

AMENDED IN SENATE JULY 1, 2011  
AMENDED IN SENATE JUNE 21, 2011  
AMENDED IN ASSEMBLY APRIL 14, 2011  
AMENDED IN ASSEMBLY APRIL 13, 2011  
AMENDED IN ASSEMBLY MARCH 30, 2011  
AMENDED IN ASSEMBLY MARCH 14, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 229**

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**Introduced by Assembly Member Lara**

February 2, 2011

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*An act to amend Section 12410.5 of, to add Sections 12410.6, 12410.7, and 12410.9 to, and to add and repeal Section 12410.8 of, the Government Code, relating to audits. An act to add and repeal Section 8546.10 of the Government Code, relating to the State Auditor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 229, as amended, Lara. ~~Controller: audits.~~ *State Auditor: Commission on Teacher Credentialing: enforcement program monitor.*

*Existing law establishes the Bureau of State Audits, which is headed by the State Auditor and has specified statutory duties, including the performance of statutorily mandated audits.*

*Existing law establishes the Commission on Teacher Credentialing to, among other things, establish professional standards, assessments, and examinations for entry and advancement in the education profession.*

*This bill would require the State Auditor to appoint an enforcement program monitor to the Commission on Teacher Credentialing, for the purpose of monitoring and evaluating the Division of Professional Practices within the commission. The purpose of the monitoring would be to improve the quality and consistency of reviewing reported misconduct by holders of, or applicants for, teaching credentials, reducing timeframes and backlogs related to reviewing cases of misconduct, ensuring the establishment and usage of comprehensive written procedures for reviewing reported misconduct, effectively tracking cases, and fostering an overall professional workplace environment at the division and the commission. The bill would require the enforcement program monitor to submit an initial written report of his or her findings and conclusions to State Auditor, the Legislature, and the Joint Legislative Audit Committee by July 1, 2012, and every 6 months thereafter, and to submit a final report by January 1, 2014.*

*The bill would repeal these provisions on January 1, 2014.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

Existing law requires the Controller to superintend the fiscal concerns of the state. Existing law requires the Controller to receive every audit report prepared by any local agency to comply with the federal Single Audit Act of 1984.

This bill would require the audit reports prepared in this regard to be submitted to the Controller within 9 months of the end of the period audited or in accordance with applicable state or federal law. This bill would authorize the Controller to appoint a qualified certified public accountant to complete an audit report if it is not submitted by the local agency within the required timeframe, with associated costs to be borne by the local agency, as specified. This bill would require the audit to comply with the Government Auditing Standards issued by the Comptroller General of the United States. This bill would require the audits to be made by a certified public accountant that is licensed by the California Board of Accountancy and selected by a local agency from a directory of accountants to be published by the Controller by December 31 of each year. The Controller would be required to use specified criteria to determine those certified public accountants that are to be included in the directory.

This bill would require the Controller to develop a plan to review and report on the annual financial audit reports of local agencies, and to review and monitor the annual financial reports of local agencies;

~~including certain reports prepared by independent auditors, according to specified criteria. This bill would require the Controller, in consultation with specified entities, to propose and adopt the content of an audit guide. This bill would also require the Controller to report to the Legislature by January 31 of each year the results of the Controller's oversight activity. The requirement that the Controller report to the Legislature would be repealed on December 31, 2015. This bill would authorize the Controller to perform quality control reviews of audit working papers of the annual financial reports of local agencies to determine whether the audits meet certain criteria. This bill would provide that if the Controller makes specified findings, the Controller shall refer the case to the California Board of Accountancy and take certain disciplinary actions as the case is pending.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 8546.10 is added to the Government Code,  
 2     to read:  
 3     8546.10. (a) *The State Auditor shall appoint an enforcement*  
 4     *program monitor to the Commission on Teacher Credentialing.*  
 5     *The enforcement program monitor shall monitor and evaluate the*  
 6     *Division of Professional Practices within the commission, making*  
 7     *as his or her highest priority the reform and overall efficiency of*  
 8     *the division.*  
 9     (1) *The State Auditor shall appoint the enforcement program*  
 10    *monitor no later than January 1, 2012.*  
 11    (2) *The monitoring duty shall be performed on a continuing*  
 12    *basis for a period not exceeding two years from the date of the*  
 13    *enforcement program monitor's appointment and shall include,*  
 14    *but not be limited to, improving the quality and consistency of*  
 15    *reviewing reported misconduct by holders of, or applicants for,*  
 16    *teaching credentials, reducing timeframes and backlogs related*  
 17    *to reviewing cases of misconduct, ensuring the establishment and*  
 18    *usage of comprehensive written procedures for reviewing reported*  
 19    *misconduct, ensuring the effective tracking of cases, and fostering*  
 20    *an overall professional workplace environment at the division and*  
 21    *the commission.*

1 (3) *The enforcement program monitor shall not exercise any*  
2 *authority over the discipline, operations, or staff of the commission*  
3 *or division. However, the commission and division shall cooperate*  
4 *with the enforcement program monitor, and the commission and*  
5 *division shall provide data, information, and case files as requested*  
6 *by the enforcement program monitor to enable the enforcement*  
7 *program monitor to perform all of his or her duties.*

8 (4) *The executive director and general counsel of the*  
9 *commission shall assist the enforcement program monitor in the*  
10 *performance of his or her duties.*

11 (5) (A) *The enforcement program monitor shall submit an initial*  
12 *written report of his or her findings and conclusions to the State*  
13 *Auditor and the Legislature no later than July 1, 2012, and every*  
14 *six months thereafter, and be available to make oral reports to the*  
15 *State Auditor, the Legislature, and the Joint Legislative Audit*  
16 *Committee, if requested to do so.*

17 (B) *The enforcement program monitor may also provide*  
18 *additional information to the State Auditor, the Legislature, and*  
19 *the Joint Legislative Audit Committee at his or her discretion or*  
20 *at the request of the State Auditor, the Legislature, or the Joint*  
21 *Legislative Audit Committee. Upon request, the enforcement*  
22 *program monitor shall make his or her reports available to the*  
23 *public or the media. The enforcement program monitor shall make*  
24 *every effort to provide the commission and the division with an*  
25 *opportunity to reply to any facts, findings, issues, or conclusions*  
26 *in his or her reports with which the commission or division may*  
27 *disagree.*

28 (6) *The commission shall reimburse the State Auditor for all of*  
29 *the costs associated with the employment of an enforcement*  
30 *program monitor.*

31 (7) *The enforcement program monitor shall issue a final report*  
32 *to the State Auditor, the Legislature, and the Joint Legislative*  
33 *Audit Committee by January 1, 2014. The final report shall include*  
34 *final findings and conclusions on the topics addressed in the*  
35 *reports submitted pursuant to subparagraph (A) of paragraph (5).*

36 (8) *The reports submitted pursuant to paragraphs (5) and (7)*  
37 *shall be submitted in compliance with Section 9795.*

38 (b) *This section shall remain in effect only until January 1, 2014,*  
39 *and as of that date is repealed, unless a later enacted statute, that*  
40 *is enacted before January 1, 2014, deletes or extends that date.*

1     *SEC. 2. This act is an urgency statute necessary for the*  
2 *immediate preservation of the public peace, health, or safety within*  
3 *the meaning of Article IV of the Constitution and shall go into*  
4 *immediate effect. The facts constituting the necessity are:*

5     *Given a recent audit report and findings from the State Auditor,*  
6 *immediate action is required to ensure that the Commission on*  
7 *Teacher Credentialing is operating effectively and in the best*  
8 *interest of California's children and teachers, and thus, it is*  
9 *necessary that this act take effect immediately.*

10     ~~SECTION 1. The Legislature finds that financial audits provide~~  
11 ~~an independent assessment of, and reasonable assurance about,~~  
12 ~~whether local agencies' reported financial condition, results, and~~  
13 ~~use of resources are presented fairly in accordance with recognized~~  
14 ~~standards. Accordingly, it is the intent of the Legislature to promote~~  
15 ~~accountability over local government funding by establishing a~~  
16 ~~process for reviewing and reporting on financial and compliance~~  
17 ~~audits conducted of local agencies. It is further the intent of the~~  
18 ~~Legislature that the Controller shall have oversight responsibilities~~  
19 ~~for implementing and ensuring compliance with this act.~~

20     ~~SEC. 2. Section 12410.5 of the Government Code is amended~~  
21 ~~to read:~~

22     ~~12410.5. (a) The Controller shall receive every annual financial~~  
23 ~~audit report prepared for any local agency, as defined in Section~~  
24 ~~53890, including those reports prepared in compliance with the~~  
25 ~~federal Single Audit Act of 1984, as amended (31 U.S.C. Sec.~~  
26 ~~7501 et seq.) and required under any law to be submitted to any~~  
27 ~~state agency, and shall, after ascertaining its compliance with that~~  
28 ~~federal act, transmit the report to the designated state agency.~~

29     ~~(b) An audit for any local agency submitted to the Controller~~  
30 ~~pursuant to this section shall comply with the Government Auditing~~  
31 ~~Standards issued by the Comptroller General of the United States.~~

32     ~~(c) An audit for any local agency submitted to the Controller~~  
33 ~~pursuant to this section shall be made by a certified public~~  
34 ~~accountant, licensed by the California Board of Accountancy, and~~  
35 ~~selected by the local agency, as applicable, from a directory of~~  
36 ~~certified public accountants maintained by the Controller which~~  
37 ~~shall be published by the Controller not later than December 31~~  
38 ~~of each year.~~

1     ~~(1) In determining which certified public accountants shall be~~  
2 ~~included in the directory, the Controller shall use the following~~  
3 ~~criteria:~~

4     ~~(A) The certified public accountants or public accountants shall~~  
5 ~~be in good standing as certified by the California Board of~~  
6 ~~Accountancy.~~

7     ~~(B) The certified public accountants or public accountants, as~~  
8 ~~a result of a quality control review conducted by the Controller~~  
9 ~~pursuant to Section 12410.9, shall not have been found to have~~  
10 ~~conducted an audit in a manner constituting noncompliance with~~  
11 ~~subdivision (b) of this section and subdivision (a) of Section~~  
12 ~~12410.7, and the Controller referred the matter to the California~~  
13 ~~Board of Accountancy for consideration of disciplinary action~~  
14 ~~pursuant to subdivision (d) of Section 12410.9. In that instance, if~~  
15 ~~the certified public accountant or public accountant had been~~  
16 ~~included in the directory, the certified public accountant or public~~  
17 ~~accountant shall be removed from the directory until such time as~~  
18 ~~the board makes a determination on the matter. If the board~~  
19 ~~suspends, or revokes, the certified public accountant or public~~  
20 ~~accountant’s license, or prohibits the licensee from performing~~  
21 ~~audits of local agencies, the certified public accountant or public~~  
22 ~~accountant shall be excluded from the directory until such time as~~  
23 ~~he or she is in good standing with the board.~~

24     ~~(2) Commencing with the 2011-12 fiscal year, it shall be~~  
25 ~~unlawful for a public accounting firm to provide audit services to~~  
26 ~~a local agency if the lead audit partner, or coordinating audit~~  
27 ~~partner, having primary responsibility for the audit, or the audit~~  
28 ~~partner responsible for reviewing the audit, has performed audit~~  
29 ~~services for that local agency in each of the six previous fiscal~~  
30 ~~years. The Controller may waive this requirement if he or she finds~~  
31 ~~that no otherwise eligible auditor is available to perform the audit.~~

32     ~~(d) The governing board of each local agency shall include all~~  
33 ~~of the following in its contracts for audits:~~

34     ~~(1) A provision to withhold 10 percent of the audit fee until the~~  
35 ~~Controller certifies that the audit report conforms to the reporting~~  
36 ~~provisions of subdivision (a) of Section 12410.7.~~

37     ~~(2) A provision to withhold 50 percent of the audit fee for any~~  
38 ~~subsequent year of a multiyear contract if the prior year’s audit~~  
39 ~~report was not certified as conforming to the reporting provisions~~  
40 ~~of subdivision (a) of Section 12410.7. This provision shall include~~

1 a statement that a multiyear contract shall be null and void if a  
2 public accounting firm or independent auditor is declared ineligible  
3 pursuant to subdivision (d) of Section 12410.9. The amount  
4 withheld shall not be payable unless payment is ordered by the  
5 board or the audit report for that subsequent year is certified by  
6 the Controller as conforming to the reporting provisions of  
7 subdivision (a) of Section 12410.7.

8 (3) A provision that will provide the Controller access to audit  
9 working papers.

10 SEC. 3. Section 12410.6 is added to the Government Code, to  
11 read:

12 12410.6. (a) The Controller shall develop a plan to review and  
13 report on the annual financial audit reports of local agencies,  
14 including those reports prepared by independent auditors in  
15 compliance with the Federal Single Audit Act, as amended (31  
16 U.S.C. Sec. 7501 et seq.) and the audit guide. The Controller, in  
17 consultation with the Department of Finance, and representatives  
18 of the League of California Cities, the California State Association  
19 of County Auditors, and the California Society of Certified Public  
20 Accountants, shall propose the content of, and adopt, an audit  
21 guide.

22 (b) The audit reports shall be submitted to the Controller within  
23 nine months after the end of the period audited, or in accordance  
24 with applicable state or federal law.

25 (c) If the audit reports required by Section 12410.5 have not  
26 been submitted by a local agency to the Controller on or before  
27 the due date established by this section, the Controller may appoint  
28 a qualified certified public accountant to complete the report and  
29 to obtain the information required. Any cost incurred by the  
30 Controller pursuant to this subdivision, including contracts with,  
31 or the employment of, the certified public accountants in  
32 completing the audit shall be borne by the local agency and shall  
33 be a charge against any unencumbered funds of the local agency.

34 SEC. 4. Section 12410.7 is added to the Government Code, to  
35 read:

36 12410.7. (a) The Controller on an annual basis shall review  
37 and monitor the annual financial audit reports of local agencies,  
38 including those reports prepared in compliance with the Federal  
39 Single Audit Act, as amended (31 U.S.C. Sec. 7501 et seq.) and  
40 the audit guide. The Controller shall determine whether the audit

1 reports conform with the reporting provisions of government  
2 auditing standards and the audit guide and shall notify each local  
3 agency, and the auditor of each local agency, regarding each  
4 determination.

5 (b) The independent auditor shall correct his or her audit report  
6 within 30 days of notification of any deficiency. The Controller  
7 may suspend the independent auditor from performing any local  
8 agency audits if the auditor does not correct his or her audit report  
9 within 30 days of the Controller's notification.

10 (c) (1) Within 30 days from the date of receipt of written  
11 notification that the Controller refuses to certify an audit report as  
12 conforming to the reporting provisions described in subdivision  
13 (a), an independent auditor or audit firm having a portion of an  
14 audit fee withheld pursuant to paragraph (1) or (2) of subdivision  
15 (d) of Section 12410.5 may file an appeal in writing with the  
16 California Board of Accountancy.

17 (2) The board shall complete an investigation of the appeal  
18 within 90 days of the filing of the appeal and, on the basis of the  
19 investigation, do one of the following:

20 (A) (i) Order the Controller to provide notification that the audit  
21 report conforms to the reporting provisions described in subdivision  
22 (a):

23 (ii) If the board orders the Controller to provide notification that  
24 the audit report conforms to the reporting provisions described in  
25 subdivision (a), the Controller shall notify the contracting local  
26 agency, which shall then release the portion of the audit fee being  
27 withheld in accordance with paragraph (1) or (2) of subdivision  
28 (d) of Section 12410.5.

29 (B) Schedule the appeal for a hearing, in which case the final  
30 action on the appeal shall be completed by the board within one  
31 year from the date of the filing of the appeal.

32 SEC. 5. Section 12410.8 is added to the Government Code, to  
33 read:

34 12410.8. (a) The Controller shall report to the Legislature by  
35 January 31 of each year the results of the Controller's oversight  
36 activity, including the results of the Controller's quality control  
37 reviews.

38 (b) A report submitted pursuant to subdivision (a) shall be  
39 submitted in compliance with Section 9795.

1 ~~(e) Pursuant to Section 10231.5, this section is repealed on~~  
2 ~~December 31, 2015.~~

3 ~~SEC. 6. Section 12410.9 is added to the Government Code, to~~  
4 ~~read:~~

5 ~~12410.9. (a) The Controller may perform quality control~~  
6 ~~reviews of audit working papers of the annual financial audit~~  
7 ~~reports of local agencies, including those reports prepared in~~  
8 ~~compliance with the Federal Single Audit Act, as amended (31~~  
9 ~~U.S.C. Sec. 7501 et seq.) and the audit guide, to determine whether~~  
10 ~~audits are performed in conformity with government audit~~  
11 ~~standards and the local agency audit guide. The Controller shall~~  
12 ~~communicate the results of his or her reviews to the Department~~  
13 ~~of Finance, the independent auditor, and the local agency for which~~  
14 ~~the audit was performed, and shall review his or her findings with~~  
15 ~~the independent auditor.~~

16 ~~(b) Prior to the performance of any quality control reviews, the~~  
17 ~~Controller shall develop and publish guidelines and standards for~~  
18 ~~those reviews. Pursuant to the development of those guidelines~~  
19 ~~and standards for those reviews, the Controller shall provide an~~  
20 ~~opportunity for public comment. The Controller shall update the~~  
21 ~~guidelines and standards for any changes in audit standards.~~

22 ~~(c) The Controller is responsible for selecting audits for review~~  
23 ~~based on criteria, including, but not limited to, disciplinary actions~~  
24 ~~by the California Board of Accountancy, results of the Controller's~~  
25 ~~review and monitoring of the audit reports, the extent of findings~~  
26 ~~in the audit reports issued by the independent auditor, the number~~  
27 ~~of audits of local agencies performed annually by the independent~~  
28 ~~auditor, the independent auditor's experience in performing audits~~  
29 ~~of local agencies, the complexity of state and federal programs~~  
30 ~~administered by the local agencies, and requests or leads from~~  
31 ~~other sources.~~

32 ~~(d) If the Controller finds that the audit was conducted in a~~  
33 ~~manner that constitutes unprofessional conduct as defined pursuant~~  
34 ~~to Section 5100 of the Business and Professions Code, or that there~~  
35 ~~were multiple and repeated failures to disclose noncompliant acts,~~  
36 ~~the Controller shall refer the case to the California Board of~~  
37 ~~Accountancy. In that instance, the independent auditor shall be~~  
38 ~~prohibited from performing an audit of a local agency until such~~  
39 ~~time as the board resolves the matter. If the California Board of~~  
40 ~~Accountancy finds that the independent auditor conducted an audit~~

1 ~~in an unprofessional manner, the Controller may prohibit the~~  
2 ~~independent auditor from performing any audit of a local agency~~  
3 ~~for the period during which the independent auditor is not in good~~  
4 ~~standing with the board, in addition to any other penalties that the~~  
5 ~~California Board of Accountancy may impose.~~

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