

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1508

Page 1, line 1, after "to" insert "create and enact a new subdivision to subsection 2 of section 12-60-24, a new subsection to section 54-10-26, and four new sections to chapter 54-10 of the North Dakota Century Code, relating to criminal history background checks of employees of the state auditor and audits of state agencies, political subdivisions, and occupation and professional boards; to"

Page 1, line 1, replace "section" with "sections 16.1-01-10,"

Page 1, line 1, after "54-10-01" insert ", and 54-10-13, subsection 5 of section 54-10-14, and sections 54-10-15 and 54-10-25"

Page 1, line 2, after "auditor" insert "; and to provide a penalty"

Page 1, after line 3, insert:

"SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The state auditor for all employees, as required by section 10 of this Act.

SECTION 2. AMENDMENT. Section 16.1-01-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-10. Secretary of state to pass upon sufficiency of petitions - Method - Time limit.

The secretary of state shall have a reasonable period, not to exceed thirty-five days, in which to pass upon the sufficiency of any petition mentioned in ~~sections~~ sections 16.1-01-09 and 54-10-15. The secretary of state shall conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the secretary of state to be invalid may not be counted and all violations of law discovered by the secretary of state must be reported to the attorney general for prosecution."

Page 2, line 5, after the period insert "If the lead auditor on an agency audit has less than two years of experience with the state auditor or has not previously audited the agency, the agency may not be charged for the audit."

Page 2, line 29, overstrike "Within the resources available to the state auditor, perform or provide for"

Page 2, overstrike lines 30 and 31

Page 3, line 1, overstrike "c."

Page 3, line 3, overstrike "d." and insert immediately thereafter "c."

Page 3, line 9, overstrike "or subdivision b of this subsection"

Page 3, line 13, overstrike "or subdivision b of this subsection"

Page 3, after line 23, insert:

- "4. The state auditor may not reject an audit report of an audit performed by a certified public accountant or licensed public accountant which meets generally accepted auditing standards.
5. The state auditor shall provide an audit template that meets generally accepted government auditing standards to be used by a certified public accountant or licensed public accountant who is contracted to complete an audit on behalf of a political subdivision or state entity.
6. In the audit reports provided to the legislative audit and fiscal review committee under subsection 1 of this section, the state auditor's report for each audit must include:
 - a. A summary of the audit conducted.
 - b. Disclosure of any disagreements with management.
 - c. Any findings and whether the findings were addressed or corrected.
 - d. A copy of the engagement letter, number of staff hours worked to complete the audit, and the final cost of the audit.

SECTION 4. AMENDMENT. Section 54-10-13 of the North Dakota Century Code is amended and reenacted as follows:

54-10-13. Political subdivisions - Audits—~~State auditor powers.~~

The state auditor shall perform audits of political subdivisions pursuant to section 54-10-14 unless otherwise requested by the governing board, ordered by the governor or the legislative audit and fiscal review committee, or on petition pursuant to section 54-10-15, ~~or at the discretion of the state auditor for alleged improprieties.~~

SECTION 5. AMENDMENT. Subsection 5 of section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

5. A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. ~~A political subdivision shall retain twenty percent of any progress payment until the audit report is accepted by the state auditor.~~

SECTION 6. AMENDMENT. Section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

54-10-15. Audits of political subdivisions by order of governor or the legislative audit and fiscal review committee, upon petition, or upon request of the state court administrator.

1. The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by the governor or the legislative audit and fiscal review committee, requested by the governing board, or

upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election or, in the case of school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election, or upon the request of the state court administrator with respect to clerk of district court services provided by a county in accordance with chapter 27-05.2. Fees for the audits must be paid in accordance with the provisions of section 54-10-14.

2. If an audit is ordered due to financial irregularities or allegations of embezzlement, the governor may suspend an elected or appointed school board member from the individual's duties if the governor determines suspension is in the best interest of the state pending the results of the audit. If the governor suspends an elected or appointed school board member, the governor immediately shall provide notice to the school board with which the suspended member serves. Within five days of receiving notice, the school board shall appoint an individual to replace the suspended member to serve during the pendency of the audit. The governor shall consult with the superintendent of public instruction in determining whether suspension of a member of a school board is in the best interest of the state.
3. Upon review of a petition for an audit by the secretary of state under section 16.1-01-10, the secretary of state shall forward a valid petition for an audit under subsection 1 to the state auditor. Within fourteen days of determining the sufficiency of a petition under this section, the secretary of state shall provide notice of any approved petition to the legislative audit and fiscal review committee.

SECTION 7. AMENDMENT. Section 54-10-25 of the North Dakota Century Code is amended and reenacted as follows:

54-10-25. Divulging of certain secret information prohibited - Penalty.

1. The state auditor and the auditor's employees, including any person employed by the auditor to perform the examination of any return, report, or other information filed and in the possession of the tax commissioner which is made confidential by law, may not divulge the contents of any return, report, or other information examined or any listing made therefrom by the state auditor or the auditor's employees except when otherwise directed by judicial order, or as is otherwise provided by law.
2. The state auditor, the auditor's employees, or an agent of the auditor may not divulge any information relating to a matter forwarded to the attorney general or a state's attorney for further investigation until the attorney general or state's attorney has made a determination as to whether there is probable cause to believe a violation of law has occurred.
3. An individual who violates this section is guilty of a class C felony.

SECTION 8. A new subsection to section 54-10-26 of the North Dakota Century Code is created and enacted as follows:

The state auditor may not request the working papers of any entity.

SECTION 9. A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

Audit findings - Review period.

The state auditor shall provide any audit findings to the audited state entity, political subdivision, or occupational or professional board thirty days before the state auditor publishes the audit findings. The state auditor shall provide all audit findings to the legislative audit and fiscal review committee.

SECTION 10. A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

Criminal history background checks - Employees.

Each employee of the state auditor hired after June 30, 2001, shall complete a statewide and nationwide criminal history record check as provided under section 12-60-24. The state auditor is responsible for all costs associated with a statewide and nationwide criminal history record check.

SECTION 11. A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

Engagement letters - Prohibition.

Upon completion of an audit, the state auditor may not increase the cost of the audit beyond the estimated cost proposed in the initial engagement letter.

SECTION 12. A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

Special state auditor.

If the governor considers it in the best interests of the state, the governor may appoint a special state auditor to examine any state institution, state industry, state department, or public office. The special state auditor has all the powers and authority granted to the state auditor in making audits and shall examine and report upon any other matters connected with the state institutions and public offices as the governor may direct."

Renumber accordingly