

AMENDED IN SENATE APRIL 6, 2011
AMENDED IN SENATE MARCH 22, 2011
AMENDED IN SENATE MARCH 10, 2011

SENATE BILL

No. 186

Introduced by Senators Kehoe and DeSaulnier
(Principal coauthor: Assembly Member Alejo)
(Coauthor: Assembly Member Lara)

February 7, 2011

An act to amend Section 12464 of the Government Code, relating to the Controller.

LEGISLATIVE COUNSEL'S DIGEST

SB 186, as amended, Kehoe. The Controller.

Existing law authorizes the Controller to appoint a qualified accountant to make an investigation and to obtain the information required for the annual report of financial transactions.

This bill would authorize the Controller to exercise discretionary authority to perform an audit or investigation of any county, city, special district, joint powers authority, or redevelopment agency, if the Controller ~~possesses documentation that results in reason to believe~~ *has reason to believe, supported by documentation*, that the local agency is not complying with the financial requirements in state law, grant agreements, local charters, or local ordinances. This bill would require the Controller to prepare a report of the results of the audit or investigation and to file a copy with the local legislative body.

Vote: majority. 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 12464 of the Government Code is
2 amended to read:

3 12464. (a) If the county, city, special district, joint powers
4 authority, or redevelopment agency reports are not made in the
5 time, form, and manner required or there is reason to believe that
6 a report is false, incomplete, or incorrect, the Controller shall
7 appoint a qualified accountant to make an investigation and to
8 obtain the information required. The accountant appointed shall
9 report to the Controller the results of the investigation, and a copy
10 shall be filed with the legislative body of the county, city, special
11 district, joint powers authority, or redevelopment agency, the
12 accounts of which were investigated. If a similar investigation has
13 to be made of the accounts of any county, city, special district,
14 joint powers authority, or redevelopment agency, for two
15 successive years, a certified copy of the results of the investigation
16 last made shall be transmitted to the grand jury of the county that
17 was investigated or in which the local agency investigated is
18 situated, or, if the agency is situated in more than one county, in
19 the county in which any portion of the agency is situated.

20 ~~(b) The Controller may, at his or her discretion, perform an audit~~
21 ~~or investigation of any county, city, special district, joint powers~~
22 ~~authority, or redevelopment agency, if the Controller possesses~~
23 ~~documentation that results in a reason to believe that the local~~
24 ~~agency is not complying with the financial requirements in state~~
25 ~~law, grant agreements, local charters, or local ordinances. The~~
26 ~~Controller shall prepare a report of the results of the audit or~~
27 ~~investigation, and a copy shall be filed with the legislative body~~
28 ~~of the county, city, special district, joint powers authority, or~~
29 ~~redevelopment agency, the accounts of which were audited or~~
30 ~~investigated. The audit or investigation will be designed to provide~~
31 ~~reasonable assurance on compliance with laws and regulations~~
32 ~~that are significant to the audit or investigation objectives. Any~~
33 ~~indication of illegal acts or fraud shall be communicated to~~
34 ~~appropriate authorities, including the county grand jury.~~

35 *(b) (1) If the Controller has reason to believe that any county,*
36 *city, special district, joint powers authority, or redevelopment*
37 *agency is not complying with the financial requirements in state*
38 *law, local charters, or local ordinances, he or she may perform*

1 *an audit or investigation of the issue. The basis for the decision*
2 *to conduct an audit or investigation shall be supported by credible*
3 *documentation, including input from the local agency. The*
4 *Controller shall prepare a report of the results of the audit or*
5 *investigation that shall include documentation used as the basis*
6 *for the decision to perform the audit or investigation. A copy of*
7 *the report shall be filed with the legislative body of the county,*
8 *city, special district, joint powers authority, or redevelopment*
9 *agency, subject to the audit or investigation. Any finding of illegal*
10 *acts or fraud shall be communicated to the appropriate authorities,*
11 *including the county grand jury.*

12 *(2) For purposes of this subdivision, documentation means any*
13 *handwriting, typewriting, printing, photostating, photographing,*
14 *photocopying, transmitting by electronic mail or facsimile, and*
15 *every other means of recording upon any tangible thing any form*
16 *of communication or representation, including letters, words,*
17 *pictures, sounds, or symbols, or combinations thereof, and any*
18 *record thereby created, regardless of the manner in which the*
19 *record has been stored.*

20 *(c) Any costs incurred by the Controller pursuant to subdivision*
21 *(a), including contracts with, or employment of, certified public*
22 *accountants or public accountants, in compiling a financial report*
23 *pursuant to Section 12463 or 12463.3 of this code, or as required*
24 *by Section 33684 of the Health and Safety Code, shall be borne*
25 *by the county, city, special district, joint powers authority, or*
26 *redevelopment agency, and shall be a charge against any*
27 *unencumbered funds of the county, city, special district, joint*
28 *powers authority, or redevelopment agency. Any forfeiture imposed*
29 *by Section 53895 or 53895.5 may be offset up to the total costs*
30 *incurred by the Controller. Any remaining balance shall be forfeited*
31 *in accordance with Sections 53895 and 53895.5. Any costs incurred*
32 *by the Controller in excess of the forfeiture imposed shall be a*
33 *charge against any unencumbered funds of the county, city, special*
34 *district, joint powers authority, or redevelopment agency.*

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