

SS#2 SCS HB 116 -- AUDITS

This bill changes the laws regarding audits.

OFFICE OF STATE AUDITOR (Sections 29.005 - 29.351, 50.1030 - 70.605, and 103.025 - 169.020, RSMo)

The bill changes the laws regarding the responsibilities of the Office of the State Auditor. In its main provisions, the bill:

(1) Specifies that when conducting an audit, the audit objectives as defined in the standards established by the Comptroller General of the United States must determine the type of audit to be conducted, which may include financial and performance audits. Neither the audit type nor the audit objectives must be mutually exclusive. The objectives that may be included in an audit are specified;

(2) Repeals the provision requiring the State Auditor to prescribe the form of books, receipts, vouchers, and documents required to separate and verify each transaction and the form of reports and statements required for the administration of the officer or for the information of the public;

(3) Repeals the provision requiring the State Auditor to postaudit the accounts of all state agencies and audit the accounts of all appointed officers of the state and institutions supported by the state at least once every two years, and any executive department or agency of the state upon the request of the Governor;

(4) Allows all audits to be made at the State Auditor's discretion without advance notice to the organization being audited. An audit must be conducted upon the request of Governor as allowed under Section 26.060;

(5) Requires the State Auditor, on his or her own initiative and as often as deemed necessary, to make or cause to be made audits of all or any part of the activities of state agencies;

(6) Requires the State Auditor to make or cause to be made audits of all or any parts of political subdivisions and other entities as authorized by state law;

(7) Allows, at his or her discretion, the State Auditor in selecting audit areas and in evaluating current audit activity to consider and utilize the relevant audit coverage and applicable reports of the audit staffs of the various state agencies, independent contractors, and federal agencies;

(8) Authorizes the State Auditor to contract with a federal audit agency or any governmental agency on a cost reimbursement basis to perform audits of federal grant programs administered by state departments and institutions in accordance with agreements negotiated between the auditor and the contracting federal audit agencies or any governmental agency;

(9) Requires the State Auditor to make any comments, suggestions, or recommendations deemed appropriate concerning any aspect of the agency's activities and operations in reports of audits and reports of special investigations;

(10) Requires the State Auditor to audit the state treasury at least once a year;

(11) Allows the State Auditor to examine the banking accounts and records of the State Treasurer, a state agency, or any political subdivision at any bank or financial institution as long as the bank or financial institution is not required to produce the requested records until the State Auditor, State Treasurer, state agency, or political subdivision reimburses the reasonable document production costs of the bank or institution;

(12) Allows the State Auditor to conduct, as often as he or she deems necessary, a detailed review of the bookkeeping and accounting systems in use in the various state agencies to evaluate the adequacy of the systems, recommend changes to the agency, and notify the General Assembly of the recommended changes;

(13) Requires the State Auditor to determine, through appropriate tests, the propriety of the data presented in the state comprehensive annual financial report and express his or her opinion in accordance with generally accepted government auditing standards;

(14) Requires the State Auditor to provide a report to the Governor, Attorney General, and other appropriate officials of any facts known that pertain to the apparent violation of laws or instances of an officer or employee not meeting a required duty;

(15) Requires the State Auditor or his or her designated representative to supply a copy of a draft report at the conclusion of an audit to the official, or his or her designated representative, whose office was subject to the audit and to discuss the draft with him or her. The auditee must provide responses to any recommendations contained in the draft report within 30 days from the receipt of the draft;

(16) Requires the State Auditor to notify the General Assembly,

Governor, director of each state agency audited, and others deemed appropriate that an audit report has been published along with specified information. The distribution requirements of the report are specified in the bill;

(17) Prohibits the audit function established in the bill from being construed to infringe upon or deprive the General Assembly or the executive or judicial branches of state government of any rights, powers, or duties vested in or imposed upon them by statute or the Missouri Constitution or being construed by the courts in a manner inconsistent with Article II of the Missouri Constitution;

(18) Requires the State Auditor to be responsible for receiving reports of allegations of improper governmental activities and to adopt the necessary policies and procedures to provide for the investigation or referral of the allegations;

(19) Requires the State Auditor to maintain a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under his or her authority. Audit work papers and related supportive material must be kept confidential and must be retained according to an agreement between the State Auditor and the State Archives within the Office of the Secretary of State but may be made available for inspection by duly authorized representatives of the state and federal government in connection with an official matter, including criminal investigations;

(20) Authorizes the State Auditor to make or cause an audit to be made of any public employee retirement or public employee health care system operating within the state;

(21) Requires the State Auditor to provide various means, which must include a telephone hotline, electronic mail, and Internet access, to receive reports of allegations of improper governmental activities and to periodically publicize this contact information. An individual who makes a report may choose to remain anonymous if he or she chooses;

(22) Requires the State Auditor, upon receiving an allegation of improper governmental activity of a state agency, political subdivision, or state or political subdivision officer or employee, to conduct an initial review. He or she may investigate any allegation that is deemed to be credible and must refer the allegation to the appropriate state agency responsible for the enforcement or administration of the matter when it is believed that the allegation is outside his or her authority;

(23) Repeals the provisions in Section 29.235 regarding audit

standards and the summons of persons and documents in any examination;

(24) Authorizes the State Auditor to examine all books, accounts, records, reports, and vouchers of any state agency or political subdivision that he or she is authorized by law to audit, including state tax returns under specified circumstances;

(25) Authorizes the State Auditor to examine and inspect all property, equipment, and facilities in the possession of any state agency, political subdivision, or any individual, private corporation, institution, association, board, or other organization that were provided through state or federal funding;

(26) Requires all contracts or agreements entered into as a result of the award of a grant by a state agency or political subdivision to include a clause describing the State Auditor's access under these provisions;

(27) Allows the State Auditor to obtain the services of certified professionals and experts as he or she deems necessary or desirable to carry out the duties and functions assigned under these provisions;

(28) Prohibits any state agency from contracting for auditing services without consulting with and the prior written approval of the State Auditor;

(29) Allows the State Auditor or his or her authorized representative to have the power to subpoena witnesses, take testimony under oath, depose witnesses, and assemble records and documents. If a person refuses to comply with a subpoena, the State Auditor must seek to enforce the subpoena before a court of competent jurisdiction to require the attendance and testimony of witnesses and the production of documents and other records;

(30) Specifies that any person who willfully makes or causes to be made to the State Auditor or his or her designated representatives any false, misleading, or unfounded report for the purpose of interfering with the performance of any audit, special review, or investigation or hinders or obstructs the State Auditor's duties will be guilty of a class A misdemeanor. Any person or entity who refuses or fails to comply with any other audit provision under Chapter 29 will be deemed guilty of a class A misdemeanor;

(31) Requires the board of directors of the Missouri County Employees' Retirement System to arrange for annual audits of the system and the operations of the board by a certified public accountant or firm. Currently, the State Auditor must provide the

audit every two years;

(32) Repeals the provision requiring the State Auditor to examine the independent audits conducted of the records and accounts of specified retirement systems at least once every three years and report the results to the boards and the Governor; and

(33) Repeals the provisions regarding receiving or riding on free transportation provided to examiners, establishing accounting systems for all state officers and agencies, reporting findings from examinations of state institutions and officials, proof of payment of fees, and the criminal penalty for failure to comply.

ACCOUNTABILITY OF PUBLIC FUNDS (Sections 33.087, 33.300, and 37.850)

Every department and division of the state receiving any grant of federal funds of \$1 million or more must document and make the following information easily available to the public on the Missouri Accountability Portal within 30 days of the receipt or transferal of funds:

- (1) Any amount of funds received from the federal government;
- (2) The name of the federal agency disbursing the funds;
- (3) The purpose for which the funds are being received;
- (4) The name of any state agency to which any portion of the funds are transferred by the initial receiving department or division, the amount transferred, and the purpose for which those funds are transferred; and
- (5) An accounting of how the department or division receiving the transferred funds used the funds and any statistical impact that can be discerned as a result of the usage of the funds.

The bill removes the State Auditor from the Board of Fund Commissioners.

The Missouri Accountability Portal must also include an easy-to-search database of:

- (1) All bonds issued by any public institution of higher education or political subdivision or its designated authority after August 28, 2013;
- (2) All obligations issued or incurred by any political subdivision of this state or its designated authority pursuant to

redevelopment plans and projects;

(3) The revenue stream pledged to repay the bonds or obligations;
and

(4) All debt incurred by any public charter school.

The Governor must submit a report stating all amounts withheld from the state's operating budget for the current fiscal year. The report must be conspicuously posted on the accountability portal website, searchable by the amounts withheld or released from each individual fund, and searchable by the total amount withheld or released from the operating budget.

Every political subdivision, including an institution of higher education, must supply the required database information to the Office of Administration within seven days of issuing or incurring a corresponding bond or obligation. Information regarding any obligation incurred prior to the effective date of the bill must be supplied within 90 days.

Every school district and public charter school must supply the information to the Department of Elementary and Secondary Education within seven days of issuing a bond or incurring a debt. Information regarding any bond issued or debt incurred prior to the effective date of the bill must be supplied to the department within 90 days. The department must deliver the information to the Office of Administration within 48 hours of receiving the information.

AUDITS OF SECOND CLASSIFICATION COUNTY ACCOUNTS (Sections 50.055 and 50.057)

The accounts of any county of the second classification or the accounts of any officer or office of the county may be audited at any time if the county commission determines that it is desirable or necessary. Currently, the accounts of a second classification county may be audited every odd-numbered year if the county commission determines that an audit is desirable or necessary. The audit can be performed by a certified public accountant or the State Auditor. The audit may cover all receipts, disbursements, and the property inventory of every officer or office of the county unless the audit is requested only for a particular officer of office.

The bill specifies that a first or second classification county or the county commission must pay all of the expenses incurred in performing an audit when it is conducted by the State Auditor with the moneys deposited into the Petition Audit Revolving Trust Fund.

COUNTY BUDGETS (Section 50.622)

Any county is authorized to amend its annual budget twice during any fiscal year when there is a verifiable decline in funds of at least 2% that could not have been estimated or anticipated when the budget was adopted. Currently, a county is only authorized to amend its annual budget when it receives additional funds that could not be estimated.

Any decrease in appropriations cannot unduly affect any one officeholder and cannot impact any dedicated fund authorized by law. The county must provide 30 days' notice of a public hearing regarding any amendment to the county budget, including a published summary of the proposed reductions and an explanation of the shortfall.

Before any reduction affecting an elected officeholder can occur, negotiations must take place with all officeholders who receive funds from the affected category of funds in an attempt to cover the shortfall.

County commissioners can reduce the budgets of departments under their direct supervision and responsibility at any time without these restrictions.

These provisions cannot restrict a charter county from amending its budget pursuant to the terms of its charter.

POLICE RETIREMENT SYSTEM OF ST. LOUIS (Sections 86.200, 86.257, and 86.263)

Currently, any member of the Police Retirement System of St. Louis who has completed at least 10 years of creditable service and has become permanently unable to perform the duties of a police officer as the result of an injury or illness not exclusively caused or induced by the performance of his or her official duties or by his or her own negligence must be retired by the Board of Police Commissioners upon certification by the medical director of the retirement system, the application of the member or the board, and the approval of the board of trustees of the retirement system. The bill lowers the creditable service requirement to five years once the retirement system's annual actuarial valuation is at least 80% as required by Section 105.660 and requires the certification to be performed by the medical board of the retirement system upon application of the board or any successor body.

The bill defines "medical board" as a board of three physicians of different disciplines appointed by the trustees of the police retirement board who are responsible for arranging and passing upon

all medical examinations required to determine disability retirement eligibility.

The bill modifies the requirements that determine if the board of police commissioners should retire a member in active service if he or she is permanently unable to perform all the essential job functions of a police officer as established by the board or any successor body.

KANSAS CITY POLICE AND CIVILIAN EMPLOYEE RETIREMENT SYSTEMS
(Sections 86.900 - 86.1630)

The bill changes the law regarding the Police Retirement System of Kansas City and the Civilian Employees' Retirement System of the Police Department of Kansas City.

Regarding the Police Retirement System of Kansas City, the bill:

(1) Creates a two tier retirement system. A Tier I member is any person who became a member prior to August 28, 2013, and who remains a member on that date. A Tier II member is any person who became a member on or after August 28, 2013;

(2) Specifies that the final average compensation for a Tier I member will be calculated by averaging the highest 24 months of service in which monthly contributions were made whether consecutive or otherwise;

(3) Specifies that the final average compensation for a Tier II member will be calculated by averaging the highest 36 months of service in which monthly contributions were made whether consecutive or otherwise;

(4) Requires the city's contribution rate to meet the annual actuarially required contributions as determined by a qualified professional actuary selected by the retirement board plus \$200 per month for each member entitled to receive a supplemental benefit under specified provisions of law;

(5) Requires a member accruing creditable service to contribute a percentage of his or her compensation to his or her pension fund as determined by the retirement board. The bill repeals the provision requiring the deduction to be at least 6% of the member's compensation;

(6) Prohibits creditable service from being allowed for any period of time when a member was not making contributions unless the member is on leave for military service;

(7) Allows a member in active service on or after August 28, 2013, to accrue up to 32 years of creditable service;

(8) Limits the accumulation of creditable service to five years for a member on leave of absence for military service except for certain situations authorized by federal law;

(9) Repeals the mandatory retirement provision. Currently, a member can retire after 25 years but must retire after 30 years of creditable service;

(10) Specifies that the pension of a Tier I member retiring on or after August 28, 2013, after completing 25 or more years of creditable service will be 2.5% of the member's final compensation times the number of years of his or her total creditable service up to 80% of the member's final average compensation;

(11) Specifies that a Tier II member can retire after 27 or more years of creditable service, and the base pension will be 2.5% of his or her final average compensation times the number of years of total creditable service up to 80% of the member's final average compensation. A Tier II member can also choose a 75% or 100% optional joint and survivor benefit;

(12) Allows a Tier II member who has been terminated and has at least 15 years of creditable service to choose to receive his or her base pension beginning the first day of the month following the month he or she turns 60 years of age;

(13) Prohibits any member convicted of a felony prior to separation from active service from receiving any retirement benefits except for the return of his or her accumulated contribution;

(14) Specifies that any member who has to retire after August 28, 2013, due to a job-related illness or injury will receive 80% of his or her final compensation as a base pension. This amount may be reduced by the amounts paid or payable under any workers' compensation law;

(15) Allows a Tier II member to be eligible for a partial lump sum option plan. The normal pension of any member choosing the partial lump sum option will be reduced as specified in the bill;

(16) Specifies that a Tier II member retiring with at least 32 years of creditable service may receive a cost-of-living adjustment (COLA) of up to 3% of his or her base pension beginning the year after retirement. Any member retiring with less than 32 years of creditable service will be eligible to receive a COLA in the year

following the year in which he or she would have reached 32 years of creditable service;

(17) Allows any Tier II member retiring due to disability caused by performance of duty to be eligible to receive a COLA in the year following retirement. Eligibility for a COLA for a non-duty related disability retirement will begin following the fifth year after retirement or the year following the year in which he or she would have attained 32 years of creditable service, whichever is earlier;

(18) Specifies when the surviving spouse or child of a Tier II member is eligible to receive a COLA;

(19) Allows an eligible Tier II member to receive a supplemental retirement benefit of \$200 per month;

(20) Specifies that a surviving spouse of a retired Tier II member who has not elected an optional annuity allowed under Section 86.1151 is entitled to a base pension payable for life equal to 50% of the member's base pension upon receipt of the proper proof of the member's death;

(21) Specifies that a Tier II member will be fully vested after 27 years of creditable service or after turning 60 years of age with 15 years of creditable service; and

(22) Changes from January 10 to October 15 the date that the retirement board must certify to the chief financial officer of the city the amount to be paid by the city under the retirement pension system for the succeeding fiscal year.

Regarding the Civilian Employees' Retirement System, the bill:

(1) Creates a two tier retirement system. A Tier I member is any person who became a member prior to August 28, 2013, and who remains a member on that date. A Tier II member is any person who became a member on or after August 28, 2013;

(2) Limits the accumulation of creditable service to five years for a member on leave of absence for military service except for certain situations authorized by federal law;

(3) Specifies that the normal retirement date for a Tier II member will be the later of when he or she reaches the age of 67 or completes 20 years of employment;

(4) Allows a Tier II member to choose early retirement at age 62 if he or she has five years of creditable service. The benefits

will be reduced as specified in the bill;

(5) Allows a Tier II member to choose early retirement at any time after the member's age and years of creditable service equals or exceeds 85; and

(6) Specifies that a Tier II member becomes fully vested when he or she reaches 67 years of age or completes 20 years of employment, whichever is later, or when the sum of the person's age and years of creditable service equals or exceeds 85.

MISSOURI SENIOR SERVICES PROTECTION FUND (Section 208.1050)

The bill creates the Missouri Senior Services Protection Fund. Moneys in the fund are to be allocated for services for low-income seniors and people with disabilities. The State Treasurer must deposit \$55,100,000 into the fund in four equal installments on or before July 15, 2013, by October 15, 2013, by January 15, 2014, and by March 15, 2014.

AUDITS OF TRANSPORTATION DEVELOPMENT DISTRICTS (Section 238.272)

The State Auditor may audit each transportation development district not more than once every three years with the cost of the audit that the district must pay limited to not more than 3% of the gross receipts received by the district. Currently, the State Auditor must audit each district at least once every three years and may audit more frequently if he or she deems it appropriate with the costs of the audit to be paid by the district.

The provisions of the bill regarding decreasing a county budget will expire July 1, 2016.

The provisions of the bill regarding the Missouri Senior Services Protection Fund contain an emergency clause.