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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2770

03/09/2023 Authored by Hansen, R., The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act
1.2 relating to state government; modifying the appointment authority for certain
1.3 members of the legislative audit commission and clarifying party affiliation for
1.4 the chair and vice-chair of the commission; modifying requirements for complying
1.5 with an audit by the Office of Legislative Auditor; amending Minnesota Statutes
1.6 2022, sections 3.97, subdivision 2; 3.972, subdivision 3; 3.978, subdivision 2;
1.7 3.979, subdivisions 2, 3, by adding a subdivision; 462A.22, subdivision 10.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2022, section 3.97, subdivision 2, is amended to read:

1.10 Subd. 2. Membership; terms; meetings; compensation; powers. The Legislative Audit
1.11 Commission consists of:

1.12 (1) three members of the senate appointed by the Subcommittee on Committees of the
1.13 Committee on Rules and Administration of the senate majority leader;

1.14 (2) three members of the senate appointed by the senate minority leader;

1.15 (3) three members of the house of representatives appointed by the speaker of the house;
1.16 and

1.17 (4) three members of the house of representatives appointed by the house of
1.18 representatives minority leader.

1.19 Members shall serve until replaced, or until they are not members of the legislative body
1.20 from which they were appointed. Appointing authorities shall fill vacancies on the
1.21 commission within 30 days of a vacancy being created.

1.22 The commission shall meet in January of each odd-numbered year to elect its chair and
1.23 vice-chair. They shall serve until successors are elected. The chair and vice-chair shall

2.1 alternate biennially between the senate and the house of representatives, and shall be of
 2.2 different parties. The commission shall meet at the call of the chair. The members shall
 2.3 serve without compensation but be reimbursed for their reasonable expenses as members
 2.4 of the legislature. The commission may exercise the powers prescribed by section 3.153.

2.5 Sec. 2. Minnesota Statutes 2022, section 3.972, subdivision 3, is amended to read:

2.6 Subd. 3. **Audit contracts.** ~~Notwithstanding any other law,~~ A state department, board,
 2.7 commission, or other state agency ~~shall not negotiate a contract~~ contracting with a public
 2.8 accountant for an audit, except a contract negotiated by the state auditor for an audit of a
 2.9 local government, ~~unless the contract has been reviewed by the legislative auditor. The~~
 2.10 ~~legislative auditor shall not participate in the selection of the public accountant but shall~~
 2.11 ~~review and submit written comments on the proposed contract within seven days of its~~
 2.12 ~~receipt. Upon completion of the audit, the legislative auditor shall be given~~ must provide
 2.13 the legislative auditor with a copy of the final report of the audit upon completion of the
 2.14 audit.

2.15 Sec. 3. Minnesota Statutes 2022, section 3.978, subdivision 2, is amended to read:

2.16 Subd. 2. **Inquiry and inspection power; duty to aid legislative auditor.** All public
 2.17 officials and their deputies and employees, and all corporations, firms, and individuals
 2.18 having business involving the receipt, disbursement, or custody of public funds shall at all
 2.19 times: (1) afford reasonable facilities for examinations by the legislative auditor;; (2) make
 2.20 returns and reports required by the legislative auditor;; (3) attend and answer under oath the
 2.21 legislative auditor's lawful inquiries;; (4) produce and exhibit all books, accounts, documents,
 2.22 data of any classification, and property that the legislative auditor requests to inspect;; (5)
 2.23 provide independent and direct access to computer systems; and (6) in all things cooperate
 2.24 with the legislative auditor.

2.25 Sec. 4. Minnesota Statutes 2022, section 3.979, subdivision 2, is amended to read:

2.26 Subd. 2. **Access to data by commission members.** Members of the commission have
 2.27 access to not public data that is collected or used by the legislative auditor ~~and classified as~~
 2.28 ~~not public or as private or confidential~~ only as authorized by resolution of the commission.
 2.29 The commission may not authorize its members to have access to private or confidential
 2.30 data on individuals collected or used in connection with the collection of any tax.

3.1 Sec. 5. Minnesota Statutes 2022, section 3.979, subdivision 3, is amended to read:

3.2 Subd. 3. **Audit data.** (a) "Audit" as used in this subdivision means a financial audit,
 3.3 program evaluation, special review, ~~or investigation,~~ or assessment conducted by the
 3.4 legislative auditor. Notwithstanding any other law, data relating to an audit are not public
 3.5 or with respect to data on individuals are confidential or protected nonpublic until the final
 3.6 report of the audit has been released by the legislative auditor or the audit is no longer being
 3.7 actively pursued. Upon release of a final audit report by the legislative auditor, data relating
 3.8 to an audit are public except data otherwise classified as not public. Unless the data is subject
 3.9 to a more restrictive classification by another law, upon the legislative auditor's decision to
 3.10 no longer actively pursue an audit without the release of a final audit report, data relating
 3.11 to an audit are private or nonpublic.

3.12 (b) Data related to an audit but not published in the audit report and that the legislative
 3.13 auditor reasonably believes will be used in litigation ~~are not public and with respect to data~~
 3.14 ~~on individuals~~ are confidential or protected nonpublic until the litigation has been completed
 3.15 or is no longer being actively pursued.

3.16 (c) Data that could reasonably be used to determine the identity of an individual or entity
 3.17 supplying data for an audit are private or nonpublic if the data supplied by ~~the individual~~
 3.18 ~~were needed for an audit and the individual would not have been provided the data to the~~
 3.19 ~~legislative auditor without an assurance that the individual's identity of the individual or~~
 3.20 entity would remain private or nonpublic, or the legislative auditor reasonably believes that
 3.21 the subject data would not have been provided the data.

3.22 (d) ~~The definitions of terms provided in section 13.02 apply for purposes of this~~
 3.23 ~~subdivision~~ Data related to an audit that were obtained from a nongovernmental entity have
 3.24 the classification that the data would have if obtained from the government entity for which
 3.25 the data were created, collected, or maintained by the nongovernmental entity.

3.26 (e) The legislative auditor may disseminate data of any classification to:

3.27 (1) a government entity, other than a law enforcement agency or prosecuting authority,
 3.28 if the dissemination of the data aids a pending audit; or

3.29 (2) a law enforcement agency or prosecuting authority if there is reason to believe that
 3.30 the data are evidence of criminal activity within the agency's or authority's jurisdiction.

3.31 Notwithstanding the classification of data as confidential or protected nonpublic, an individual
 3.32 or entity who supplies information for an audit may authorize the legislative auditor to
 3.33 release data that would identify the individual or entity for the purpose of conducting the

4.1 audit. Data disseminated pursuant to this paragraph are subject to section 13.03, subdivision
4.2 4, paragraph (c).

4.3 Sec. 6. Minnesota Statutes 2022, section 3.979, is amended by adding a subdivision to
4.4 read:

4.5 Subd. 6. **Definitions.** The definitions of terms provided in section 13.02 apply for
4.6 purposes of this section.

4.7 Sec. 7. Minnesota Statutes 2022, section 462A.22, subdivision 10, is amended to read:

4.8 Subd. 10. **Audits.** All of the books and records of the agency shall be subject to audit
4.9 by the legislative auditor in the manner prescribed for other agencies of state government.
4.10 The agency is authorized also to employ and to contract in its resolutions and indentures
4.11 for the employment of public accountants for the audit of books and records pertaining to
4.12 any fund or funds. ~~The legislative auditor shall review contracts with public accountants as~~
4.13 ~~provided in section 3.972.~~