

2015 Regular Session

HOUSE BILL NO. 647

BY REPRESENTATIVE IVEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LEGISLATIVE AUDITOR: Provides relative to the powers of the Legislative Audit Advisory Council

1 AN ACT

2 To amend and reenact R.S. 24:554(B), relative to the Legislative Audit Advisory Council;

3 to provide relative to the powers, duties, and authority of the council; to provide

4 relative to an auditee or local auditee that fails to comply with recommendations or

5 to correct findings contained in an audit report; to authorize the council to conduct

6 a hearing under certain circumstances; to authorize the council to direct the treasurer

7 to withhold funds under certain circumstances; to provide relative to the authority,

8 functions, and duties of the Joint Legislative Committee on the Budget; to require

9 the committee to hold certain hearings; to authorize the committee to recommend

10 certain appropriation penalties under certain circumstances; and to provide for

11 related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 24:554(B) is hereby amended and reenacted to read as follows:

14 §554. Powers

15 \* \* \*

16 B.(1)(a) If the council determines based upon its review and investigation

17 that, without appropriate cause, an auditee has not ~~complied with the~~

18 ~~recommendations~~ resolved the findings contained in an audit report of such auditee,

19 the council shall forward its determination of noncompliance to the Joint Legislative

1 Committee on the Budget and the appropriate oversight committees of the House of  
2 Representatives and the Senate.

3 (b)(i) If the council determines based upon its review and investigation that,  
4 without appropriate cause, an auditee has failed for three consecutive years to  
5 sufficiently resolve the findings contained in an audit report of such auditee, the  
6 council may, after notice to and a public hearing with the auditee, make a  
7 determination that the auditee has failed or refused to comply with the provisions of  
8 R.S. 24:513, and upon two-thirds vote of the entire membership of the council, may  
9 forward its determination of noncompliance to the Joint Legislative Committee on  
10 the Budget.

11 (ii) If the Joint Legislative Committee on the Budget receives a  
12 determination of noncompliance pursuant to Item (i) of this Subparagraph, the  
13 committee shall hold a hearing on the matter. If the committee determines that the  
14 auditee has failed for three consecutive years to sufficiently resolve the findings  
15 contained in an audit report of such auditee, the committee may, by the adoption of  
16 a committee resolution, provide for the imposition of a penalty upon the auditee by  
17 recommendation to the legislature that provisions for such penalty be included in a  
18 subsequent appropriation for the auditee.

19 (iii) The provisions of Items (i) and (ii) of this Subparagraph shall apply only  
20 to financial findings, findings relative to a material weakness as defined by the  
21 Governmental Accounting Standards Board, or findings in a compliance audit.

22 (2) If the council determines based upon its review and investigation that,  
23 without appropriate cause, a local auditee as defined in R.S. 24:513 has failed for  
24 three consecutive years to sufficiently resolve the findings contained in an audit  
25 report of such local auditee, the council may, after notice to and a public hearing  
26 with the local auditee, make a determination that the local auditee has failed or  
27 refused to comply with the provisions of R.S. 24:513, and upon two-thirds vote of  
28 the entire membership of the council, may direct the treasurer to withhold funds in  
29 accordance with R.S. 39:72.1.

1 Section. 2. This Act shall become effective on June 30, 2016.

---

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 647 Reengrossed

2015 Regular Session

Ivey

**Abstract:** Provides relative to the powers, duties, and authority of the Legislative Audit Advisory Council.

Present law (R.S. 24:513) grants the legislative auditor the authority to compile financial statements and to examine, audit, or review the books and accounts of the state treasurer, all public boards, commissions, agencies, departments, political subdivisions of the state, public officials and employees, public retirement systems enumerated in present law (R.S. 11:173(A)), municipalities, and all other public or quasi public agencies or bodies. Provides that the scope of the examinations may include financial accountability, legal compliance, and evaluations of the economy, efficiency, and effectiveness of the auditee's programs or any combination of the foregoing. Provides further that the legislative auditor shall have access to and be permitted to examine all papers, books, accounts, records, files, instruments, documents, films, tapes, and any other forms of recordation of all auditees, including but not limited to computers and recording devices, and all software and hardware which hold data, is part of the technical processes leading up to the retention of data, or is part of the security system.

Present law (R.S. 39:72.1) provides that no funds appropriated in the general appropriations Act, the capital outlay Act, or other appropriation Act, shall be released or provided to any recipient of an appropriation if, when, and for as long as, the recipient fails or refuses to comply with the provisions of present law (R.S. 24:513).

Present law (R.S. 24:651) creates the Joint Legislative Committee on the Budget (JLCB) as the budgetary and fiscal representative of the legislature to assist that body in the discharge of its fiscal and budgetary responsibilities under the Constitution of La. and to provide the legislature with information relative to such responsibilities from a source created by and responsible solely to the members of the legislature.

Present law creates the Legislative Audit Advisory Council to advise and consult with the legislative auditor with respect to all matters arising out of his functions, duties, and responsibilities to the legislature. Provides that the council shall make such recommendations to the legislative auditor and to the legislature as it deems necessary or expedient. Provides that the council is responsible for reviewing and approving, with whatever changes it deems necessary or appropriate, each annual budget for the office of the legislative auditor prior to submission of such budget to the legislature for funding and that the council is responsible for fixing the salary of the legislative auditor.

Present law (R.S. 24:554) provides that the council shall have the power and authority to hold hearings, to subpoena witnesses, administer oaths, compel the production of books, documents, records, and papers, public and private, to order the compiling and furnishing to the legislative auditor of the sworn statements and actuarial valuations which are required by present law (R.S. 24:514), to petition directly, or through a representative authorized by the council, the courts for writs of mandamus to order the compiling and furnishing of the sworn statements and actuarial valuations required by present law (R.S. 24:514), and to do all other things necessary to advise, aid, and assist the legislative auditor in carrying out the duties and responsibilities of his office. Provides that the council also has the full power and authority of the legislature inherent in that body and conferred by law to take testimony at

public or private hearings, and upon failure of any person to comply with an order of the council, to punish for contempt.

Present law provides that if the council determines based upon its review and investigation that, without appropriate cause, an auditee has not complied with the recommendations contained in an audit report of such auditee, the council shall forward its determination of noncompliance to the JLCB and the appropriate oversight committees of the House of Representatives and the Senate.

Proposed law retains present law and additionally provides that if the council determines based upon its review and investigation that, without appropriate cause, an auditee has failed for three consecutive years to sufficiently resolve the findings contained in an audit report of such auditee, the council may, after notice to and a public hearing with the auditee, make a determination that the auditee has failed or refused to comply with the provisions of present law (R.S. 24:513), and upon two-thirds vote of the entire membership of the council, may forward its determination of noncompliance to the JLCB.

Proposed law provides that if the JLCB receives a determination of noncompliance pursuant to proposed law, the committee shall hold a hearing on the matter. Provides that if the committee determines that the auditee has failed for three consecutive years to sufficiently resolve the findings contained in an audit report of such auditee, the committee may, by the adoption of a committee resolution, provide for the imposition of a penalty upon the auditee by recommendation to the legislature that provisions for such penalty be included in a subsequent appropriation for the auditee.

Proposed law limits its applicability to financial findings, findings relative to a material weakness as defined by the Governmental Accounting Standards Board, or findings in a compliance audit.

Proposed law additionally provides that if the Audit Advisory Council determines based upon its review and investigation that, without appropriate cause, a local auditee as defined in present law (R.S. 24:513) has failed for three consecutive years to sufficiently resolve the findings contained in an audit report of such local auditee, the council may, after notice to and a public hearing with the local auditee, make a determination that the local auditee has failed or refused to comply with the provisions of present law (R.S. 24:513) and, upon a two-thirds vote of the entire membership of the council, may direct the treasurer to withhold funds in accordance with present law (R.S. 39:72.1).

Effective June 30, 2016.

(Amends R.S. 24:554(B))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Make the holding of a hearing and directing the treasurer to withhold funds under certain circumstances permissive instead of mandatory.
2. Require a two-thirds vote of the entire council in order to direct the treasurer to withhold funds.
3. Require the auditee or local auditee to "resolve" the findings contained in an audit report instead of requiring the auditee or local auditee to "comply with recommendations or correct findings" in the audit report.
4. Add a special effective date.

The House Floor Amendments to the engrossed bill:

1. Remove auditees from proposed law provisions relative to withholding funds in accordance with present law (R.S. 39:72.1), thereby making such provisions applicable only to local auditees.
2. Authorize the Audit Advisory Council to forward to the Joint Legislative Committee on the Budget (JLCB) a determination that an auditee has failed for three consecutive years to sufficiently resolve the findings contained in an audit report.
3. Require the JLCB to conduct a hearing on such a determination and authorize the JLCB to recommend an appropriation penalty to the legislature if the committee determines that the auditee has failed for three consecutive years to sufficiently resolve the findings contained in the audit report for the auditee.
4. Limit proposed law provisions relative to the JLCB to financial findings, findings relative to a material weakness as defined by the Governmental Accounting Standards Board, or findings in a compliance audit.