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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 1. GENERAL [8000 - 8899.95] (Division 1 enacted by Stats. 1943, Ch. 134.)

CHAPTER 6.5. California State Auditor [8543 - 8548.9] (Heading of Chapter 6.5 amended by Stats. 2012, Ch. 281, Sec. 4.)

ARTICLE 1. General Provisions [8543 - 8545.6] (Article 1 added by Stats. 1993, Ch. 12, Sec. 8.)

8543. (a) There is hereby created in state government the California State Auditor's Office under the direction of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy. In order to be free of organizational impairments to independence, the office shall be independent of the executive branch and legislative control.

(b) Notwithstanding any other law, any reference to the "Bureau of State Audits" or "bureau," as used in a context to refer to the Bureau of State Audits, shall be deemed to refer to the "California State Auditor's Office," and any reference to the "State Auditor" or "auditor," as used in a context to refer to the "State Auditor," shall be deemed to refer to the "California State Auditor."

(Amended by Stats. 2012, Ch. 281, Sec. 5. (SB 1395) Effective January 1, 2013.)

8543.1. The duties of the California State Auditor's Office are to examine and report annually upon the financial statements prepared by the executive branch of the state and to perform other related assignments, including performance audits, that are mandated by statute. For the purposes of this chapter "office" means the "California State Auditor's Office," unless the context clearly requires otherwise.

(Amended by Stats. 2012, Ch. 281, Sec. 6. (SB 1395) Effective January 1, 2013.)

8543.2. (a) The head of the office is the California State Auditor, who shall be appointed by the Governor from a list of three qualified individuals nominated by the Joint Legislative Audit Committee by a vote of at least a majority of the committee membership from each house of the Legislature. The Joint Legislative Audit Committee shall select the three qualified individuals from a pool of candidates after conducting a comprehensive search for qualified individuals. The Joint Legislative Audit Committee shall provide at least 120 days' notice that it is seeking applicants for nomination by providing notice in the Journals of the Senate and the Assembly and by advertising in appropriate newspapers and with nationally acknowledged professional journals and associations. Names for consideration by the Joint Legislative Audit Committee may be submitted by members of the Legislature, professional organizations, individuals, and other entities.

(b) The term of any individual appointed as the California State Auditor shall be four years. Any vacancy in the office of the California State Auditor shall be filled in the same manner provided by this subdivision for a full term.

(c) As the head of the office, the California State Auditor may establish constituent parts of the office to carry out the powers and duties of the office unless otherwise specified by law.

(d) The office has a Chief Deputy California State Auditor.

(Amended by Stats. 2017, Ch. 606, Sec. 1. (AB 32) Effective January 1, 2018.)

8543.3. The California State Auditor shall be chosen without reference to party affiliation and solely on the ground of fitness to perform the duties of the office of the California State Auditor. Prior to selection, the California State Auditor shall possess a combination of education and experience in auditing and management necessary to perform the duties of that office.

(Amended by Stats. 2012, Ch. 281, Sec. 8. (SB 1395) Effective January 1, 2013.)

8543.4. In administering the fiscal policies of the California State Auditor's Office, for each fiscal year, the office shall provide the Department of Finance with the office's proposed budget and the Department of Finance shall include that proposed budget in the Governor's Budget without modification.

(Amended by Stats. 2012, Ch. 281, Sec. 9. (SB 1395) Effective January 1, 2013.)

8543.5. The Chief Deputy California State Auditor shall be appointed by the California State Auditor. The Chief Deputy California State Auditor shall carry out those duties prescribed by the California State Auditor and shall act for the California State Auditor when the California State Auditor is absent or unable to serve or when the office of the California State Auditor is vacant. The tenure of any incumbent Chief Deputy California State Auditor shall expire on any date that an individual is appointed California State Auditor, but any incumbent Chief Deputy California State Auditor may be reappointed pursuant to this section.

(Amended by Stats. 2012, Ch. 281, Sec. 10. (SB 1395) Effective January 1, 2013.)

8543.6. The California State Auditor may be removed for cause at any time by concurrent resolution of the Legislature. A California State Auditor removed pursuant to this section may not be reappointed to that office.

(Amended by Stats. 2012, Ch. 281, Sec. 11. (SB 1395) Effective January 1, 2013.)

8543.7. (a) The annual salary for the California State Auditor shall be equal to that of agency secretaries of the executive branch of government pursuant to Section 11550.

(b) The California State Auditor shall be repaid all actual expenses incurred or paid by him or her in the discharge of his or her duties.

(Amended by Stats. 2012, Ch. 281, Sec. 12. (SB 1395) Effective January 1, 2013.)

8544. (a) Consistent with subdivision (i) of Section 8546, the California State Auditor may employ and fix the compensation, in accordance with Article VII of the California Constitution, of those professional assistants and technical, clerical, deputy state auditors, and other officers and employees as he or she deems necessary for the effective conduct of the work under his or her charge.

(b) In establishing and adjusting classes of positions, and establishing and adjusting salary ranges for each class of position, to provide for the continued ability to attract and maintain qualified individuals within the California State Auditor's Office, consideration shall be given to the fact that the level of education, experience, knowledge, and ability required of the employees in the office is generally higher than that of state service generally, due to the unique duties and responsibilities imposed on the office and the relatively small number of employees.

(c) When fixing compensation for employees, the California State Auditor shall consider prevailing rates for comparable service in other public employment and private business.

(Amended by Stats. 2012, Ch. 281, Sec. 13. (SB 1395) Effective January 1, 2013.)

8544.1. (a) (1) The California State Auditor shall require fingerprint images and related information from a prospective employee whose duties include or would include access to any of the following:

(A) Records, documents, or information, the disclosure of which is restricted by law from release to the public, as described in Sections 8545, 8545.1, and 8545.2.

(B) Confidential information gathered during the course of an investigation conducted pursuant to the California Whistleblower Protection Act (Article 3 (commencing with Section 8547)).

(C) Access to cash, checks, or other accountable items.

(2) Any services contract that is entered into, renewed, or amended on or after January 1, 2024, by the State Auditor shall include a provision requiring the contractor to permit the State Auditor to require fingerprint images and related information from the contractor and the contractor's employees and subcontractors, whose duties include, or would include, access to the records, documents, information, or items specified in paragraph (1) pursuant to the contract, in order for the State Auditor to request criminal background checks on those individuals pursuant to subdivision (b).

(b) The California State Auditor shall submit to the Department of Justice fingerprint images of a prospective employee or contractor, or a contractor's employee or subcontractor, that the California State Auditor obtains pursuant to subdivision (a), and related information required by the Department of Justice, for purposes of a state and federal level criminal history background check in accordance with subdivision (u) of Section 11105 of the Penal Code.

(c) The Department of Justice shall provide a state or federal response, or both if applicable, to the California State Auditor pursuant to subdivision (p) of Section 11105 of the Penal Code.

(d) The California State Auditor may investigate the criminal history of the following individuals to make a final determination as to their fitness to perform duties that would include access to any records, documents, information, or items specified in paragraph (1)

of subdivision (a):

(1) A prospective employee.

(2) A prospective contractor and the contractor's employees and subcontractors.

(Added by Stats. 2023, Ch. 94, Sec. 1. (AB 956) Effective January 1, 2024.)

8544.2. Persons employed by the office pursuant to Section 8544.1 shall be allowed to enroll in the Public Employees' Medical and Hospital Care Act contained in Part 5 (commencing with Section 22751) of Division 5 of Title 2.

(Amended by Stats. 2012, Ch. 281, Sec. 14. (SB 1395) Effective January 1, 2013.)

8544.3. All persons employed by the office pursuant to Section 8544.1 who were members of the Public Employees' Retirement System as of November 3, 1992, shall retain their existing classification within the system and shall be considered state miscellaneous members as defined in Section 20014.

(Amended by Stats. 2012, Ch. 281, Sec. 15. (SB 1395) Effective January 1, 2013.)

8544.4. The permanent office of the California State Auditor shall be in Sacramento, where he or she shall be provided with suitable and sufficient offices. When in his or her judgment the conduct of the work requires, he or she may maintain offices at other places in the state.

(Amended by Stats. 2012, Ch. 281, Sec. 16. (SB 1395) Effective January 1, 2013.)

8544.5. (a) There is hereby established in the State Treasury the State Audit Fund. Notwithstanding Section 13340, the State Audit Fund is continuously appropriated for the expenses of the California State Auditor. There shall be appropriated annually in the Budget Act to the State Audit Fund, from the General Fund and the Central Service Cost Recovery Fund, the amount necessary to reimburse the State Audit Fund for the cost of audits and any other duties to be performed that are not directly reimbursed under subdivision (c), including for the cost of any other duties imposed on the office by statute. "Cost of audits or any other duties" means all direct and indirect costs of conducting the audits or other duties, and any other expenses incurred by the California State Auditor in fulfilling his or her statutory responsibilities.

(b) With regard to the funds appropriated pursuant to subdivision (a), upon certification by the California State Auditor of estimated costs on a monthly basis, the Controller shall transfer the amount thus certified from the General Fund or the Central Service Cost Recovery Fund, as applicable, to the State Audit Fund. The Controller shall thereafter issue warrants drawn against the State Audit Fund upon receipt of claims certified by the California State Auditor.

(c) To ensure appropriate reimbursement from federal and special funds for the costs of the duties performed pursuant to Section 8546.3, the California State Auditor may directly bill state agencies for the costs incurred, subject to the approval of the Director of Finance.

(d) To ensure adequate oversight of the operations of the office, the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy shall annually obtain the services of an independent public accountant to audit the State Audit Fund and the operation of the office to ensure compliance with state law, including Section 8546. The results of this audit shall be submitted to the commission and shall be a public record.

(e) To ensure that audits of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy are conducted in conformity with government auditing standards, any audit of the commission that is required or permitted by law shall be conducted by the independent public accountant selected pursuant to subdivision (d).

(Amended by Stats. 2012, Ch. 281, Sec. 17. (SB 1395) Effective January 1, 2013.)

8544.6. All unreimbursed expenditures of the office are defined as "administrative costs" defined in Section 11270.

(Amended by Stats. 2012, Ch. 281, Sec. 18. (SB 1395) Effective January 1, 2013.)

8545. The California State Auditor shall not destroy any papers or memoranda used to support a completed audit sooner than three years after the audit report is released to the public. All books, papers, records, and correspondence of the office pertaining to its work are public records subject to Division 10 (commencing with Section 7920.000) of Title 1 and shall be filed at any of the regularly maintained offices of the California State Auditor, except that none of the following items or papers of which these items are a part shall be released to the public by the California State Auditor, employees of the California State Auditor, or members of the commission:

(a) Personal papers and correspondence of any person providing assistance to the California State Auditor when that person has requested in writing that the person's papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn or upon the order of the California State Auditor.

(b) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed.

(c) Papers, correspondence, or memoranda pertaining to any audit that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit.

(d) Any survey of public employees that the California State Auditor determines should be kept confidential because the employees have expressed fear of retaliation by their employer if they respond to the survey.

(e) In accordance with Section 8545.1 and subdivision (b) of Section 8545.2, any paper, correspondence, record, document, or information the disclosure of which is restricted from release to the public by a statutory or constitutional provision, a rule that is consistent with a provision of that type, or a rule adopted pursuant to subdivision (i) of Section 18 of Article VI of the California Constitution.

(Amended by Stats. 2021, Ch. 615, Sec. 151. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

8545.1. (a) The California State Auditor, and any employee or former employee of the office, shall not divulge or make known to any person not employed by the office in any manner not expressly permitted by law any particulars of any record, document, or information the disclosure of which is restricted by law from release to the public. This prohibition includes, but is not limited to, the restrictions on the release of records, documents, or information set forth in Section 8545.

(b) Subdivision (a) also applies to either of the following:

(1) Any person or business entity that is contracting with or has contracted with the office and to the employees and former employees of that person or business entity.

(2) The officers and employees of and any person or business entity that is contracting with or has contracted with any state or local governmental agency or publicly created entity that has assisted the office in the course of any audit or investigation or that has received a draft copy of any report or other draft document from the office for comment or review.

(c) Any officer, employee, or person who discloses the particulars of any record, document, or other information in violation of this section is guilty of a misdemeanor.

(Amended by Stats. 2012, Ch. 281, Sec. 20. (SB 1395) Effective January 1, 2013.)

8545.2. (a) Notwithstanding any other provision of law, the California State Auditor during regular business hours shall have access to and authority to examine and reproduce, any and all books, accounts, reports, vouchers, correspondence files, and all other records, bank accounts, and money or other property, of any agency of the state, including a commission, whether created by the California Constitution or otherwise, any local governmental entity, including any city, county, and school or special district, and any publicly created entity, for any audit or investigation. Any officer or employee of any agency or entity having these records or property in his or her possession, under his or her control, or otherwise having access to them, shall permit access to, and examination and reproduction thereof, upon the request of the California State Auditor or his or her authorized representative.

(b) For the purposes of access to and examination and reproduction of the records and property described in subdivision (a), an authorized representative of the California State Auditor is an employee or officer of the state or local governmental agency or publicly created entity involved and is subject to any limitations on release of the information as may apply to an employee or officer of the state or local governmental agency or publicly created entity. For the purpose of conducting any audit or investigation, the California State Auditor or his or her authorized representative shall have access to the records and property of any public or private entity or person subject to review or regulation by the public agency or public entity being audited or investigated to the same extent that employees or officers of that agency or public entity have access. No provision of law providing for the confidentiality of any records or property shall prevent disclosure pursuant to subdivision (a), unless the provision specifically refers to and precludes access and examination and reproduction pursuant to subdivision (a). Providing confidential information to the California State Auditor 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. This subdivision does not apply to records compiled pursuant to Part 1 (commencing with Section 8900) or Part 2 (commencing with Section 10200) of Division 2.

(c) Any officer or person who fails or refuses to permit access and examination and reproduction, as required by this section, is guilty of a misdemeanor.

(d) 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.

(Amended by Stats. 2017, Ch. 406, Sec. 1. (AB 562) Effective January 1, 2018.)

8545.3. It is a misdemeanor for the California State Auditor or any employee of the California State Auditor to release any information received pursuant to Section 10850 of the Welfare and Institutions Code or that is otherwise prohibited by law to be

disclosed.

(Amended by Stats. 2012, Ch. 281, Sec. 22. (SB 1395) Effective January 1, 2013.)

8545.4. (a) In connection with any audit or investigation conducted by the California State Auditor, the California State Auditor, or his or her designee, may do any of the following:

(1) Administer oaths.

(2) Certify to all official acts.

(3) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, or documents, or for the making of oral or written sworn statements, in any interview conducted as part of an audit or investigation.

(b) Any 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 California State Auditor or his or her designee. The person serving this process may receive compensation as allowed by the California State Auditor or his or her designee, 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.

(Amended by Stats. 2012, Ch. 281, Sec. 23. (SB 1395) Effective January 1, 2013.)

8545.5. (a) The superior court in the county in which any interview is held under the direction of the California State Auditor or his or her designee has jurisdiction to compel the attendance of witnesses, the making of oral or written sworn statements, and the production of papers, books, accounts, and documents, as required by any subpoena issued by the California State Auditor or his or her designee.

(b) If any witness refuses to attend or testify or produce any papers required by the subpoena, the California State Auditor or his or her designee may petition the superior court in the county in which the hearing is pending for an order compelling the person to attend and answer questions under penalty of perjury or produce the papers required by the subpoena before the person named in the subpoena. The petition shall set forth all of the following:

(1) That due notice of the time and place of attendance of the person or the production of the papers has been given.

(2) That the person has been subpoenaed in the manner prescribed in Section 8545.4.

(3) That the person has failed and refused to attend or produce the papers required by subpoena before the California State Auditor or his or her designee as named in the subpoena, or has refused to answer questions propounded to him or her in the course of the interview under penalty of perjury.

(c) Upon the filing of the petition, the court shall enter an order directing the person to appear before the court at a specified time and place and then and there show cause why he or she has not attended, answered questions under penalty of perjury, or produced the papers as required. A copy of the order shall be served upon him or her. If it appears to the court that the subpoena was regularly issued by the California State Auditor or his or her designee, the court shall enter an order that the person appear before the person named in the subpoena at the time and place fixed in the order and answer questions under penalty of perjury or produce the required papers. Upon failure to obey the order, the person shall be dealt with as for contempt of court.

(Amended by Stats. 2012, Ch. 281, Sec. 24. (SB 1395) Effective January 1, 2013.)

8545.6. Any officer, employee, or person who, with intent to deceive or defraud, commits obstruction of the California State Auditor in the performance of his or her official duties relating to an audit required by statute or requested by the Joint Legislative Audit Committee shall be subject to a fine not to exceed five thousand dollars (\$5,000).

(Added by Stats. 2017, Ch. 406, Sec. 2. (AB 562) Effective January 1, 2018.)