



2/18/2023

To: Our Senate Committee on Government Operations

RE: S.9 Rebuttal to State Auditors Misinformation

I'm writing this committee to draw attention to significant misrepresentations in Auditor Hoffers testimony on S.9 on 2/17/2023 when he specifically addressed me and my associations position. As I said in testimony, we have full respect of the Auditors office and duties. That those duties include keeping track of state funds, and dealing with bad actors.

I must imagine it was a wild oversight or misunderstanding by the Auditor of our testimony when he claimed that contractors "want it to stay the way it always has been" as stated in his recorded testimony. I cant imagine that the trusted Auditor would intentionally misrepresent our position so I wanted to set the record straight. This can all be verified by reviewing the videos we now enjoy as evidence of testimony.

My testimony was clear and in writing. "The association does not object to the State Auditor being recognized as an agent of the state as outlined in the bill *"including contractors as it relates to performance 7 under State contracts"* in subsection "C"." was the original testimony that I stated. We are happy to have the auditor added to bulletin 3.5 as an agent of the state with the same powers enumerated under the bulletin.

We object to section (13) in the bill due to its broad language that does not limit the auditor to a review of performance. The language is clear and broad that he may request all those data points that are "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 contract 16 with the State." Nowhere in this language does it tie the jurisdiction to "performance of a contract". It allows the auditor to collect and disseminate information as he/she would please.

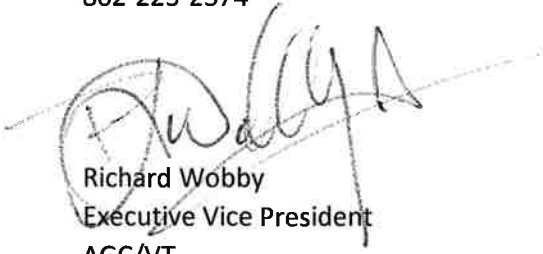
Additionally, he rebutted Tucker Andersons testimony incorrectly. Anderson was clear that there is a lot of subjective discretion state agencies have when it relates to confidential information and that his office would not have direct control over a Public Records Request. The Auditor doesn't enforce the Public Records Request and the claim that the Attorney General would adjudicate all cases is not substantiable as her decision would be case by case.

We are not attempting to cast a shadow on the reputation of the office or its credibility. Its clear he made an error or misunderstood our position. Its also possible that he does not understand the breadth of the request and we believe more vetting of this language is required. Between Tucker Anderson and the Auditors testimony its clear that so much of this policy is ripe for future litigation.

To be clear one more time AGC/VT supports reviews of state contracts for performance, but we oppose expansion of those powers of the auditor beyond the limitations of bulletin 3.5.



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