

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2016**

Bill Number: H. 878 Name of Bill: Gov Ops Committee Bill amending Auditor role; State agency definition

Agency/ Dept: AOA Author of Bill Review: Georgia Maheras

Date of Bill Review: 3/21/16 Related Bills and Key Players: AOA, BGS, Auditor, DII, all Agencies/Depts

Status of Bill: (check one): ☒ X Upon Introduction ☐ As passed by 1<sup>st</sup> body ☐ As passed by both

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**Recommended Position:**

☐ Support ☐ Oppose ☒ X Remain Neutral ☐ Support with modifications identified in #8 below

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**Analysis of Bill**

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**1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

Amends the existing Auditor statute by adding 'instrumentality' to the definition of entities that can be audited. These entities would then be required to retail records similar to the process by State agencies. In addition to this specific change, the bill will result in redefining what a State Agency is and that will impact the MOU policies, Procurement policies, records retention policies, and potentially other policies that govern State agencies and instrumentalities.

**2. Is there a need for this bill?** *Please explain why or why not.*

No. State agencies have contracts and grant agreements with these instrumentalities. The Auditor can audit those state agencies and departments to review the financial information.

**3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

AOA would need to provide additional guidance regarding public records law, contract procurement and MOUs, and potentially HR-, DII-, and BGS-related issues as they arise since this changes the definition of State Agency.

**4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

Agencies and departments that have current contracts with 'instrumentalities' will need to change their procurement policy. These instrumentalities may now seek to have more Administration support in the form of space, HR, or IT. Additionally, they may seek legal assistance from the Attorney General's Office. the impact of this would be new resources needed to support these instrumentalities or a decision to change the entities to something different (ie. non-instrumentality). The potential scope can be very far reaching as there are dozens of these entities across the State.

Additionally, one of the benefits of contracting with an instrumentality is that it affords greater flexibility (either in hiring or structure) and that could be eroded.

*Please return this bill review as a Microsoft Word document to [laura.gray@state.vt.us](mailto:laura.gray@state.vt.us) and [jessica.mishaan@state.vt.us](mailto:jessica.mishaan@state.vt.us)*

If this bill were to move forward, we would want to make some modifications that limited the scope to minimize the potential impact pending further analyses on HR, IT, space, and legal support.

**5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*

Instrumentalities—they may/may not like this legislation and may or may not want to be considered part of the State in this manner. At least one prefers that it is considered ‘private’.

**6. Other Stakeholders:**

**6.1 Who else is likely to support the proposal and why?**

ACLU might support this because they prefer more transparency.

**6.2 Who else is likely to oppose the proposal and why?**

VITL, the DAs and other instrumentalities, because they do not want to have to comply with all of the State’s rules and requirements.

**7. Rationale for recommendation:** *Justify recommendation stated above.*

We support transparency and strong financial oversight, however the potential implications of this bill are far-reaching and could impact government operations very broadly.

**8. Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

- Provide parameters to the bill limited the scope.
- If we cannot limit the scope, then require a study.
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**9. Gubernatorial appointments to board or commission?**

No.

**Secretary/Commissioner has reviewed this document:** \_\_\_\_\_ **Date:** \_\_\_\_\_