivisions of the State, and with federal agencies in an effort to maximize the
32 extent of intergovernmental audit coordination and thereby avoid unnecessary
33 duplication and expense of audit effort. Nothing in this Article is intended nor shall it
34 be construed as giving the Auditor control over the internal auditors of any agency."

35 Sec. 4. This act is effective upon ratification.