

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 783

Introduced by Assembly Member Daly

February 25, 2015

An act to amend Sections 25303, 26881, and 53087.6 of, and to add Sections 25250.5 and 26915 to, the Government Code, and to amend Section 4108.5 of the Revenue and Taxation Code, relating to county government.

LEGISLATIVE COUNSEL'S DIGEST

AB 783, as amended, Daly. County auditors.

(1) Existing law enumerates the officers of a county, including the office of the auditor, prescribes their duties, and permits a county board of supervisors to consolidate, separate, and reconsolidate their duties, as specified. Existing law requires the board of supervisors, at least biennially, to audit county financial accounts and records of all county officers responsible for the care, management, collection, or disbursement of county money, as specified. Existing law requires the board of supervisors to supervise the official conduct of all county officers, particularly with regard to the functions and duties of these county officers as they relate to the assessing, collecting, safekeeping, management, or disbursement of public funds.

This bill would require, in any county with both an elected auditor-controller and a population exceeding 3,000,000 people, that the auditor-controller, and not the board of supervisors, examine and

audit, or cause to be audited, the financial accounts and records of all officers having responsibility for the care, management, collection, or disbursement of county money, as described above. The bill would require this audit to be filed with the board of supervisors. The bill would require, in any county with both an elected auditor-controller and a population exceeding 3,000,000 people, that the authority of the board of supervisors to supervise the official conduct of county officers not be construed to affect the independent auditing and accounting functions of the ~~auditor-controller and would prohibit the board of supervisors from obstructing his or her auditing and accounting functions.~~ *auditor-controller*. By increasing the duties of local officials in a county with the above-described characteristics, this bill would impose a state-mandated local program.

(2) Existing law generally prescribes the duties of the county auditor. Existing law requires the county auditor or auditor-controller, as specified, to be the chief accounting officer of the county. Upon order of the board of supervisors, existing law requires the auditor or auditor-controller to prescribe the accounting forms and methods of all offices under the control of the board of supervisors and to supervise generally practices in those offices, which includes the ability to review departmental and countywide internal controls.

This bill would require a county auditor or auditor-controller also to be the chief auditor of the county. The bill would grant the auditor or auditor-controller, as part of its supervisory powers, the authority to audit, rather than review, departmental and countywide internal controls. The bill would require, in reference to the duties of auditors, that the term “county auditor” include certain county offices that have been consolidated. The bill would prescribe requirements for the head of a county auditing unit. The bill would prohibit a board of supervisors from creating or operating a separate auditing unit outside of the county auditor, except if the separate auditing unit was established before 1981, and would prohibit the board from transferring any auditing unit away from the county auditor. By increasing the duties of local officials in a county with the above-described characteristics, this bill would impose a state-mandated local program.

(3) Existing law authorizes a county auditor or controller to establish and maintain a whistleblower hotline for receiving information regarding fraud, waste, or abuse by local government employees, subject to certain requirements.

This bill would require, in a county with an elected auditor-controller and a population exceeding 3,000,000, that the county auditor-controller be the sole county officer with the authority to maintain a whistleblower hotline, as described above. By increasing the duties of local officials in a county with the above-described characteristics, this bill would impose a state-mandated local program.

(4) Existing law authorizes tax-defaulted property to be redeemed until the right of redemption terminates. Existing law requires the audit of a tax collector’s records and accounts related to redemption of tax-defaulted property at least once every 3 years.

This bill would require, in a county with an elected auditor-controller and a population exceeding 3,000,000 people, that the auditor-controller either conduct the audit described above or retain the services of an independent certified public accountant or licensed public accountant to perform the audit, in accordance with specified standards. By increasing the duties of local officials in a county with the above-described characteristics, this bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 25250.5 is added to the Government
2 Code, to read:
3 25250.5. Notwithstanding Section 25250, in any county with
4 both an elected auditor-controller and a population exceeding
5 3,000,000 people, at least biennially, the county auditor-controller
6 shall examine and audit, or cause to be audited, the financial
7 accounts and records of all officers having responsibility for the
8 care, management, collection, or disbursement of money belonging
9 to the county or money received or disbursed by them under
10 authority of law. The audit shall encompass the immediately

1 preceding two-year period, or any portion thereof not included in
 2 a prior audit. This financial examination or audit may be performed
 3 in coordination with the investigations conducted by the grand
 4 jury under Section 925 of the Penal Code, or the auditor-controller
 5 may elect to accept reports delivered pursuant to Section 933 of
 6 the Penal Code in lieu of its own separate examination if these
 7 reports are found to fulfill some or all of the requirements of this
 8 section. In connection with the requirements of this section and
 9 Section 25253, the county auditor-controller may employ the
 10 services of an independent certified public accountant or licensed
 11 public accountant to perform an examination of the financial
 12 statements in accordance with generally accepted auditing
 13 standards. The audit shall be filed with the board of supervisors
 14 to enable the board to supervise county officers and county fiscal
 15 affairs.

16 SEC. 2. Section 25303 of the Government Code is amended
 17 to read:

18 25303. (a) The board of supervisors shall supervise the official
 19 conduct of all county officers, and officers of all districts and other
 20 subdivisions of the county, and particularly insofar as the functions
 21 and duties of such county officers and officers of all districts and
 22 subdivisions of the county relate to the assessing, collecting,
 23 safekeeping, management, or disbursement of public funds. It shall
 24 see that they faithfully perform their duties, direct prosecutions
 25 for delinquencies, and when necessary, require them to renew their
 26 official bond, make reports and present their books and accounts
 27 for inspection.

28 (b) In any county with both an elected auditor-controller and a
 29 population exceeding 3,000,000 ~~people~~: *people, this section shall*
 30 *not be construed to affect the independent and statutorily*
 31 *designated auditing and accounting functions of the county*
 32 *auditor-controller.*

33 ~~(1) This section shall not be construed to affect the independent~~
 34 ~~and statutorily designated auditing and accounting functions of~~
 35 ~~the county auditor-controller.~~

36 ~~(2) The board of supervisors shall not obstruct the auditing and~~
 37 ~~accounting functions of the elected county auditor-controller.~~

38 (c) This section shall not be construed to affect the independent
 39 and constitutionally and statutorily designated investigative and
 40 prosecutorial functions of the sheriff and district attorney of a

1 county. The board of supervisors shall not obstruct the investigative
2 function of the sheriff of the county nor shall it obstruct the
3 investigative and prosecutorial function of the district attorney of
4 a county.

5 (d) Nothing contained herein shall be construed to limit the
6 budgetary authority of the board of supervisors over the district
7 attorney or sheriff.

8 SEC. 3. Section 26881 of the Government Code is amended
9 to read:

10 26881. The county auditor, or in counties that have the office
11 of controller, the auditor-controller shall be the chief accounting
12 officer of the county and the chief auditor of the county. Upon
13 order of the board of supervisors, the auditor or auditor-controller
14 shall prescribe, and shall exercise a general supervision, including
15 the ability to audit departmental and countywide internal controls,
16 over the accounting forms and the method of keeping the accounts
17 of all offices, departments and institutions under the control of the
18 board of supervisors and of all districts whose funds are kept in
19 the county treasury.

20 SEC. 4. Section 26915 is added to the Government Code, to
21 read:

22 26915. (a) Any reference to “county auditor” shall also mean
23 county auditor-controller, county auditor-recorder, county
24 clerk-auditor-recorder, county clerk-auditor, county
25 auditor-controller-treasurer-tax collector, any office consolidated
26 under Section 24300.5, and any office into which the office of
27 county auditor is consolidated.

28 (b) The head of any county auditing unit, division, branch, or
29 group shall be one of the following:

30 (1) The county auditor.

31 (2) A person who shall be answerable directly to the county
32 auditor, shall have direct access to the county auditor, and shall
33 report the audit results to the county auditor.

34 (c) A board of supervisors shall not create or operate a separate
35 auditing unit, division, branch, or group outside of the county
36 auditor, except if the separate auditing unit, division, branch, or
37 group was established before 1981. A board of supervisors shall
38 not transfer any auditing unit, division, branch, or group away
39 from the county auditor.

1 SEC. 5. Section 53087.6 of the Government Code is amended
2 to read:

3 53087.6. (a) (1) A city, county, or city and county auditor or
4 controller who is elected to office may maintain a whistleblower
5 hotline to receive calls from persons who have information
6 regarding fraud, waste, or abuse by local government employees.

7 (2) A city, county, or city and county auditor or controller who
8 is appointed by, or is an employee of, a legislative body or the
9 government agency that is governed by the city, county, or city
10 and county, shall obtain approval of that legislative body or the
11 government agency, as the case may be, prior to establishing the
12 whistleblower hotline.

13 (3) In any county with both an elected auditor-controller and a
14 population exceeding 3,000,000 people, the county
15 auditor-controller shall be the sole county officer with the authority
16 to maintain a whistleblower hotline to receive calls from persons
17 who have information regarding fraud, waste, or abuse by county
18 government employees.

19 (b) The auditor or controller may refer calls received on the
20 whistleblower hotline to the appropriate government authority for
21 review and possible investigation.

22 (c) During the initial review of a call received pursuant to
23 subdivision (a), the auditor or controller, or other appropriate
24 governmental agency, shall hold in confidence information
25 disclosed through the whistleblower hotline, including the identity
26 of the caller disclosing the information and the parties identified
27 by the caller.

28 (d) A call made to the whistleblower hotline pursuant to
29 subdivision (a), or its referral to an appropriate agency under
30 subdivision (b), may not be the sole basis for a time period under
31 a statute of limitation to commence. This section does not change
32 existing law relating to statutes of limitation.

33 (e) (1) Upon receiving specific information that an employee
34 or local government has engaged in an improper government
35 activity, as defined by paragraph (2) of subdivision (f), a city or
36 county auditor or controller may conduct an investigative audit of
37 the matter. The identity of the person providing the information
38 that initiated the investigative audit shall not be disclosed without
39 the written permission of that person, unless the disclosure is to a
40 law enforcement agency that is conducting a criminal investigation.

1 If the specific information is in regard to improper government
2 activity that occurred under the jurisdiction of another city, county,
3 or city and county, the information shall be forwarded to the
4 appropriate auditor or controller for that city, county, or city and
5 county.

6 (2) Any investigative audit conducted pursuant to this
7 subdivision shall be kept confidential, except to issue any report
8 of an investigation that has been substantiated, or to release any
9 findings resulting from a completed investigation that are deemed
10 necessary to serve the interests of the public. In any event, the
11 identity of the individual or individuals reporting the improper
12 government activity, and the subject employee or employees shall
13 be kept confidential.

14 (3) Notwithstanding paragraph (2), the auditor or controller may
15 provide a copy of a substantiated audit report that includes the
16 identities of the subject employee or employees and other pertinent
17 information concerning the investigation to the appropriate
18 appointing authority for disciplinary purposes. The substantiated
19 audit report, any subsequent investigatory materials or information,
20 and the disposition of any resulting disciplinary proceedings are
21 subject to the confidentiality provisions of applicable local, state,
22 and federal statutes, rules, and regulations.

23 (f) (1) For purposes of this section, “employee” means any
24 individual employed by any county, city, or city and county,
25 including any charter city or county, and any school district,
26 community college district, municipal or public corporation, or
27 political subdivision that falls under the auditor’s or controller’s
28 jurisdiction.

29 (2) For purposes of this section, “fraud, waste, or abuse” means
30 any activity by a local agency or employee that is undertaken in
31 the performance of the employee’s official duties, including
32 activities deemed to be outside the scope of his or her employment,
33 that is in violation of any local, state, or federal law or regulation
34 relating to corruption, malfeasance, bribery, theft of government
35 property, fraudulent claims, fraud, coercion, conversion, malicious
36 prosecution, misuse of government property, or willful omission
37 to perform duty, is economically wasteful, or involves gross
38 misconduct.

39 SEC. 6. Section 4108.5 of the Revenue and Taxation Code is
40 amended to read:

1 4108.5. (a) The records and accounts of the tax collector
2 pursuant to this part shall be audited at least once each three years.

3 (b) In any county with both an elected auditor-controller and a
4 population exceeding 3,000,000 people, the county
5 auditor-controller shall either conduct the audit required by this
6 section or shall employ the services of an independent certified
7 public accountant or licensed public accountant to perform the
8 audit required by this section in accordance with the general and
9 specified standards prescribed by the Institute of Internal Auditors
10 or the Government Auditing Standards issued by the Comptroller
11 General of the United States, as appropriate.

12 SEC. 7. If the Commission on State Mandates determines that
13 this act contains costs mandated by the state, reimbursement to
14 local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.