

2010 -- S 2280

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO THE GENERAL ASSEMBLY -- AUDITOR GENERAL

Introduced By: Senators Sheehan, Jabour, Connors, Felag, and E O'Neill

Date Introduced: February 11, 2010

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 22-13-3 and 22-13-4 of the General Laws in Chapter 22-13  
2 entitled "Auditor General" are hereby amended to read as follows:

3 **22-13-3. Salaries and expenses.** -- (a) The expenses of the members of the committee  
4 shall be approved by the chairperson of the committee and paid from the appropriation for  
5 legislative expense.

6 (b) The auditor general shall prepare and annually submit to the committee a proposed  
7 budget for the ensuing fiscal year [which for fiscal year 2011 and each fiscal year thereafter shall](#)  
8 [provide for the performance audit division](#). The committee shall review the budget request and  
9 may amend or change the budget request as it deems necessary. The budget request, as amended  
10 or changed by the committee, shall become the operating budget of the auditor general for the  
11 ensuing fiscal year; provided, that the budget so adopted may subsequently be amended under the  
12 same procedure.

13 (c) Within the limitations of the approved operating budget, the salaries and expenses of  
14 the auditor general and his or her staff, [including the performance audit division](#), shall be paid  
15 from the appropriation for legislative expense or any other moneys appropriated by the legislature  
16 for that purpose. The joint committee on legislative services shall approve all bills for salaries and  
17 expenses.

18 **22-13-4. Definitions -- Duties of auditor general -- Investigations by committee.** -- (a)  
19 The following words and phrases have the following meanings unless a different meaning is

1 required by the context:

2 (1) "Performance audit" means an examination of the effectiveness of administration and  
3 its efficiency and adequacy in terms of the program of the state agency authorized by law to be  
4 performed. The "performance audit" may also include a review of the agency in terms of  
5 compliance with federal and state laws and executive orders relating to equal employment  
6 opportunities and the set aside for minority businesses.

7 (2) "Political subdivision" means a separate agency or unit of local government created  
8 or established by law and includes, but is not limited to, the following and the officers of the  
9 following: authority, board, branch, bureau, city, commission, council, consolidated government,  
10 county, department, district, institution, metropolitan government, municipality, office, officer,  
11 public corporation, town, or village.

12 (3) "Post-audit" means an audit made at some point after the completion of a transaction  
13 or a group of transactions.

14 (4) "State agency" means a separate agency or unit of state government created or  
15 established by law and includes, but is not limited to, the following and the officers of the  
16 following: authority, board, branch, bureau, commission, council, department, division,  
17 institution, office, officer, or public corporation, as the case may be, except any agency or unit  
18 within the legislative branch of state government.

19 (b) The auditor general shall make post-audits ~~and performance audits~~ of public records  
20 and perform related duties as prescribed by the committee and shall make performance audits of  
21 public records and perform related duties as provided in section 22-13-11. He or she shall  
22 perform his or her duties independently but under the general policies established by the  
23 committee.

24 (c) (1) The auditor general shall have the power and duty to make post-audits and  
25 performance audits of the accounts and records of all state agencies, including the board of  
26 governors for higher education and the board of regents for elementary and secondary education,  
27 as defined in this section.

28 (2) The auditor general shall have the power, when requested by a majority of the  
29 committee, to make post-audits and performance audits, as provided in section 22-13-11 of  
30 accounts and records of any other public body or political subdivision, or any association or  
31 corporation created or established by any general or special law of the general assembly, or any  
32 person, association, or corporation to which monies of the state have been appropriated by the  
33 general assembly. Nothing in the subdivision shall be construed to apply to public utilities.

34 (3) The auditor general shall perform or have performed annually a complete post-audit

1 of the financial transactions and accounts of the state when approved by the chairperson of the  
2 joint committee on legislative services.

3 (d) The committee may at any time, without regard to whether the legislature is then in  
4 session or out of session, take under investigation any matter within the scope of an audit either  
5 completed or then being conducted by the auditor general, and in connection with that  
6 investigation may exercise the powers of subpoena vested by law in a standing committee of the  
7 legislature.

8 (e) (1) The auditor general may, when directed by the committee [or as provided for in](#)  
9 [section 22-13-11](#), designate and direct any auditor employed by him or her to audit any accounts  
10 or records within the power of the auditor general to audit. The auditor shall report his or her  
11 findings for review by the auditor general, who shall prepare the audit report.

12 (2) The audit report shall make special mention of:

13 (i) Any violation of the laws within the scope of the audit; and

14 (ii) Any illegal or improper expenditure, any improper accounting procedures, all  
15 failures to properly record financial transactions, and all other inaccuracies, irregularities,  
16 shortages, and defalcations.

17 (3) At the conclusion of the audit, the auditor general or his or her designated  
18 representative will conduct an exit conference with the official whose office or department is  
19 subject to audit and submit to him or her a draft report which includes a list of findings and  
20 recommendations. If an official is not available for the exit conference, delivery of the draft  
21 report is presumed to be sufficient notice. The official must submit to the auditor general within  
22 sixty (60) days after the receipt of the draft report his or her written reply as to:

23 (i) Acceptance and plan of implementation of each recommendation;

24 (ii) Reason(s) for non-acceptance of a recommendation.

25 (4) Should the auditor general determine that the written explanation or rebuttal of the  
26 official whose office is subject to audit is unsatisfactory, he or she shall, as soon as practicable,  
27 report his or her findings to the joint committee on legislative services.

28 (f) A copy of the audit report shall be submitted to each member of the committee,  
29 [except as provided in section 22-13-11](#).

30 (g) If the auditor general discovers any errors, unusual practices, or any other  
31 discrepancies in connection with his or her audit or post-audit of a state agency or state officers,  
32 the auditor general shall, as soon as practicable, notify in writing the president of the senate and  
33 the speaker of the house of representatives, respectively.

34 (h) The auditor general shall annually review the capital development program to

1 determine: (1) the status of all projects included in the program; (2) whether the funds are being  
2 properly expended for their intended purposes; (3) the completion date or projected completion  
3 date of the projects; (4) which projects require professional services and to determine the identity  
4 of individuals or firms appointed; and (5) the expended and unexpended funds. This report shall  
5 be annually submitted to the general assembly on the first Wednesday in February.

6 SECTION 2. Chapter 22-13 of the General Laws entitled "Auditor General" is hereby  
7 amended by adding thereto the following section:

8 **22-13-11. Performance audit division.** – (a) There is hereby established a performance  
9 audit division ( the "division") within the auditor general's office.

10 (b)(1) Scheduled performance audits. Under the direction of the auditor general, the  
11 division shall make performance audits of state agencies in accordance with a published schedule  
12 approved by the speaker of the house and the president of the senate.

13 (2) Requested performance audits. Under the direction of the auditor general, the  
14 division shall make performance audits of state agencies and political subdivisions at the  
15 direction of either the speaker of the house or the president of the senate.

16 (3) Jointly requested performance audits. Under the direction of the auditor general, the  
17 division shall make performance audits of state agencies and political subdivisions as mutually  
18 agreed by the speaker of the house and the president of the senate.

19 (c) The auditor general shall perform his or her performance audit duties independently,  
20 in accordance with generally accepted accounting principles and recognized professional  
21 practices and procedures for performance audits.

22 (d) The auditor general shall manage the resources of the performance audit division,  
23 which shall be divided equally: (1) To perform the services scheduled pursuant to subdivision  
24 (b)(1) and prescribed pursuant to subdivision (b)(3); and (2) To perform the services requested by  
25 either the speaker of the house or the president of the senate, with equal resources allocated to  
26 conduct performance audits requested by the speaker of the house and the president of the senate.  
27 Provided, however, the entire resources of the performance audit division may be allocated to a  
28 specific request by mutual written agreement of the speaker of the house and the president of the  
29 senate.

30 (e) In filling positions within the performance audit division the general auditor shall  
31 advertise for each vacancy and solicit prospective candidates. The auditor general shall  
32 recommend the highest qualified person for each vacancy, based on educational qualifications,  
33 experience and demonstrated abilities. Said recommendation shall be subject to approval by  
34 mutual agreement of the president of the senate and the speaker of the house.

1           (f) The speaker of the house or the president of the senate may at any time, without  
2 regard to whether the legislature is then in session or out of session, take under investigation any  
3 matter within the scope of a performance audit requested under the provisions of this section  
4 either completed or then being conducted by the auditor general, and in connection with that  
5 investigation may exercise the powers of subpoena vested by law in a standing committee of the  
6 legislature.

7           (g) If the auditor general discovers any errors, unusual practices, or any other  
8 discrepancies in connection with his or her performance audit requested under the provisions of  
9 this section of a state agency or state officers, the auditor general shall, as soon as practicable,  
10 notify in writing the president of the senate and the speaker of the house of representatives.

11           (h) A copy of each performance audit report upon completion shall be submitted  
12 forthwith to the speaker of the house and the president of the senate. Upon its receipt by the  
13 speaker of the house and/or the president of the senate, a performance audit shall be a public  
14 record subject to the provisions and exclusions of chapter 38-2 of the general laws.

15           (i) The auditor general shall submit an operations plan for the division by February 1,  
16 2011, which shall be subject to approval by the speaker of the house and the president of the  
17 senate, and which shall provide for the division achieving fifty percent (50%) of operating  
18 capacity in fiscal year 2012 and full operating capacity in fiscal year 2013; unless otherwise  
19 authorized by law the division shall not exceed twenty (20) full-time employees.

20           (j) The auditor general shall report to the speaker of the house and the president of the  
21 senate on or before January 1, 2013, and January 1 of each year thereafter on the activities of the  
22 performance audit division, which report shall include a summary of the audit reports commenced  
23 during the prior fiscal year, the performance audits completed during the prior fiscal year, and the  
24 performance audits still on going at the end of the prior fiscal year, whether the performance audit  
25 is a scheduled performance audit, a requested performance audit, or a jointly requested  
26 performance audit, and the allocation of staff to such performance audits.

27           SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO THE GENERAL ASSEMBLY -- AUDITOR GENERAL

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- 1 This act would establish a performance audit division within the auditor general's office.
- 2 This act would take effect upon passage.

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