

1 S.9

2 Introduced by Senators Bray and Hardy

3 Referred to Committee on Government Operations

4 Date: January 10, 2023

5 Subject: State Auditor; State contracting; audits; financial statements

6 Statement of purpose of bill as introduced: This bill proposes to amend the
7 authority of the State Auditor to examine the books and records of any
8 contractor providing services to the State.

9 An act relating to the authority of the State Auditor to examine the books
10 and records of State contractors

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 ~~Sec. 1, 32 V.S.A. § 163 is amended to read:~~

13 § 163. DUTIES OF THE AUDITOR OF ACCOUNTS

14 In addition to any other duties prescribed by law, the Auditor of Accounts
15 shall:

16 (1) Annually perform or contract for:

17 (A) an audit of the basic financial statements of the State of Vermont;

18 (B) the financial and compliance audits of the State of Vermont's

19 ~~federal programs as required by federal law, except that this audit requirement~~

1 ~~shall not apply to the University of Vermont or the Vermont State Colleges;~~

2 and

3 (C) ~~at his or her~~ the Auditor of Accounts' discretion, governmental
4 audits as defined by governmental auditing standards issued by the U.S.
5 Government Accountability Office (GAO) of every department, institution,
6 and agency of the State, including contractors as it relates to performance
7 under State contracts, trustees or custodians of retirement and other trust funds
8 held by the State or any officer or officers of the State, and ~~also including~~
9 every county officer who receives or disburses funds of the State or for the
10 benefit of the State or any county.

11 * * *

12 (13) Have discretion to examine the records, accounts, books, papers,
13 reports, and returns in all formats of any contractor that provides services to
14 the State, provided that the examination of records, accounts, books, papers,
15 reports, and returns shall be limited to those that are relevant to the contract
16 with the State.

17 Sec. 2. 32 V.S.A. § 167 is amended to read:

18 § 167. RECORDS TO BE AVAILABLE FOR AUDIT

19 (a) For the purpose of examination and audit authorized by law, and except
20 as provided in subdivision 163(13) of this title, all the records, accounts,
21 ~~books, papers, reports, and returns in all formats of all departments,~~

1 ~~institutions, and agencies of the State, including the trustees or custodians of~~
2 trust funds and all municipal, school supervisory union, school district, and
3 county officers who receive or disburse funds for the benefit of the State, shall
4 be made available to the Auditor of Accounts. It shall be the duty of each
5 officer of each department, institution, and agency of the State or municipality,
6 school supervisory union, school district, or county to provide the records,
7 accounts, books, papers, reports, returns, and such other explanatory
8 information when required by the Auditor of Accounts.

9 * * *

10 Sec. 3. EFFECTIVE DATE

11 ~~This act shall take effect on July 1, 2023.~~

Sec. 1. 32 V.S.A. § 163 is amended to read:

§ 163. DUTIES OF THE AUDITOR OF ACCOUNTS

In addition to any other duties prescribed by law, the Auditor of Accounts shall:

(1) Annually perform or contract for:

(A) an audit of the basic financial statements of the State of Vermont;

(B) the financial and compliance audits of the State of Vermont's federal programs as required by federal law, except that this audit requirement shall not apply to the University of Vermont or the Vermont State Colleges; and

(C) at ~~his or her~~ the Auditor of Accounts' discretion, governmental audits as defined by governmental auditing standards issued by the U.S. Government Accountability Office (GAO) of every department, institution, and agency of the State, including contractors as it relates to the performance of the contract with the State, trustees or custodians of retirement and other trust funds held by the State or any officer or officers of the State, and also including every county officer who receives or disburses funds of the State or for the benefit of the State or any county.

* * *

(13) Have discretion to examine the records, accounts, books, papers, reports, and returns in all formats of any contractor that provides services to the State, provided that the examination of records, accounts, books, papers, reports, and returns shall be limited to those that are relevant to the performance of the contract with the State. Any records, accounts, books, papers, reports, and returns acquired by the Auditor pursuant to this subdivision that are not otherwise available to the public are exempt from public inspection and copying under the Public Records Act.

Sec. 2. 32 V.S.A. § 167 is amended to read:

§ 167. RECORDS TO BE AVAILABLE FOR AUDIT

(a) For the purpose of examination and audit authorized by law, and except as provided in subdivision 163(13) of this title, all the records, accounts, books, papers, reports, and returns in all formats of all departments, institutions, and agencies of the State, including the trustees or custodians of trust funds and all municipal, school supervisory union, school district, and county officers who receive or disburse funds for the benefit of the State, shall be made available to the Auditor of Accounts. It shall be the duty of each officer of each department, institution, and agency of the State or municipality, school supervisory union, school district, or county to provide the records, accounts, books, papers, reports, returns, and such other explanatory information when required by the Auditor of Accounts.

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Sec. 3. STATE CONTRACTING; SECRETARY OF ADMINISTRATION;
AUDIT AUTHORITY

On or before October 1, 2023, the Secretary of Administration shall include in Administrative Bulletin 3.5 a requirement that State contracts include terms and conditions authorizing the State Auditor of Accounts to have discretion to examine the records, accounts, books, papers, reports, and returns in all formats of any contractor that provides services to the State as it relates to the performance of the contract in compliance with 32 V.S.A. § 163.

Sec. 4. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any

procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

* * *

(9) The examination of financial records by, or the disclosure of financial records to, the Auditor of Accounts pursuant to the authority provided in 32 V.S.A. § 163(13) or any officer, employee, or agent of a regulatory agency for use only in the exercise of that person's duties as an officer, employee, or agent.

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Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.