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An act to amend Section 13293 and 13405 of, and to add Sections 13070.5, 13293.1, 13293.3, and 13293.5 to, the Government Code, relating to state government.



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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13070.5 is added to the Government Code, to read:

13070.5. The department shall ensure the state carries out its responsibilities in accordance with the federal Single Audit Act (31 U.S.C Sec. 7501 etseq). For that purpose, the department shall do all of the following:

(a) Act as the liaison between state agencies, the California State Auditor, and other relevant federal agencies.

(b) Establish guidelines and instructions for state agencies pursuant to this section. The adoption, amendment, or repeal of these guidelines, instructions, or other directives consistent with this section, shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).

(c) Collect financial information related to federal awards received, including schedules of cash and noncash federal assistance and pass through amounts.

(d) Collect nonfinancial information related to federal awards received, including prior audit findings and management representation letters.

(e) Review and consolidate the financial and nonfinancial information from state agencies under subdivisions (c) and (d) and prepare the Schedule of Federal Awards and related schedules, to be forwarded to the California State Auditor for inclusion in the Single Audit Report.

(f) Upload the completed Single Audit Report to the Federal Clearinghouse on behalf of the state.

SEC. 2. Section 13293 of the Government Code is amended to read:

13293. The department ~~may~~ shall have access and authority to examine all records, files, documents, ~~accounts~~ accounts, reports, correspondence, and all financial affairs of every agency ~~mentioned in Section 13300. of the state permitted or charged by law with the handling of public money or its equivalent.~~ It may enter any public office or institution in this state and ~~examine access, examine, and reproduce~~ any records, files, books, ~~papers~~ papers, accounts, reports, correspondence, or documents contained therein or belonging thereto for the purpose of making such examination, and shall have access, in the presence of the custodian or his deputy, to the cash drawers and cash in the custody of such agency.

During business hours the department may examine the public accounts in any depository which has public funds in its custody.

SEC. 3. Section 13293.1 is added to the Government Code, to read:

13293.1. (a) No law providing for the confidentiality of any records or property shall prevent disclosure of information or documents obtained in connection with any audit, evaluation, investigation, or review conducted by the department unless the provision specifically refers to and precludes access, examination, and reproduction pursuant to Section 13293. Information or documents obtained in connection with any audit, evaluation, investigation, or review conducted by the department are subject to any limitations on release of the information or documents as may apply to an employee or officer of the state or local governmental agency or publicly created entity that provided the information or documents to the department. Providing confidential information to the department pursuant to this section, including, but not limited to,



confidential information that is subject to a privilege, shall not constitute a waiver of that privilege.

(b) For purposes of this section, "confidentiality of records or property" means that the record or property may lawfully be kept confidential as a result of a statutory or common law privilege or any other provision of law.

(c) Any information or documents obtained in connection with an audit, evaluation, investigation, or review conducted by the department may be kept confidential and disclosure of the information or documents shall not be required under the California Public Records Act if the department determines that nondisclosure would protect a person from potential retaliation or fear of retaliation for participating in the audit, evaluation, investigation, or review.

(d) An employee of a state agency, local agency, or publicly created entity, including the entity subject to the audit, shall not publicly disclose papers, correspondence, memoranda, draft audit findings, or information related to those audit findings, or any other content pertaining to any ongoing audit, evaluation, investigation, or review without the department's express permission. This limitation on disclosure regarding an ongoing audit also applies to the department and any entity who assists the department with an audit, evaluation, investigation, or review.

SEC. 4. Section 13293.3 is added to the Government Code, to read:

13293.3. (a) In connection with any audit, evaluation, investigation, or review conducted by the department, the department or a department designee may issue subpoenas for the attendance of witnesses and the production of records, files, documents, accounts, reports, or correspondence, or for making of oral or written sworn statements, in any interview conducted as part of an audit, evaluation, investigation, or review.

(b) A subpoena issued under this section extends as process to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the department. The person serving this process may receive compensation as allowed by the department, not to exceed the fees prescribed by law for similar service.

(c) Notwithstanding Section 7470, 7474, or 7491, subpoenas issued under this section for financial records of financial institutions concerning customers of financial institutions or for information contained in those records shall not be subject to the requirement or conditions of Section 7474.

SEC. 5. Section 13293.5 is added to the Government Code, to read:

13293.5. It is a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine, to do any of the following:

(a) Fail or refuse to permit the examination of, access to, or reproduction of the records, files, documents, accounts, reports, correspondence, cash drawers, or cash of his or her office by the department or in any way interferes with such examination conducted pursuant to this article.

(b) Interfere, intend to deceive or defraud, or obstruct the department in its performance of an audit, evaluation, investigation or review pursuant to this article.

(c) Manipulate, correct, alter, or change records, documents, accounts, reports, or correspondence prior to or during any audit, evaluation, investigation, or review conducted pursuant to this article.



(d) Distribute, reproduce, release, or fail to safeguard confidential draft documents exchanged between the department and the entity subject to the audit, evaluation, investigation, or review conducted pursuant to this article prior to the release of the department's final report and without the department's express permission.

SEC. 6. Section 13405 of the Government Code is amended to read:

13405. (a) To ensure that the requirements of this chapter are fully complied with, each agency head that the Department of Finance determines is covered by this section shall, on a biennial basis but no later than December 31 of each odd-numbered year, conduct an internal review and prepare a report on the adequacy of the state agency's systems of internal control, and monitoring practices in accordance with the guide prepared by the Department of Finance pursuant to subdivision (d).

(b) The report, including the state agency's response to review recommendations, shall be signed by the agency head and addressed to the agency secretary, or the Director of Finance for a state agency without a secretary. An agency head shall submit a copy of the report and related response, pursuant to a method determined by the Department of Finance, to the Legislature, the California State Auditor, the Controller, the Department of Finance, the Secretary of Government Operations, and to the State Library where the copy shall be available for public inspection. A copy of the report shall be posted on the agency's Internet Web site within five business days after acceptance by the Department of Finance.

(c) ~~The report shall identify any material inadequacy or material weakness~~ all inadequacies or weaknesses in a state agency's systems of internal control that prevents the agency head from stating that the state agency's systems comply with this chapter. ~~Concurrently with the submission of the report pursuant to subdivision (b),~~ By June 30, subsequent to the report prepared pursuant to subdivision (a), the state agency shall provide to the Department of Finance a plan and schedule for correcting the identified inadequacies and ~~weaknesses, that weaknesses.~~ The plan and schedule shall be updated every six months until all corrections are implemented.

(d) ~~The Department of Finance~~ Finance, in consultation with the California State Auditor and the Controller, shall establish, and may modify from time to time as necessary, a system of reporting and a general framework to guide state agencies in conducting internal reviews of their systems of internal control. The adoption, amendment, or repeal of this system of reporting and general framework, or other directives to guide state agencies consistent with this section, shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).

(e) ~~The Department of Finance~~ Finance, in consultation with the California State Auditor and the Controller, shall establish, and may modify from time to time as necessary, a general framework of recommended practices to guide state agencies in conducting active, ongoing monitoring of processes for internal control.

SEC. 7. The Legislature finds and declares that Section 3 of this act, which adds Section 13293.1 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:



The need for the Department of Finance to fully examine and evaluate records, files, documents, accounts, reports, correspondence, and all financial affairs of every agency of the state permitted or charged by law to handle public money outweighs the interest in public disclosure of information obtained by the department in connection with its activities.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



## LEGISLATIVE COUNSEL'S DIGEST

Bill No.  
as introduced, \_\_\_\_\_.  
General Subject: Department of Finance: audits.

(1) Existing federal law, the Single Audit Act, requires each nonfederal entity that expends a total amount of federal awards equal to or in excess of a specified amount in any fiscal year to have either a single audit or a program-specific audit made for that fiscal year. Existing state law authorizes the California State Auditor to make audit examinations of accounts and records, accounting procedures, and internal auditing performance of the executive branch that he or she determines to be necessary under the federal Single Audit Act. Existing state law also requires the Controller to receive every annual financial audit report prepared for any local public agency in compliance with the federal Single Audit Act.

This bill would require the Department of Finance to ensure the state carries out its responsibilities in accordance with the federal Single Audit Act, and would require the department to perform specified tasks in that regard, including collecting financial and nonfinancial information relating to federal awards received.

(2) Existing law authorizes the Department of Finance to examine all records, files, documents, accounts, and all financial affairs of every agency of the state permitted or charged by law with the handling of public money or its equivalent and to enter any public office or institution in this state and examine any records, files, books, papers, or documents contained therein or belonging thereto for the purpose of making such examination.

This bill would instead require the department to have access and authority to make these examinations that shall also include all reports and correspondence. The bill would specify that the department may access, examine, and reproduce any records, files, books, papers, accounts, reports, and correspondence. The bill would provide that any information or documents obtained in connection with an audit, evaluation, investigation, or review conducted by the department may be kept confidential, and that disclosure of the information or documents would not be required under the California Public Records Act if the department makes a specified determination. The bill would authorize the department, in connection with any audit, evaluation, investigation, or review it conducts, to issue subpoenas for the attendance of witnesses and the production of records, or for making of oral or written sworn statements, as specified. The bill would also make it a crime to engage in specified activity with



regard to an audit, evaluation, investigation, or review conducted pursuant to these provisions, including manipulating, correcting, altering, or changing records, documents, accounts, reports, or correspondence prior to or during any audit, and distributing, reproducing, releasing, or failing to safeguard confidential draft documents exchanged between the department and the entity subject to the audit, prior to the release of the department's final report, as specified. Because the bill would create a new crime, the bill would impose a state-mandated local program.

(3) Existing law, the State Leadership Accountability Act, requires agency heads, as defined, to establish, maintain, and monitor specified internal control systems within their state agencies. Under existing law, agency heads are required to biennially, but no later than December 31 of each odd-numbered year, conduct an internal review of the internal control systems and prepare a report on the systems' adequacy, as provided, including the identification of any material inadequacies or material weaknesses. Existing law requires the agency head to concurrently provide the Department of Finance with a plan and schedule for correcting identified inadequacies and weaknesses.

This bill would require the report to identify all inadequacies and weaknesses in a state agency's internal control systems, and would require the agency head to submit the plan and schedule for correcting those inadequacies and weaknesses to the Department of Finance by June 30 following the preparation of the report.

Existing law requires the Department of Finance to establish, in consultation with the California State Auditor and the controller, a system of reporting and a general framework to guide conducting internal reviews of internal control systems.

This bill would specify that adoption, amendment or repeal of that system of reporting and general framework are exempt from the Administrative Product Act.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

