



# Louisiana Audit Law

## [R.S. 24:511 – 24:559](#)

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### Overview

This document is a summary of the general principles and guidelines concerning [Louisiana Audit Law](#). This document is presented in a “frequently asked questions” (FAQ) format. While the answers are fairly detailed, remember that every situation is unique and that each one deserves careful individual review.

To facilitate your use of this document, links within the document will direct your attention to related areas within the document and to other documents posted on the Louisiana Legislative Auditor’s website and on external websites. For example, in the index section, you may go directly to any area of the FAQ by clicking the question you wish to view. Within the FAQ, several links will direct you to other areas of the FAQ and to relevant external documents. If you click on an individual question number within the document, a link will return you to the index to allow selection of another question to view.

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## **I. Constitutional and Statutory Authority of Louisiana Legislative Auditor**

### **Q.1. What is the source of the authority of the Louisiana Legislative Auditor (LLA)?**

**A.1.** The Louisiana Constitution [Article III, §11](#) provides that the LLA is the fiscal advisor to the legislature and performs the duties and functions provided by law related to auditing fiscal records of the state, its agencies, and political subdivisions.

The Audit Law, which sets for the LLA's statutory authority is found at [R.S. 24:511, et seq.](#)

### **Q.2. What are the duties of the LLA in addition to auditing? [R.S. 24:513\(D\)](#)**

**A.2.** In addition to auditing, the duties of the LLA include, but are not limited to, the following:

- The LLA shall, not later than the first day of each regular session of the legislature, prepare and submit to the governor and to the legislature a report on the financial statements of the state. Supplemental statements shall be submitted at such other times as may be necessary to show probable changes.
- The LLA legislative actuary shall provide actuarial notes on proposed legislation as required by [R.S. 24:521](#)
- The LLA shall employ personnel as may be necessary to perform the duties and functions of the office, and may employ professional and technical personnel as necessary in the unclassified service, subject to other provisions of law.
- The LLA shall conduct performance audits, program evaluations, and other studies needed to enable the legislature and its committees to evaluate the efficiency, effectiveness, and operation of state programs and activities.
- Notwithstanding any law to the contrary, when the commissioner of financial institutions informs the LLA of a failure by a financial institution to furnish required security for public funds deposited with it (when security is required by law, regulation, or by contract), the LLA is authorized to notify a "state depositing authority," as defined in [R.S. 49:319](#), or a "local depositing authority," as defined in [R.S. 39:1211](#), of the failure. A copy of the notice shall be forwarded by the LLA to the financial institution that is the subject of the notice.

- The LLA shall establish and provide for an electronic mail notification system to notify subscribers of changes to the list of auditees not in compliance with [R.S. 24:513](#) *et seq.*

## **II. Auditees – R.S. 24:513**

### **Q.3. Who are the auditees of the LLA?**

[R.S. 24:513\(A\)\(1\)\(a\)](#)

- A.3.** The Audit Law defines “auditee” to include:
- State treasurer
  - All Public boards
  - Commissions
  - Agencies of the executive branch of State government
  - Departments
  - Political subdivisions of the state
  - Public officials and employees
  - Public retirement systems listed in [R.S. 11:173\(A\)](#)
  - Municipalities
  - All other public or quasi-public agencies or bodies.

### **Q.4. How frequently must audits be performed by the LLA for various auditees?**

[R.S. 24:513\(J\)](#)

- A.4.** Audits shall be conducted frequently enough to control and safeguard the assets of the auditee. The following provisions are minimum audit requirements, and nothing prohibits a political subdivision from providing for more frequent audits, subject to the approval of the engagement agreement by the LLA.
- The financial statements of the state shall be audited annually.
  - The financial statements of individual state agencies, departments, boards, and commissions shall be audited at least once every two years, to include the transactions of both years. However, the financial statements of individual state agencies, departments, boards, and commissions that compose a material part of the state's financial statements, as determined by the LLA, shall be subjected to audit tests annually.
  - At the discretion of the LLA, other provisions regarding audit frequency and level of assurance required may apply to an individual state agency, department, board, or commission.
  - The accounts and financial statements of parish tax collectors shall be audited annually.

- The financial statements of local auditees [See [Q.7.](#)] shall be audited as follows:
  - **\$75,000 or less:** Any local auditee that receives \$75,000 or less in revenues and other sources in any one FY shall not be required to have an audit, but must file a certification with the LLA indicating that it received \$75,000 or less in funds for the FY. Monies received from urban or rural development grants shall not be used in FY computation of revenue amounts requiring an audit. The auditee shall annually file with the LLA sworn financial statements as required by [R.S. 24:514](#). The LLA has discretion, however, to require the local auditee to engage an audit of its books and accounts.
  - Any volunteer fire department that receives \$75,000 or less in funds in any one fiscal year shall not be required to have an audit, but shall file a certification with the LLA signed by the president of the volunteer fire department indicating that the department received \$75,000 or less for the fiscal year and shall annually file with the LLA sworn financial statements as required by [R.S. 24:514](#). The LLA has discretion, however, to require the volunteer fire department to engage an audit of its books and accounts.
  - Justice of the Peace (JP) or Constable of a Justice of the Peace Court shall not be required to have an audit, but must file a certification with the LLA indicating the amount of funds related to his official duties that he received for the fiscal year. Also he shall annually file with the LLA sworn financial statements. The LLA, at his discretion, may require a JP or Constable to have an audit of his books. If a JP or Constable of a JP Court receives from his official duties in excess of \$200,000 in revenues and other sources in any one fiscal year, the requirements of the following paragraph shall be applicable to such JP or Constable.
  - **More than \$75,000 but less than \$200,000:** Any local auditee that receives more than \$75,000 in revenues and other sources in any one fiscal year, but less than \$200,000, shall cause to be conducted an annual compilation of its financial statements, with or without footnotes, in accordance with the Louisiana Governmental Audit Guide. The LLA may, however, require the local auditee to engage an audit of its books and accounts.
  - **\$200,000 or more but less than \$500,000:** Any local auditee that receives \$200,000 or more in revenues and other sources in any one fiscal year, but less than \$500,000, shall cause to be conducted an annual review of its financial statements to be accompanied by an attestation report in accordance with the Louisiana Governmental Audit Guide. The LLA may, however, require the local auditee to engage an audit of its books and accounts.

- **\$500,000 or more:** Any local auditee that receives \$500,000 or more in revenues and other sources in any one fiscal year shall be audited annually.
- Any auditee, either for profit or not for-profit, that is subject to open meetings law and derives a portion of its income from payments received from any public agency or body, shall be audited in accordance with [R.S. 24:513](#) (J)(1)(c)(i)(aa) when it has received \$75,000 or less in public funds in any one fiscal year. Any of these auditees shall be audited in accordance with [R.S. 24:513](#)(J)(1)(c)(ii) once it has received more than \$75,000 in public funds in any one fiscal year. Any of these auditees shall be audited in accordance with (J)(1)(c)(iii) once it has received \$350,000 or more in public funds in any one fiscal year. Any of these auditees shall be audited in accordance with (J)(1)(c)(iv) of this Section once it has received three million five hundred thousand dollars or more in public funds.

Funds received by an auditee in a fiduciary capacity are considered “other sources” and shall be included in calculating the annual financial reporting level required of an auditee.

## A. State

### Q.5. What is the Annual Comprehensive Financial Report (ACFR)?

**A.5.** The ACFR is the financial position and results of operations of the State.

The primary difference between a budget and the ACFR is that a budget is a plan for the next period (often year) primarily showing where tax income is applied, while the ACFR contains the results of the period (year) with previous years accumulations. The ACFR contains a section that provides a comparison of period budget and actual results.

Within 6 months of the close of the entity’s fiscal year, the commissioner of administration prepares an ACFR presenting the financial position and results of operations of the state.

### Q.6. May the LLA contract with a licensed CPA for State audits?

[R.S. 24:517.3\(A\)](#)

**A.6.** The LLA shall contract with a licensed CPA for each State audit that the LLA does not possess the resources to audit. The audit cost is to be paid by the LLA to the extent that funds are appropriated by the legislature. If funds are not made available for the audit, the LLA shall bill the audited state agency and pay the contract auditor.

## **B. Local**

**Q.7.** Who are “local auditees”? **R.S. 24:513(A)(3)**

**A.7.** Local auditees include:

- Offices of independently elected public local officials
- Judges, sheriffs, clerks of court, assessors, district attorneys,
- All parish governing authorities
- All districts, boards and commissions created by parish governing authorities (independently or in conjunction with other units)
- School boards
- District public defender offices
- Municipalities
- All boards and commissions created by municipalities (independently or in conjunction with other units)
- All political subdivisions created by parish or municipal governing authorities or by law
- City courts
- Quasi-public agencies
- Housing authorities
- Mortgage authorities
- Other political subdivisions of the state not included in Comprehensive Annual Financial Report

[See [Q.4.](#)]

## **C. Quasi-Public Entities**

**Q.8.** What is a quasi-public agency or body? **R.S. 24:513(A)(1)(b)**

**A.8.** A quasi-public agency/body is defined as:

- ❖ A for-profit or not-for-profit organization that is:
  - Created to perform a public purpose by
    - the state of LA or any political subdivision or agency
    - any special district or authority or
    - unit of local government

OR

- ❖ A component unit of a governmental reporting entity, as defined by Generally Accepted Accounting Principles (GAAP)

OR

- ❖ Created to perform a public purpose and having one or more of the following:



- A governing body elected by the public
- The majority of its governing body appointed by a governmental entity or an official as part of his or her duties
- Is a recipient of the proceeds of an ad valorem tax or general sales tax levied for its operation
- Is able to issue debt with interest exempt from federal taxation
- May be dissolved unilaterally by the governmental entity and have its assets assumed without compensation by the entity

OR

- ❖ Subject to the open meetings law and derives a portion of its income from payments received from any public agency or body.

OR

- ❖ A not-for-profit entity that receives or expends any local or state assistance in any fiscal year.
  - Assistance shall include:
    - grants, loans, transfers of property, awards, and direct appropriations of state and/or local public funds.
  - Assistance shall not include:
    - guarantees, membership dues, vendor contracts for goods and services related to administrative support for a local or state assistance program,
    - assistance to private or parochial schools,
    - assistance to private colleges and universities, or
    - benefits to individuals.

**Q.9. What part of a quasi-public entity’s funds are audited? What if the public funds are commingled with other funds of the quasi-public entity?**

**R.S. 24:513(J)(1)(d)**

- A.9.** The provisions for financial statements of local auditees (**R.S. 24:513(J)(1)(c)**) shall apply to the state or local assistance received and/or expended by a quasi-public agency or body if those funds are not commingled with other funds of the quasi-public agency or body. These provisions shall apply to all funds if the State or local assistance received and/or expended by a quasi-public agency or body is commingled with other funds of the quasi-public agency or body. If commingled, then both State or local assistance and other funds of the quasi-public agency or body shall be audited pursuant to the provisions for local auditees.

For assistance in determining what part of a not-for-profit entity’s funds are audited and to determine the type of report required (See, **Q.23**), not-for-profits may complete the “Reporting Requirements for Not-for-Profit Organizations” worksheet available on the LLA’s website under the “Best Practices” tab here: <https://lla.la.gov/resources/local-government-reporting/best-practices>

### **III. Audit – R.S. 24:513**

#### **A. General**

**Q.10. What is the Louisiana Governmental Audit Guide (LAGAG)?** [LAGAG](#)

**A.10.** The LAGAG is a standard for audits and reviews of auditees within LA and shall be produced by the LLA and the Society of LA CPA’s Governmental Accounting and Auditing Committee, with input from the Louisiana Municipal Association (LMA), the Louisiana Police Jury Association, the Louisiana School Board Association, and any other interested parties.

**Q.11. What areas may the LLA audit?** [R.S. 24:513\(A\)](#)

**A.11.** The scope of the audit may include any combination of:

- financial accountability,
- legal compliance and
- evaluations of the economy, efficiency and effectiveness of programs

**Q.12. What does the LLA examine in the course of the audit?**

**A.12.** The LLA has unfettered access rights to examine all:

- Papers, books
- Accounts, records, files, instruments, documents
- Films, tapes and other forms of recordation
- Computers, recording devices
- Software and hardware (e.g., data storage)
- Hardware that is part of retention or security system

**Q.13. What auditee records does the LLA have the authority to review?** [R.S. 24:513\(E\)](#)

**A.13.** The Audit Law gives the LLA broad authority to review the records of auditees. The LLA or any designated auditor, shall have the power to inspect and to make copies of any books, records, instruments, documents, files, films, tapes, and other forms of recordation, including but not limited to computer and recording devices, of the auditee.

The officials and staff of the auditee must provide assistance and advice to the LLA through the assignment of personnel or as necessity requires.

The Legislative Auditor is obligated to keep confidential any material covered by La. [R.S. 24:513](#)(I), which provides,

The authority granted to the Legislative Auditor in this Section to examine, audit, inspect or copy shall extend to all books, accounts, papers, documents, records, files, instruments, films, tapes, and any other forms of recordation, including but not limited to computers and recording devices, whether confidential or otherwise. However, the Legislative Auditor shall comply with any and all restrictions imposed by law on documents, data, or information deemed confidential by law and furnished to the Legislative Auditor.

**Q.14. Who conducts the audit?**

**R.S. 24:513(A)(5)(a)(i)**

- A.14.** Generally, the LLA, except in certain circumstances, conducts the audit of all state agencies. An independent CPA, except in certain circumstances, conducts the audits of local auditees.

The LLA has discretion to approve the engagement letter and to accept an audit or review report prepared by a licensed CPA, following generally accepted governmental auditing standards and the Louisiana Governmental Audit Guide (LGAG), provided that the LLA has approved the engagement letter. The audits must be completed within six (6) months of the close of the entity's fiscal year. Reviews shall be conducted in accordance with the authoritative pronouncements issued by the American Institute of Certified Public Accountants (AICPA) and guidance provided in the LGAG. See [Q.18](#) and [Q.21](#).

For these audits only, the CPA is afforded the access and assistance privileges afforded to the LLA in [R.S. 24:513](#)(E) and (H). The CPA must, however, comply with all laws regarding confidentiality of documents, data, or information furnished to the CPA during the course of the audit or review.

**Q.15. Does the law provide for an extension of time to complete an audit report in cases of emergency?**

**R.S. 24:513(A)(5)(a)(ii)**

- A.15.** Yes, an entity may be granted an extension following declaration under the provisions of [R.S. 29:724](#)(B)(1) of a disaster or emergency that prevents an entity from completing its report within 6 months of the close of its fiscal year.

The entity may ask the LLA in writing for an extension of time to complete the report. The LLA has discretion to approve the request, subject to the approval of the LAAC.

Additional information on extension requests can be found [here](#) on the LLA website.

**Q.16. Does the law provide for an extension of time to complete an audit report in cases of non-emergency? [R.S. 39:72.1\(C\)](#)**

**A.16.** Yes, R.S. 39:72.1(C) provides that the LLA, at his discretion, may grant an auditee an extension, for good cause shown, for up to 90 days after the due date of the auditee's report. Thereafter, LAAC may grant an additional extension. The LLA's Extension Request Policy can be found here: <https://www.lla.la.gov/cpas/extension-request-form/>

**Q.17. Are there provisions for electronic audit reports? [R.S. 24:513\(N\)](#)**

**A.17.** Yes, the LLA may issue, receive or accept, and maintain audit reports electronically.

## **B. Local Auditees**

**Q.18. Who is authorized to audit or review "local auditees"?**

**A.18.** Licensed CPA's shall audit local auditees, following the guidelines and requirements of [R.S. 24:513\(A\)\(5\)](#) and (6).

- In some instances the LLA may audit local auditees ([R.S. 24:513\(C\)](#)).
- Subject to approval by the LLA, any person authorized to audit a government entity pursuant to [R.S. 37:77](#), may audit local auditees.

**Q.19. What is an "engagement letter," and what does it cover? [R.S. 24:513\(A\)\(6\)](#)**

- A.19.** The engagement letter sets forth the terms and conditions of the audit or review.
- The LLA prescribes the terms and conditions of the audit or review conducted by a licensed CPA and is authorized to approve the terms and conditions prior to commencement of the audit or review.
  - The office subject to audit must present the terms and conditions to the LLA for approval.
  - The office subject to audit or review and the CPA are jointly responsible for submitting the engagement agreement to the LLA for approval prior to the commencement of the audit.\*
  - The Legislative Auditor shall also have access to the working papers of the CPA during the examination and subsequent to its termination.

*NOTE: \*In accord with the audit guide for licensed CPA's, the independent CPA sends the engagement letter to the LLA.*

**Q.20. Is the entity required to use the public bid process in selecting a licensed CPA?**  
**R.S. 24:513(A)(7)**

**A.20.** CPA services are considered “professional services.” Contracts for professional services are not subject to the Public Bid Law. However it is recommended that a competitive selection process, such as Request for Qualifications (RFQ) or Request for Proposal (RFP), be used. Additionally, as stated in **Q.25** and **Q.28** the contracts for these services must be done in accord with R.S. 24:513(A)(b)(a)(i) and 24:513(A)(6), subject to the approval of the LLA. The CPA must be selected from among those on the list of approved CPAs published by the LLA here.

**Q.21. What are the instances in which the LLA may audit local auditees?**  
**R.S. 24:513 (A)(4)**

- A.21.** The LLA may audit or investigate a local auditee only when the local auditee:
- Failed after 30 days written notice from the LLA to comply with the law for timely audits
  - Is unable to pay for an audit by a licensed CPA as determined by Legislative Audit Advisory Council (LAAC) and the LLA
  - Exhibits a record of egregious control deficiencies and failures to comply with laws and regulations
  - Is the subject of complaints to LLA of illegal or irregular acts
  - After requesting proposals for audit services, receives fewer than three proposals from licensed certified public accountants
  - Rejects all proposals (three or more) for cause, including excessive cost

In addition, the LLA may audit a local auditee if LAAC and the LLA decide the best interest of the state will be served.

Any local auditee selected for audit by the LLA may appeal to the LAAC. The LLA is responsible for ensuring that audit services are not duplicated.

**C. Types of Reporting for Local Auditees**

**Q.22. What type of report must a local auditee provide to the LLA?**

**A.22.** The type of report a local auditee must provide to the LLA is based upon the amount of revenues and other sources of funds the local auditee receives, if the local auditee is a local government agency or a quasi-public agency defined pursuant to R.S. 24:513A(1)(b)(i-iii and v).

If the local auditee is a non-profit agency within the definition of a quasi-public agency as defined in R.S. 24:513A(1)(b)(iv), the type of audit report it must provide to the LLA is based on the local and state assistance the non-profit receives.

<b>Amount of revenues and other sources/local and state assistance received</b>	<b>Type of report provided</b>	<b>CPA or self –prepared</b>
\$500,000 and over	Audit	Independent CPA
\$200,000 - \$499,999	Review/attestation	Independent CPA
\$75,001 - \$199,999	Compilation	CPA
\$75,000 and under	Sworn financial statements	Self-prepared; or the local auditee may choose to have CPA prepare report

For more information on the type of reporting required by local auditees please see the Louisiana Governmental Audit Guide [Click here](#):

**Q.23.** Should funds received and maintained in a fiduciary capacity be included as revenue and other sources for determining annual reporting requirements under R.S. 24:513(J)?

**A.23.** Yes, funds received by an auditee in a fiduciary capacity are considered “other sources” and shall be included in calculating the annual financial reporting level required of an auditee under R.S. 24:513(J).

### **D. Agency Head Supplemental Reporting**

**Q.24.** Are additional procedures required in relation to an agency head?  
**R.S. 24:513(A)(3)**

**A.24.** **R.S. 24:513(A)(3)** requires that the total compensation, reimbursements, and benefits of an agency head or political subdivision head or chief executive officer that are related to the position (including travel, housing, unvouchered expenses, per diem, and registration fees) be reported as a supplemental report within the financial statement of the local auditee.

Further, R.S. 24:513 (A)(3), requires that local auditees which are nongovernmental entities or not-for-profit entities that receive public funds shall report only the use of public funds for the expenditures itemized in the supplemental report.

**Additional information concerning this supplemental reporting can be found in the LLA’s [FAQ on Supplemental Reporting Under R.S. 24:513\(A\)\(3\)](#).**

## E. Expenses

### **Q.25. Who pays for the audits required to be performed by the LLA?**

**R.S. 24:517.1**

- A.25.** The LLA, except for services for complaints of illegal or irregular acts with respect to the local auditee, shall be reimbursed by the local auditee for actual expenses incurred in connection with any
- local government audit,
  - audit of any public retirement system enumerated in **R.S. 11:173** , or
  - audit of any municipality, public or quasi-public agency performed under the provisions of **R.S. 24:513**(A)(4).

The LAAC may authorize lower rates based on economic hardships to particular local auditees.

Restitution of audit costs may also be obtained under R.S. 24:523 or R.S. 24:524 through civil or criminal proceedings by the Attorney General or District Attorney from responsible parties when an audit identifies possible fraud, theft, or misappropriation of public funds or property. If an auditee has already paid the LLA for the cost of the audit, then audit costs recovered from responsible parties by the Attorney General or District Attorney will be paid to the auditee.

### **Q.26. What expenses are reimbursed to the LLA for State audits?**

**R.S. 24:517.3(A)**

- A.26.** The LLA shall be reimbursed for actual expenses incurred in connection with any financial and compliance audit or financial and compliance related examination of a State entity's federal programs or of a State entity whose revenues consist primarily of self-generated fees and revenues.

### **Q.27. What is the process for billing by and payment to the LLA for required local audits?**

**R.S. 24:517.1(B)(1)**

- A.27.** The reimbursement provided in **R.S. 24:517.1**(A) shall be payable to the LLA by the local government entities, including municipalities, public and quasi-public agencies, or public retirement system auditees based upon billing procedures established by the LLA.

### **Q.28. What action results if a local auditee does not timely pay the LLA?**

- A.28.** If, after ninety (90) days from initial billing, an auditee has failed to remit payment in full for the audit services rendered, the LLA shall submit written notice to the auditee that within thirty (30) days of the notice, payment in full will be withheld from monies accruing to the auditee.

**Q.29. Is an auditee entitled to a hearing regarding reimbursement and withholding of monies accruing to the auditee? [R.S. 24:517.1\(B\)\(2\)](#)**

**A.29.** Yes, upon its request, an auditee shall be entitled to a hearing before the LAAC concerning the reimbursement and withholding of monies accruing to the auditee.

**Q.30. How is the money to reimburse the LLA withheld from the auditee?**

**A.30.** If a hearing is requested and the LAAC determines that the LLA shall be reimbursed by the auditee, or if no such hearing is requested, and the LLA certifies in writing to the Department of Treasury or any other state agency that is holding monies accruing to the auditee that:

- the LLA has provided local services consistent with [R.S. 24:517.1](#), and
- the auditee has failed to remit payment in full for the audit services rendered within a period of ninety (90) days from the initial billing date, the treasurer or state agency shall, from the monies accruing to the local entity, forward to the LLA all or the portion necessary to reimburse the LLA for the total amount of audit costs billed.

**Q.31. Are there any exemptions to the requirement to reimburse the LLA for local audit services? [R.S. 24:517.1\(F\)\(1&2\)](#)**

**A.31.** Yes, a district public defender office that receives annual funds of less than \$50,000 and is audited by the LLA shall not be required to reimburse the LLA for expenses incurred in connection with the audit, nor shall the LLA charge a fee in connection with the audit.

A district public defender office exempted from reimbursing the LLA for audit costs shall be exempted from paying the costs of any audit conducted after January 1, 1990.

## **IV. Retirement Systems**

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**Q.32. What are the public retirement systems enumerated in Title 11? [\(formerly R.S. 42:698.2\)](#)**

**A.32.** The public retirement systems are:

- (1) Louisiana State Employees' Retirement System.
- (2) State Police Pension and Relief Fund.
- (3) Louisiana School Employees' Retirement System.
- (4) Teachers' Retirement System of Louisiana.
- (5) Assessors' Retirement Fund.
- (6) Clerks' of Court Retirement and Relief Fund.



- (7) District Attorneys' Retirement System.
- (8) Municipal Employees' Retirement System of Louisiana.
- (9) Parochial Employees' Retirement System of Louisiana.
- (10) Registrar of Voters Employees' Retirement System.
- (11) Sheriffs' Pension and Relief Fund.
- (12) Municipal Police Employees' Retirement System.
- (13) Firefighters' Retirement System.

**Q.33. Does the LLA audit state, municipal or parochial retirement funds?**

**R.S. 24:513(C)(1)**

- A.33.** Yes, the LLA has authority to evaluate continuously all aspects of any state, municipal, or parochial retirement system, funded in whole or in part out of public funds, to determine its actuarial soundness.

The LLA shall make periodic detailed reports, both to the Legislature and the governor, setting forth findings as to the actuarial soundness of the retirement systems. At least every five years, the reports produced by the Legislative Auditor shall include comparative summaries of each system's reported actuarial assumptions and funded ration and the findings of the Legislative Auditor as to the appropriateness of each system's assumptions. In conducting evaluations or any audit pursuant to [R.S. 11:2260\(A\)\(9\)\(b\)](#), the LLA shall have complete access to all books, records, documents, and accounts of the retirement system and any participating employer.

**Q.34. Does the LLA have other responsibilities regarding retirement system contributions?**

**R.S. 24:513(O)**

- A.34.** [R.S. 24:513\(O\)](#), requires the LLA to annually review, calculate and certify, using the grand recapitulation of the assessment roll provided to the LLA by the Louisiana Tax Commission, the amount due to each public retirement system as provided by law. The LLA shall submit to each sheriff or other official responsible for the tax collection a report setting forth the certified remittance calculated.

[R.S. 13:5565](#) requires each sheriff or other official responsible for tax collection to deduct the amount certified by the Legislative Auditor pursuant to [R.S. 24:513\(O\)](#) and to remit that amount of money to the appropriate public retirement system.

**Q.35. May the retirement systems hire their own actuary?**

**R.S. 24:513 (C)(2)**

- A.35.** Yes, the LLA's authority over retirement systems does not preclude the authority of any retirement system funded in whole or in part out of public funds to hire an actuary.

Any actuary employed by the Legislature or LLA is prohibited from serving as, or employing or contracting with any other actuary who is serving as, an actuary for

any public retirement system within Louisiana, with respect to that public retirement system, unless the service, employment, or contract is approved by the LAAC as being in the best interest of Louisiana.

## **V. Other Special Auditees**

### **A. Louisiana Department of Revenue**

**Q.36.** Does the LLA audit the books and accounts of the Louisiana Department of Revenue? [R.S. 24:513.1\(A\)](#)

**A.36.** Yes, the LLA or designated staff members have authority to examine and audit the books and accounts of the Department of Revenue.

The LLA or staff has access to all materials (papers, books, records, files, instruments, documents, including tax returns and tax return information, films, tapes, and any other forms of recordation, including but not limited to computers and recording devices, and all software and hardware that hold data, is part of the technical processes leading up to the retention of data, or is part of the security system) that the LLA deems necessary for the purpose of making the audit, if revealing the information is not prohibited by federal law.

**Q.37.** What is the scope of the examination of the Department of Revenue? [R.S. 24:513.1\(B\)](#)

**A.37.** The scope of the examination may include financial accountability, legal compliance, or evaluations of the economy, efficiency, and effectiveness of the Department of Revenue, or any of these components.

In the performance of the audit and examination of the Department of Revenue, the LLA or designated staff member may inspect and copy any papers, books, records, files, instruments, documents, including tax returns and tax return information, films, tapes, and any other forms of recordation, including but not limited to computers and recording devices of the department.

The LLA may call upon the department for assistance and advice, which must be given through the assignment of personnel or as required.

**Q.38.** What protections exist for confidential tax information? [R.S. 24:513.1\(D\)](#)

**A.38.** Any originals or copies of tax information furnished by the Department of Revenue to the LLA or any designated staff member are confidential and privileged.

Any person divulging this information contrary to the provisions of [R.S. 47:1508](#) shall be punished by imprisonment for not more than two years, or fined not more than \$10,000, or both.

## **B. Boards and Commissions**

### **Q.39. Must the LLA audit the agencies, departments, boards and commissions listed in the ACFR?**

**A.39.** The financial statements of entities listed included in the ACFR shall be audited by the LLA, but may be audited by a licensed CPA pursuant to [R.S. 24:513\(A\)](#).

### **Q.40. What are the responsibilities of the LLA regarding boards and commissions?** [R.S. 24:513.2 \(A\)](#)

**A.40.** Originally, through the enactment of [R.S. 24:513.2](#), the LLA was charged with establishing and maintaining a comprehensive computerized information system on boards, commissions, and like entities. The system was mandated to include those state boards, commissions, and like entities as provided in [R.S. 24:513.2\(D\)](#) and those local boards, commissions, and like entities that are specifically created by law.

However, through the Legislature's subsequent enactment of [R.S. 49:1301, et seq.](#) in 2009, the primary charge for maintaining the database of boards, commissions, and like entities was shifted to the Division of Administration. In reading the older and newer statutes together, the LLA is now required to assist the DOA in this endeavor and to submit annual reports to the Legislature on these boards, commissions, and like entities. [R.S. 49:1305](#) sets forth the boards, commissions, and like entities that shall now be maintained in the DOA's database. Pursuant to [R.S. 49:1305](#), the following boards, commissions, and like entities are required to be included in the DOA's database:

1. Any board, commission, or like entity that is a licensing agency pursuant to the Louisiana Licensing Agency Budget Act, [R.S. 39:1331, et seq.](#)
2. The Louisiana Board of Cosmetology, [R.S. 37:571](#).
3. Each board and commission whose members are required to file annual financial disclosure statements pursuant to [R.S. 42:1124.2.1](#) (Ethics Tier 2.1 Disclosure).
4. Any committee, subcommittee, or panel of any board, commission, or like entity noted above.

### **Q.41. What does the information system include?** [R.S. 24:513.2\(B\)](#) [R.S. 49:1302](#)

**A.41.** The information system pursuant to [R.S. 24:513.2\(B\)](#) and [R.S. 49:1302](#) shall include the following information on the boards, commission, and like entities:

Requirements under [R.S. 24:513.2\(B\)](#)

The information system includes financial and personnel data for boards, commissions, and like entities, except for entities that are budget units of the state (any spending agency of the state that is declared to be a budget unit by the DOA and that is identified for accounting purposes by a five-digit number code.

See, [R.S. 39:2](#)) or that are included within those budget units.

These data shall include but not be limited to the following:

Financial data for the last completed FY, estimates covering the entire current FY, and projections for the ensuing FY year, as follows:

- Fund balances of the licensing agency at the beginning and conclusion of each FY.
- Revenues and receipts, itemized by source.
- Expenditures itemized by source of funds and expenditure category by each major function, program, or service.
- Number of classified, unclassified, and part-time employees.
- Clearly defined indicators of the quantity and quality of performance.
- Participation of agency personnel and board members in state employee benefit programs, including insurance and retirement.

The information system shall include a comprehensive listing of all boards, commissions, and like entities, and shall include but not be limited to the following:

- Name of the board, commission, or like entity.
- Organizational placement under Title 36 of the Louisiana Revised Statutes of 1950.
- Statutory or other legal authority relative to the entity.

Requirements of [R.S. 49:1302](#)

The information system shall contain the following information:

- Each notice of a meeting required to be given pursuant to [R.S. 42:19](#), including all information required pursuant to [R.S. 42:19](#) to be included in the notice (i.e. Date, Time, Location, Agenda).;
- Minutes of meetings required to be made available to the public pursuant to [R.S. 42:20](#), including any attachments;
- Statutory citations to provisions specifically creating the board, commission, or like entity; providing for its membership; and providing for its powers and authority;

- Contact information, including the name of one or more contacts at the board, commission, or like entity; a mailing address; an email address, if applicable; a website address, if applicable; and a phone number;
- Membership information, including the number, names, compensation, terms, length of service, and method of selecting members;
  - Such membership information shall include per diem and reimbursement for travel expenses, including the amount of such expenses paid per meeting and an aggregate amount of such expenses paid per fiscal year.
- Employee information, including the number, job description or title, and salaries of employees;
- Financial and budget information, including a detailed description of revenues and expenditures for the current fiscal year and the previous two fiscal years; and
- The rules, regulations, and procedures of the board, commission, or like entity.

There is some overlap in the content requirements set forth in [R.S. 24:513.2](#) and [R.S. 49:1302](#); however, to the degree each statutory provision requires different content/information, the two provisions should be read together to ensure that the requirements of both statutes are met.

**Q.42. In addition to establishing and maintaining the computerized information on boards and commissions and the like, what other duty does the LLA have related to the database? [R.S. 24:513.2\(E\)](#)**

**A.42.** The Auditor shall annually submit to the Legislature a report including summary information on the financial and personnel information contained in the information system and shall report findings and recommendations resulting from any analysis of that information deemed necessary by the LLA.

### **C. Gaming**

**Q.43. What are the duties and responsibilities of the LLA with regard to the LA gaming industry? [R.S. 24:513.3](#)**

**A.43.** In the performance of auditing duties with regard to regulators of the industry, the LLA is authorized by the Legislature to accompany and/or observe any gaming industry regulators in the performance of their official duties in any gaming facility located within Louisiana. The LLA is required to use the least intrusive method of observation.

If the LLA wants access to the gaming facility to observe gaming operations without the accompaniment of a gaming regulator, the LLA must have express

written consent of the gaming operator that has not been subsequently rescinded in writing by the gaming operator.

**Q.44. Is the LLA a “gaming industry regulator”?**

**R.S. 24:513.3(B)(2)**

**A.44.** No, “gaming industry regulators” are: the Department of Revenue, the Department of Public Safety and Corrections, the Louisiana Gaming Control Board, and any other commissions or departments that may be formed to regulate the gaming industry in LA and their representatives.

**Q.45. What authority does the LLA have over gaming operators in LA?**

**R.S. 24:513.3(C)**

**A.45.** Provided the LLA has obtained prior written consent of the gaming operator and that the written consent has not been subsequently rescinded in writing by the gaming operator, the LLA may examine, audit, inspect, copy and/or review the books and records relating to revenues (including but not limited to accounts, papers, documents, files, instruments, films, tapes, all software and hardware that hold data, are part of the technical processes leading up to the retention of data, or are part of the security system, and any other forms of recordation relating to revenues, whether confidential or otherwise) of an operator of a gaming facility.

**Q.46. What authority does the LLA have over gaming regulators? R.S. 24:513.3(D)**

**A.46.** The LLA’s authority over gaming regulators is broad. All files, records, reports, and other information pertaining to gaming matters in the possession of any gaming industry regulator shall be made available to the LLA as necessary for the performance of authorized duties.

**Q.47. Does the LLA work with other agencies in performing authorized duties related to gaming regulators? R.S. 24:513.3(E)**

**A.47.** Yes, the LLA may enter into restricted use and information sharing agreements with gaming industry regulators and law enforcement agencies. Information received pursuant to these agreements shall not be disclosed without the permission of the provider.

**Q.48. What are the LLA’s code of ethics requirements for the LLA and employees related to gaming? R.S. 24:513.3(F)**

**A.48.** The LLA gaming related code of ethics must include but not be limited to the Code of Governmental Ethics. The code requires that the LLA and LLA employees:

- 1) Cannot engage in gaming activities in an establishment licensed by a gaming industry regulator, except in the course of the person's duties.

- 2) Cannot solicit or accept employment from an establishment licensed by a gaming industry regulator for a period of two years after termination of employment with the office of the LLA.
- 3) Cannot have a direct or indirect interest in an establishment licensed by a gaming industry regulator, or a holding, intermediary, or subsidiary company of such an establishment during employment.
- 4) Cannot acquire a direct or indirect interest in or be employed by an establishment licensed by a gaming industry regulator for a period of two years after termination of employment with the office of the Legislative Auditor.

In addition, neither the LLA, nor LLA employees, nor any spouse or minor child of same shall pay, lend, or contribute anything of value to a political candidate, political organization, political party, or political action committee (PAC).

In performing the auditing functions of law related to gaming, the LLA shall comply with any and all confidentiality restrictions.

In order to avoid any impairment to the independence of the LLA's audit oversight of the gaming industry, the LLA has instituted additional gaming prohibitions for LLA employees within the LLA's Code of Ethics.

#### **D. Deep Water Gulf Transfer Terminal Authority**

**Q.49.** What special procedures exist for the Louisiana International Deep Water Gulf Transfer Terminal Authority? **R.S. 34:3499.1**

**A.49.** R.S. 34:3499.1, relative to the Louisiana International Deep Water Gulf Transfer Terminal Authority, authorizes the Legislative Auditor, the Legislative Auditor's authorized representatives, and the state of Louisiana, independently and with or through the Authority, to inspect and audit all data and financial records of the contracting party related to its performance with respect to the contract, in accordance with the provisions set forth in R.S. 24:513, et seq.

#### **E. Water Systems**

**Q.50.** Does the LLA audit private water systems? **R.S. 24:513(F)**

**A.50.** Yes, the LLA has authority to compile financial statements and to examine, audit, or review the books and accounts of all private water supply systems. The scope of the examinations may include:

- financial accountability,

- legal compliance and evaluations of the economy, efficiency, and effectiveness of the private water supply systems or any combination thereof.

In addition to this specified authority, the LLA is permitted to access and examine all papers, books, accounts, records, files, instruments, documents, films, tapes, and any other forms of recordation of all private water supply systems, including but not limited to computers and recording devices, and all software and hardware that contain data, are part of the technical processes leading up to data retention, or are part of the security system.

The financial statements of a private water supply system shall be audited or reviewed by licensed CPAs subject to [R.S. 24:513](#) (A)(5) and (A)(6), but may be audited by the LLA pursuant to (A)(4). Any person authorized to conduct an audit of a governmental entity pursuant to [R.S. 37:88](#) (accounting and review services for governmental entities) shall be permitted to audit the private water supply system subject to the approval of the LLA provided for in (A)(5) and (A)(6).

State or local assistance and other funds and expenditures of private water supply systems shall be audited.

**Q.51.** What is the definition of a “private water system”? [R.S. 24:513\(F\)\(1\)](#)

**A.51.** “Private water supply system” means any private water system that receives local or state assistance\* in any fiscal year and does not have audited financial statements prepared by licensed CPA’s.

- \*Assistance shall include grants, loans, transfers of property, awards, and direct appropriations of state or local public funds.
- Assistance shall not include guarantees, membership dues, vendor contracts for goods and services related to administrative support for a local or state assistance program, or benefits to individuals.

**F. Public Defenders**

**Q.52.** Are there specific reporting provisions for public defenders? [R.S. 24:515.1\(A\)](#)

**A.52.** Yes. Recognizing that the reporting, accounting, and audit system of the district public defenders is fragmented and does not provide a comprehensive picture of certain judicial finances and the costs of operating the indigent defender system, the legislature required- in the interests of the public- the LLA, to develop a uniform format using Generally Accepted Auditing Standards (GAAS) for audit reports to assist district public defenders in reporting all major sources of revenue and expenditures.



**Q.53. What are the requirements for the uniform audit reports for public defenders?** [R.S. 24:515.1\(B\)](#)

**A.53.** The public defenders must report sources of income. The uniform audit reports for district public defenders must include, at a minimum (but not limited to) the following:

- The amount of all state revenue provided by the Legislature from general or special appropriations, or revenue passed through by state agencies.
- The amount of all revenue provided by local government from general or special appropriations, appropriations required by law, and revenue from the criminal court fund.
- The amount of grant funding from federal pass-through or categorical grants, grants from non-profit organizations, private and corporate foundations.
- The amount of funding received from any self-generated revenue.

**Q.54. Does the LLA prescribe the format for the report of revenue?** [R.S. 24:515.1\(C\)](#)

**A.54.** Yes, the LLA shall develop, supervise, and require the use of uniform, standardized, and consistent terminology for use in reporting on each source of revenue and each category of expenditure in order to provide for clarity.

Notwithstanding any law to the contrary, the district public defender and the regional director if applicable, shall commence by the end of Calendar Year 2007 for boards on a calendar year schedule, or FY 2007-2008 for boards on a fiscal year schedule to use uniform audit report formats developed by the LLA.

The LLA shall develop reporting schedules to assist public defender entities with standardized and uniform reporting.

**Q.55. Who reviews the uniform reporting system of the public defenders?** [R.S. 24:515.1\(E\)](#)

**A.55.** The LLA shall review the uniform reporting system for audit reports on an annual basis to determine if it is consistent with state law and Generally Accepted Accounting Principles (GAAP). The LLA shall revise the system if necessary. The LLA shall have authority to determine whether the officials are complying with the requirements of the reporting system.

**Q.56.** Following review of the information in the uniform audit reporting system, does the LLA report findings to the Legislature? [R.S. 24:515.1\(F\)](#)

**A.56.** Yes, the LLA shall annually submit to the Legislature:

- a report detailing compliance with the requirements of [R.S. 24:515.1](#) (uniform audit reporting for public defenders),
- a report outlining the information contained in the uniform audit reports, and
- any findings and recommendations resulting from an analysis of the information submitted by the entities.

**Q.57.** What is the penalty for failure to report to the LLA the information required on the public defender uniform audit report? [R.S. 24:515.1\(G\)](#)

**A.57.** Any official who neglects, fails or refuses to furnish the LLA with a uniform audit report as required by law or fails to disclose or accurately disclose any information shall be subject to a civil penalty for each day until the report or the required accurate information is filed.

The amount of the penalty shall be one hundred dollars per day (\$100.00), not to exceed two thousand five hundred dollars (\$2,500) for each violation.

### **G. Sheriff/Tax Collector**

**Q.58.** What are the audit provisions for sheriffs? [R.S. 24:513 \(B\)](#)

**A.58.** The audit provisions for sheriffs are as follows:

- The accounts and records of each sheriff, as ex officio tax collector, shall be audited in accordance with the provisions of [R.S. 24:513](#) not less than once every year. Upon request, the tax collector must provide the LLA with a sworn statement of the amounts of cash on hand and taxes collected for the current year, with an itemized statement of all taxes assessed and uncollected.
- The statement shall indicate the reason for the sheriff's failure to collect.
- Parish governing authorities and the governing authorities of other tax recipient bodies shall notify the LLA, in writing, whenever any sheriff is delinquent in his settlements.
- All clerks of court and other public officers must furnish to the LLA upon request and free of charge certified copies of any documents or papers in their possession.

- Notwithstanding any provision of law to the contrary, a sheriff and ex-officio tax collector may have the annual and biennial audits provided for in [R.S. 24:513](#)(J)(1)(b) and (c), conducted either by the LLA or by a private CPA, all pursuant to the provisions of [R.S. 24:513](#).

**Q.59. Does the sheriff have responsibilities regarding retirement system contributions? [R.S. 24:513\(O\)](#)**

**A.59.** [R.S. 13:5565](#) requires each sheriff or other official responsible for tax collection to deduct the amount certified by the Legislative Auditor pursuant to [R.S. 24:513](#)(O) and to remit that amount of money to the appropriate public retirement system.

**Q.60. What audit provisions exist for local auditees or vendors other than sheriffs that collect and distribute ad valorem taxes on behalf of a taxing authority? [R.S. 24:513\(B\)\(\(2\)](#)**

**A.60.** Any other local auditee or vendor that collects and distributes ad valorem taxes on behalf of a taxing authority shall have its tax collection and distribution fund audited annually and shall distribute a copy of the audit report to the LLA and each taxing authority for which it collects taxes.

The audit report must include a sworn statement of the gross amount of taxes to be collected, any deductions made from the tax rolls, the amount of taxes actually collected, and the taxes distributed to the taxing authorities.

The statement must detail:

- any taxes on hand at the end of the reporting period,
- the amounts of balance belonging to the taxing authorities,
- the amounts of collections related to current tax collections,
- the amounts relating to prior year taxes,
- the amounts of any interest and penalties collected and disbursed,
- the extent to which the prior year tax collections relate to collection and audit efforts, and
- the reason, if any, for failure to collect.

The statement must include any other disclosures that may be determined necessary by the LLA. For fiscal periods beginning after December 31, 2010, the audit report required shall be completed within 6 months of the close of the local auditee's or vendor's fiscal year.

**Q.61. What audit provisions exist for local auditees or vendors that collect taxes other than ad valorem taxes? [R.S. 24:513\(B\)\(3\)](#)**

**A.61.** Any other local auditee or vendor that collects and distributes taxes other than ad valorem taxes on behalf of other taxing authorities shall have its annual financial statement audited and shall distribute a copy of the audit report to the LLA and each taxing authority for which it collects taxes.

The audit report shall have a footnote disclosure including total collections and a schedule of distribution by taxing authority.

The statement shall include other disclosures deemed necessary by the LLA. For fiscal periods beginning after December 31, 2010, the required audit report shall be completed within 6 months of the close of the local auditee's or vendor's fiscal year.

**Q.62. What is the provision for a sheriff whose settlements are delinquent? [R.S. 24:516\(B\)](#)**

**A.62.** Parish governing authorities and the governing authorities of other tax recipient bodies shall notify the LLA, in writing, whenever any sheriff is delinquent in making settlements.

## **H. Disaster Relief**

**Q.63. Does the LLA audit not-for-profit disaster relief or recovery organizations? [R.S. 24:513.4](#)**

**A.63.** Yes, the LLA is authorized to compile financial statements and to examine, audit, or review the books and accounts of any not-for-profit organization that is created by:

- a) a public official in the state of Louisiana,
- b) any political subdivision or agency,
- c) any special district or authority, or unit of local government or
- d) any other person for the purpose of accepting donations, charitable contributions, or other funds for disaster relief or recovery and whose existence is promoted in any manner by one or more public officials or public entities in LA.

For the purpose of Audit Law, these entities are considered “local auditees.”

**Q.64. What is the scope of the examination of not-for-profit disaster relief or recovery organizations, and what records may the LLA access?**

**R.S. 24:513.4**

**A.64.** The scope may include financial accountability, legal compliance and evaluations of the economy, efficiency, and effectiveness of the auditee's programs or any combination of these components.

The LLA shall have access to and be permitted to examine all papers, books, accounts, records, files, instruments, documents, films, tapes, and any other forms of recordation of the organization, including but not limited to computers and recording devices, and all software and hardware that hold data, are part of the technical processes leading up to the retention of data, or are part of the security system.

### **I. State Agency Self-Generated Fees**

**Q.65. How are State agency self-generated fees treated under the Audit Law?**

**R.S. 24:513(D)(4)(b)**

**A.65.** R.S. 24:513(D)(4)(b) provides that the LLA shall review the cost recovery budget request forms completed for each budget unit in the executive branch of State government as provided in R.S. 39:32 at least once every four years to determine if the fees are adequate to cover the costs associated with the service. The Legislative Auditor shall report his findings to the Joint Legislative Committee on the Budget.

## **VI. Financial Statement Reporting for Local Auditees**

### **A. General**

**Q.66. Which entities provide sworn financial statements to the LLA?**

**R.S. 24:514**

**A.66.** All auditees and local auditees shall annually furnish to the LLA sworn annual financial statements.

**Q.67. When must entities provide sworn financial statements to the LLA?**

**R.S. 24:514(E)(1)**

**A.67.** Usually between the 1st and 90th day following the close of the accounting year, as stated above. However, individual state agencies shall file annual financial statements within the time frame prescribed by the commissioner of administration.

**Q.68. Are there provisions for disasters or emergencies in the deadlines for reporting? What happens if the entity cannot timely file the engagement agreement due to a disaster or emergency?**

**R.S. 24:514(E)(2)**

**A.68.** Yes, at any time after declaration under the provisions of R.S. 29:724(B)(1) of a disaster or emergency that prevents a local auditee or quasi-public agency from timely furnishing sworn annual financial statements to the LLA or from filing an approved engagement agreement with the LLA within the 60 days allowed, the local auditee or quasi-public agency may request the LLA in writing for an extension of time to complete the financial statements or file the engagement agreement. The LLA has discretion to approve the request, subject to the approval of the LAAC.

Additional information on extension requests can be found here [Non-Compliance Extension Request Form](#) on the LLA website.

**Q.69. What is the prescribed form and content for the sworn financial statements?**

**R.S. 24:514**

**A.69.** The annual sworn financial statements shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and include all disclosures required by state and federal regulations and include a recital that the financial statements present fairly, in all material respects,

- the financial condition and results of operations of the auditee;
- that the entity has maintained a system of internal control structure sufficient to safeguard assets and comply with laws and regulations; and
- that the entity has complied with all laws and regulations, or shall acknowledge exceptions.

EXCEPT:

- Any local auditee that under LA law cannot issue bonds, may issue annual financial statements on the cash basis of accounting, provided that the statements describe all outstanding obligations and fixed assets of the local auditee, amounts due the local entities, and contain all disclosures required by state and federal regulations.
- The annual financial statements of the state shall be prepared in accordance with GAAP.
- The financial statements of individual state agencies, except the judiciary, shall be prepared in accordance with procedures and formats prescribed by the DOA.

- The financial statements of the judiciary shall be prepared in accordance with procedures and formats prescribed by the Judiciary Budgetary Control Council, provided that the procedures and formats provide for the compilation of the state's annual financial statements.

In accordance with R.S. 24:513(A)(3), a local auditee is required to report the compensation, reimbursements, and benefits paid to the agency head, political subdivision head, or chief executive officer related to the position, including but not limited travel, housing, unvouchered expenses, per diem, and registration fees. This information is required to be reported as a supplemental report within the local auditee's sworn financial statement.

A nongovernmental or not-for profit local auditee is only required to report the use of public funds for the expenditures itemized in the supplemental report.

For additional information concerning the supplemental reporting required under R.S. 24:513(A)(3), as amended by Act 706 of the 2014 Regular Session and Act 462 of the 2015 Regular Session, see the LLA's [FAQ on Supplemental Reporting Under R.S. 24:513\(A\)\(3\)](#).

**Q.70. What is the requirement regarding maintenance of vouchers and papers of auditees? [R.S. 24:514\(C\)](#)**

**A.70.** No officer shall destroy any voucher or other paper belonging to his office before it has been examined by the LLA or CPA authorized to perform an audit in lieu of the LLA.

**Q.71. Are there additional requirements for state, municipal and parochial retirement systems? [R.S. 24:514\(D\)](#)**

**A.71.** In addition to furnishing the annual sworn statements, all state, municipal, and parochial retirement systems funded wholly or partially out of public funds must annually (between the 1<sup>st</sup> and 120<sup>th</sup> day following close of the fiscal year of the retirement system) furnish to the LLA any actuarial valuations.

**Q.72. If the entity has engaged an independent CPA, must the entity also file the sworn financial statement? [R.S. 24:514\(F\)](#)**

**A.72.** No, the annual sworn financial statements shall not be filed by the reporting agency if:

1. The agency has filed with the LLA a timely (within sixty (60) days of the close of the fiscal year) approved engagement agreement to conduct an audit of its funds by a CPA,

2. The LLA has approved the terms and conditions of the engagement agreement and
3. The engagement agreement includes the period of the required report.

If, however, the agreement is for multiple fiscal years, financial statements must be submitted for the interim fiscal year.

**Q.73. How does the LLA use sworn financial statements? R.S. 24:514(G)**

- A.73.** The LLA shall use the annual sworn statements and actuarial valuations provided per [R.S. 24:514](#) in connection with the audits, reviews, and valuations that the LLA is authorized to conduct as provided by [R.S. 24:513](#) and [513.1](#). Any irregularities found shall be called to the attention of those responsible.

In case of any “irregularities or defalcations” or failure of any officer or employee to comply with the provisions of [R.S. 24:514](#) (i.e. filing a sworn financial statement), the LLA shall notify LAAC. Editor’s note: “Defalcation” is defined as embezzlement or failure to meet an obligation.

**Q.74. What is the penalty for failing to submit the sworn financial statement or for submitting an incorrect statement? R.S. 24:514(H)**

- A.74.** The LLA has the power to petition -- directly or through an authorized representative -- the courts for writs of mandamus to compel the filing of the sworn financial statements or actuarial valuations containing complete and accurate information. Any failure to obey a writ of mandamus issued by the court may be punished by the court as contempt.

If an auditee fails to submit a sworn financial statement, it may be deemed, pursuant to R.S. 39:72.1\*, to have failed to comply with the provisions of R.S. 24:513. The auditee would therefore be prohibited from having any funds directly or indirectly appropriated to the auditee in the General Appropriations Act, Capital Outlay Act, or any other appropriation act, or awarded from the Louisiana Department of Health Drinking Water Revolving Loan Fund, the Department of Environmental Quality Clean Water State Revolving Fund, or from the Office of Community Development programs for Community Development Block Grants, local government assistance program, disaster recovery grants, the Community Water Enrichment and Other Improvements Fund, or similar programs, released or provided to the auditee so long as it remained noncompliant.

Further, no auditee that fails or refuses to comply with the Audit Law shall let any contract, including a public contract, that utilizes any State funds, whether received through direct appropriation, through transfer or grant from another public entity, or whose funding relies upon the full faith and credit of the State.  
R.S. 39:72.1(A)(2)



Noncompliant auditees, which are not otherwise granted an extension to comply by the LLA and/or LAAC, are placed on the LLA's [Non-Compliance List](#).

If an auditee is in compliance with the Audit Law when it enters into a public contract related to public health, welfare, or safety, and later becomes non-compliant with the Audit Law, the Legislative Auditor may grant the auditee an extension of time to receive appropriated or awarded State funds to tender payments to contractors, subcontractors, suppliers, and others due payment under the existing contract. The auditee shall abide by any conditions imposed by the Legislative Auditor to monitor proper payment of funds due. R.S. 39:72.1(D)

The Louisiana Supreme Court has suspended a Justice of the Peace who failed to submit their sworn financial statements, as required under R.S. 24:513 and 24:514. The Court held that such noncompliance with the Audit Law constituted a violation of the Canons of the Code of Judicial Conduct.

*In re Myers*, 2014-1528 (La. 10/15/14); 156 So.3d 11; rehearing denied.

## **B. School Boards**

### **Q.75. What are the special requirements for financial statements of school boards?**

**R.S. 24:514(I)**

**A.75.** The annual financial statements of city, parish, and other local public school boards must be accompanied by schedules of performance and statistical data as may be developed by the LLA and legislative staff, with assistance from the state Department of Education (DOE), and approved by the House and Senate Committees on Education.

### **Q.76. What comprises the local school boards' performance and statistical data?**

**R.S. 24:514(I)**

**A.76.** The performance and statistical data shall provide assurances as part of the financial statement audits of local school boards to ensure that the information is complete and accurate.

The assurances provided on the performance and statistical data shall be used for reporting to the legislature by the DOE.

The LLA shall, during the annual audit of the financial statements of the state, review the DOE's compilation of performance and statistical data, as reported by the local school boards, within the annual financial and statistical report of the DOE.

**Q.77. What are the audit requirements of the Student Scholarship for Educational Excellence Program?**

**A.77.** [R.S. 17:4022\(3\)](#) and [R.S. 24:513\(A\)\(1\)\(b\)\(iv\)](#), relative to public funds received by schools as tuition payments under the Student Scholarships for Educational Excellence Program requires that participating schools shall submit to the State Department of Education an independent financial audit of the school. Schools shall account for all scholarship funds separately from other funds by maintaining funds in a separate account or by using accounting procedures that allow the Legislative Auditor to identify the separate funds.

The Program funds that private and parochial schools participating in the Student Scholarships for Educational Excellence Program receive are considered local or state assistance under [R.S. 24:513\(A\)\(1\)\(b\)\(iv\)](#). R.S. 17:4022(3) authorizes the Legislative Auditor to audit “irregularities” identified by the independent financial audit of the Program funds received by schools.

## **VII. Remedial Actions and Non-Compliance**

**Q.78. What are the remedial actions related to reports? [R.S. 24:519\(A\)](#)**

**A.78.** In any case in which an audit report issued by the LLA, or accepted by the LLA pursuant to Audit Law ([R.S. 24:513](#)), cites reportable conditions or includes a management letter or other irregularities, as required by [R.S. 24:516](#) to be reported, the head of the auditee to which the audit report pertained shall, within thirty (30) days of receipt of the report, advise the LAAC in writing of any remedial actions taken on the matters cited in the report or remedial action to be taken in the future.

**Q.79. What may happen if a local auditee fails to sufficiently resolve findings contained in an audit report for three consecutive years?**

**A.79.** If a local auditee fails for three consecutive years to sufficiently resolve findings contain in an audit of the local auditee, LAAC may, after giving notice and hearing in accordance with [R.S. 24:554\(B\)\(2\)](#), determine that the local auditee has failed or refused to comply with the provisions of the Audit Law and may direct, upon a 2/3 vote of the members of the Council, the Treasurer to withhold funds to the local auditee in accordance with [R.S. 39:72.1](#).

**Q.80. What are the remedial actions if the audit report contains allegations of illegalities or fraud? [R.S. 24:519\(B\)](#)**

**A.80.** When the audit report discloses illegalities or fraud and a copy has been sent to the DA of the proper jurisdiction, the DA shall within thirty (30) days advise the chairman of the LAAC as to action taken or proposed in connection with the illegality or fraud cited in the audit report.

When future action is to be taken by the DA, the LAAC shall set a date for receipt of further advice.

**Q.81. What if an agency head fails to report remedial action taken to LAAC as required? [R.S. 24:519](#)**

**A.81.** When advice regarding remedial action is not sent from the head of the agency audited within thirty days from the auditee's receipt of the report, or when it is evident that suitable action has not been taken, LAAC shall report the matter to the Legislature at its next regular session for action as the Legislature deems advisable.

**Q.82. Who is an "agency head" and what is an "agency" under [R.S. 24:523](#)? [R.S. 42:1102\(2\)\(a\) & \(3\)](#)**

**A.82.** "Agency head" is the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency.

The "agency" is a department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity. "His agency" or "her agency" when used in reference to the agency of a public servant shall mean:

- For public servants in the twenty (20) principal departments of the executive branch of state government, the office in which the public servant carries out his or her primary responsibilities; except that in the case of the secretary, deputy secretary, or undersecretary of any department and officials carrying out the responsibilities of the department officers, it means the department in which she or he serves; and except that in the case of public servants who are members or employees of a board or commission or who provide staff assistance to a board or commission, it means the board or commission.
- For the governor and lieutenant governor, it means the executive branch of state government.
- For public servants in the office of the governor or the lieutenant governor it means their respective offices.
- For public servants in the legislative branch of state government, it means the agency or house of the legislature by which a public employee is employed and the legislative branch in the case of legislators.
- For public employees, except judges of the supreme court, courts of appeal, district courts, and other courts authorized by Article V of the Constitution of

1974, it means the court in which the public employee serves and any other court in which decisions of that court may be reviewed.

- For public servants of political subdivisions, it means the agency in which the public servant serves, except that for members of any governing authority and for the elected or appointed chief executive of a governmental entity, it means the governmental entity. Public servants of political subdivisions include, but shall not be limited to, elected officials and public employees of municipalities, parishes, and other political subdivisions; sheriffs and their employees; DA's and their employees; coroners and their employees; and clerks of court and their employees.

**Q.83. What if the District Attorney fails to advise the Chairman of LAAC of the action that he has taken or proposes to take in connection with illegalities or fraud cited in an audit report of an auditee? [R.S. 24:519\(B\)](#)**

**A.83.** When the District Attorney fails to advise the Chairman of LAAC of the actions that he has taken or proposes to take in connection with illegalities or fraud cited in an audit report of an auditee, LAAC shall report the matter to the Legislature at its next regular session for action as the Legislature deems advisable.

## **VIII. Penalties**

**Q.84. What are the consequences for failing to file an audit? [R.S. 24:518\(D\)](#)**

**A.84.** To encourage timely and properly conducted audits, [R.S. 24:518\(D\)](#) was enacted for those local auditees that repeatedly fail to provide for an audit, or fail to provide the proper records necessary to conduct an audit.

- If the type of audit report received by a local auditee from a licensed certified public accountant for three consecutive years is a disclaimer of opinion as defined by Generally Accepted Auditing Standards; and
- the same person has served as agency head of the local auditee for those three consecutive years; and
- the Legislative Auditor determines that the agency head willfully failed to provide or maintain the necessary records to conduct the audit;
- then those three audit reports shall be evidence of malfeasance in office by the agency head.

**Q.85. What are the penalties for violation of audit law? [R.S. 24:513\(K\)](#)**

**A.85.** Whoever violates the provisions of [R.S. 24:513, et seq.](#) (Audit Law) shall be fined not more than \$1,000 and shall be deemed guilty of malfeasance and gross misconduct in office, and shall be subject to removal.

In addition, a local auditee which fails to comply with the provisions of the Audit Law will be prohibited from receiving any appropriated funds, including pass through funds, pursuant to R.S. 39:72.1, until such time as the auditee comes into compliance or during any extension of time granted by the LLA or the Legislative Audit Advisory Council in order to obtain compliance.

[R.S. 38:2211.1](#) and [R.S. 39:72.1\(A\)\(2\)](#), provide that any public entity which has pursuant to R.S. 39:72.1 failed or refused to comply with the provisions of the Audit Law shall be prohibited from letting any contract, including a public contract, under the Public Bid Law which utilizes any State funds, whether received through direct appropriation, through transfer or grant from another public entity, or whose funding relies upon the full faith and credit of the State. State funds for the purpose of the prohibitions in R.S. 38:2211.1 includes any Federal funds, including grants, that pass through the State.

If an auditee is in compliance with the Audit Law when it enters into a public contract related to public health, welfare, or safety, and later becomes non-compliant with the Audit Law, the Legislative Auditor may grant the auditee an extension of time to receive appropriated or awarded State funds to tender payments to contractors, subcontractors, suppliers, and others due payment under the existing contract. The auditee shall abide by any conditions imposed by the Legislative Auditor to monitor proper payment of funds due. R.S. 39:72.1(D)

**[Q.86.](#) What is the authority of the LLA if the auditee refuses to produce requested information? [R.S. 24:513\(M\)](#)**

**A.86.** The LLA may request that the Legislature, through LAAC, compel the production of public and private books, documents, records, papers, films, tapes, and electronic data processing media.

The chairman of the LAAC may issue a legislative subpoena for the production of documentary evidence to compel the production of any books, documents, records, papers, films, tapes, and electronic data processing media regarding any transaction involving a governmental entity.

The subpoena may be served by registered or certified mail, return receipt requested, to the addressee's business address, or by representatives appointed by the LLA, or shall be directed for service to the sheriff of the parish where the addressee resides or is found.

**[Q.87.](#) What is the penalty for refusal to obey the subpoena? [R.S. 24:513\(M\)\(2\)](#)**

**A.87.** If a person refuses to obey a subpoena, a judicial district court, upon application of the chairman of the LAAC, at the request of the LLA, may issue an order requiring

the person to appear before the court to show cause why he or she should not be held in contempt for refusal to obey the subpoena.

Failure to obey a subpoena may be punished as a contempt of court.

**Q.88. What are the penalty provisions for audit related matters?**

**R.S. 24:518**

**A.88.** The penalties include fines, imprisonment and removal from office. Any auditee, local auditee, or public officer, employee, or other person of the auditee shall be fined not less than five hundred (\$500) dollars, nor more than five thousand (\$5,000) dollars, or imprisoned for not less than ten (10) days, nor more than six (6) months, or both who:

- Neglects, fails or refuses, to furnish the LLA with papers, accounts, books, documents, films, tapes, and other forms of recordation, including but not limited to computer and recording devices, whether confidential or otherwise, that the LLA has the right to inspect and examine, or
- Denies the LLA access to the office, or to papers, accounts, books, documents, films, tapes, and other forms of recordation, including but not limited to computer and recording devices, whether confidential or otherwise, that the LLA has the right to inspect or examine, or
- Refuses, fails, or neglects to transmit to the LLA reports, statements of accounts or other documents upon request as provided by law, or
- Otherwise in any manner, obstructs or impedes the LLA in making an examination authorized by law.

Any officer of an auditee or local auditee who violates any of the provisions of Audit Law shall, in addition to the above fines and penalties, be deemed guilty of malfeasance and gross misconduct in office, and shall be subject to removal.

**Noncompliant List**

**R.S. 24:518(D)** provides that if the type of audit report received by a local auditee from a licensed certified public accountant for three consecutive years is a disclaimer of opinion\* as defined by Generally Accepted Auditing Standards, and if the same person has served as agency head of the local auditee for those three consecutive years, and if the Legislative Auditor determines that the agency head willfully failed to provide or maintain the necessary records to conduct the audit, then the three audit reports shall be evidence of malfeasance in office by the agency head.

*\* A disclaimer of opinion is a statement by auditors that they do not express an opinion on the financial position of an entity because (1) they have not completed an examination of its accounts or (2) the examination is not broad enough in scope to enable them to form an opinion.*

*If an entity's audit results in its auditor's disclaimer of opinion, that is treated the same way as if the entity did not have an audit at all.*

In addition, a local auditee which fails to comply with the provisions of the Audit Law will be prohibited from receiving any appropriated funds, including pass through funds, pursuant to R.S. 39:72.1, until such time as the auditee comes into compliance or during any extension of time granted by the LLA or the Legislative Audit Advisory Council in order to obtain compliance.

Further, no auditee that fails or refuses to comply with the Audit Law shall let any contract, including a public contract, that utilizes any State funds, whether received through direct appropriation, through transfer or grant from another public entity, or whose funding relies upon the full faith and credit of the State. R.S. 39:72.1(A)(2)

Noncompliant auditees are placed on the [LLA's Noncompliance List](#).

If an auditee is in compliance with the Audit Law when it enters into a public contract related to public health, welfare, or safety, and later becomes non-compliant with the Audit Law, the Legislative Auditor may grant the auditee an extension of time to receive appropriated or awarded State funds to tender payments to contractors, subcontractors, suppliers, and others due payment under the existing contract. The auditee shall abide by any conditions imposed by the Legislative Auditor to monitor proper payment of funds due. R.S. 39:72.1(D)

**Q.89. What penalties exist for persons who fail to submit information to the LLA?**  
**R.S. 24:518(A)**

**A.89.** Any auditee, local auditee, or public officer, employee or other person of said auditee:

- Who neglects, fails or refuses to timely furnish to the LLA the materials (papers, accounts, books, documents, films, tapes, and other forms of recordation, including but not limited to computer and recording devices, whether confidential or otherwise) that the auditee has the right to inspect and examine, or
- Who shall deny the LLA access to the office, or to materials (papers, accounts, books, documents, films, tapes, and other forms of recordation, including but not limited to computer and recording devices, whether confidential or otherwise) that the auditee has the right to inspect or examine, or

- Who refuses, fails, or neglects to transmit to the LLA reports upon request as provided by law, statements of accounts or other documents, or who obstructs or impedes the auditee in making an examination authorized by law or
- Who, otherwise in any manner, obstructs or impedes the LLA in making the examination authorized by law

shall be fined not less than five hundred (\$500.00) dollars nor more than five thousand dollars (\$5,000), or imprisoned for not less than ten (10) days nor more than six (6) months, or both.

## **IX. Audit Reports**

### **Q.90. Does the LLA file copies of audit reports with any entity or the public?** [R.S. 24:516\(A\)\(1\)](#)

**A.90.** Yes, the LLA is required to file copies of all released audit reports with the governor, the Attorney General, and the office investigated.

For purposes of public inspection, the LLA shall make available via his website copies of all audit reports whether prepared by his office or accepted by the LLA pursuant to [R.S. 24:513\(A\)](#) and [R.S. 46:1064\(B\)](#).

The copies may be filed electronically; the LLA shall, however, make actual paper copies of such reports available to any of these officials upon their request.

Prior to 2018, the LLA was required to file all audit reports with the clerk of court of the parish where the LLA investigated. However, [Act 274 of 2018 Regular Session](#) repealed that provision of [R.S. 24:516\(A\)](#). Instead, all audit reports are made available for public inspection via the LLA's website.

[LLA Audit Report Library](#)

### **Q.91. What information must the filed reports contain?** [R.S. 24:516\(A\)\(2\)](#)

**A.91.** All reports shall call attention to matters required by governmental auditing standards, including reportable conditions, failure to comply with laws and regulations, and any additional matters that may be included in a management letter.

Reports shall make specific recommendations to avoid future problems and shall include management's response.



**Q.92. Are the audit reports of the LLA subject to public records requests?**

**R.S. 24:513(G)**

**A.92.** Yes, the audit reports issued or accepted by the LLA shall be subject to the laws providing for inspection of public records and shall be available in the office of the LLA 3 days after the date of issuance of the reports. The work papers of the LLA, however, are exempted from the Public Records Law. R.S. 44:4(6). The AG has opined that “the working papers of the LLA are exempt from the Public Records Act, even after the audit is complete.”

**AG Op. No. 08-0055A** states:

According to the Legislative Auditor, it has been their policy that unless a subpoena has been issued, or a confidentiality agreement has been entered into, they refuse access to records exempted from the Public Records Act. Considering the position of the Legislative Auditor, out of an abundance of caution, it is advisable that the Louisiana Legislative Auditor continue this policy.

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Additionally, the Legislative Auditor is obligated to keep confidential any material covered by La. **R.S. 24:513(I)**, which provides,

The authority granted to the Legislative Auditor in this Section to examine, audit, inspect or copy shall extend to all books, accounts, papers, documents, records, files, instruments, films, tapes, and any other forms of recordation, including but not limited to computers and recording devices, whether confidential or otherwise. However, the Legislative Auditor shall comply with any and all restrictions imposed by law on documents, data, or information deemed confidential by law and furnished to the Legislative Auditor.

**Q.93. What other reports must be filed by the Legislative Auditor?**

**A.93.** Joint Legislative Committee on the Budget (JLCB) Reports

**R.S. 24:516.1** requires the Legislative Auditor to file certain audit reports quarterly with the JLCB. These reports include audits performed by or accepted by the Legislative Auditor pursuant to **R.S. 24:513(A)** that have an impact of \$150,000 or more relative to waste, theft or other enumerated failures in government.

The statute also provides that the Legislative Auditor shall report any auditee that fails to take corrective action on an audit finding that has an impact of \$150,000 or more -- thereby causing a finding to be reported for two or more consecutive years.

Finally the Legislative Auditor is required to prepare an annual report and submit it to the JLCB by February 15th of each year. The contents of the report may be used in deliberation of the executive budget.

**Q.94. May the LLA request assistance from other entities or the auditees in performing an audit? [R.S. 24:513\(H\)\(1\) & \(2\)](#)**

**A.94.** [R.S. 24:513](#)(H) directs all auditees and their officials and staff to assist the LLA in his work and to furnish information, reports, aid, services, and assistance as may be requested, all without any cost or charge.

Additionally, it is the duty of the Attorney General (AG) and the local district attorney (DA) to give assistance to the LLA. The AG must render his opinion in writing on any subject requested by the LLA.

Each auditee shall designate an individual who shall be responsible for filing annual financial reports with the LLA and shall notify the LLA of the name and address of the person so designated.

A governmental entity that provides funding to a quasi-public agency or body shall notify each such quasi-public agency or body of the requirements of this Paragraph.

**Q.95. What procedure is specified if a report contains an alleged criminal act or violation of the Code of Governmental Ethics? [R.S. 24:516\(A\)\(2\)](#)**

**A.95.** If the report discloses any alleged criminal acts by any public officer or employee, the LLA shall furnish an additional copy of the report to the DA of the parish where the offense was committed. If the report discloses any alleged violations of the Code of Governmental Ethics, the LLA shall furnish an additional copy of the report to the Board of Ethics.

## **X. Actuarial Notes**

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**Q.96. What is an “actuarial note,” and where is it found? [R.S. 24:521](#)**

**A.96.** An actuarial note is a brief explanatory statement or note that includes a reliable estimate of the fiscal and actuarial effect of a proposed legislative change in any retirement system. The actuarial note does not constitute a part of the law or other provisions or expression of legislative intent proposed by the bill or resolution.

The actuarial note must:

- be attached to every bill, joint resolution, and simple or concurrent resolution introduced in the Legislature proposing any change in the law relative to any state, municipal or parochial retirement system, funded in whole or in part out of public funds.
  - be attached to the proposed legislation at the time of its consideration by any committee of either house of the Legislature.
-

- be attached to the original of each proposed bill or resolution that is reported favorably by any committee of either house of the Legislature, but shall be a separate document and shall be clearly designated as an actuarial note.
- Include any impact on the costs to or the revenues of the retirement system and the estimated fiscal impact on governmental entities, including the effect on Federal, State, and local funds.

NOTE: The Louisiana Supreme Court analyzed the role the actuarial note plays in proposed retirement legislation in the case entitled, *Retired State Employees Ass'n v. State*, 2013-0499 (La. 6/28/13). The Court stated as follows regarding the actuarial note:

**“Finally, we hold [La. Const. art. III, § 11](#), and La. Rev. Stats. [24:513](#) and [24:521](#), when read together, mandate that the Legislative Auditor shall prepare the requisite actuarial note to be attached to any proposed retirement legislation, and this note is determinative of whether [La. Const. art. X, § 29\(F\)](#) applies to require a two-thirds vote for enactment of the proposed legislation.”**

**Q.97. Who prepares the actuarial note for the Legislature? [R.S. 24:521\(B\)\(1\)](#)**

**A.97.** For each bill or resolution for which an actuarial note is required, a request for an actuarial note must be presented to the LLA, who has the duty to prepare the note as promptly as possible by employing a legislative actuary in accord with R.S. 24:513(D)(2)(a). Actuarial notes must be prepared in the order of receipt of request for the notes.

The actuarial note for any bill pre-filed at least 45 days prior to a regular session of the Legislature shall be completed and filed at least five days prior to the convening of that session.

**Q.98. Who requests the actuarial note from the LLA? [R.S. 24:521\(B\)\(2\)](#)**

**A.98.** Usually, the author of the proposed legislation makes the request. Within seven (7) days after the transmittal to the author of the bill or resolution along with a memorandum indicating the bill or resolution may require an actuarial note, the author may instruct, in writing addressed to the chief clerical officer of the house in which the member serves, that an actuarial note be obtained or that no actuarial note be obtained.

Each written instruction received shall be recorded and preserved in the file maintained for the bill or resolution.

**Q.99.** What happens if prior to the seven (7) day time period, the author instructs that no actuarial note be obtained or if the author does not send a written request within the time period? [R.S. 24:521\(B\)\(3\)&\(4\)](#)

**A.99.** If the author instructs that no actuarial note be obtained, no request for an actuarial note will be made prior to the pre-filing or introduction of the bill or resolution. If the author does not send written instructions within the seven (7) day period, the chief clerical officer of the house in which the author is a member may request an actuarial note for the bill or resolution at any time prior to pre-filing or introduction. In determining whether an actuarial note should be requested, due consideration shall be given to the recommendation of the staff of the house in which the author is a member.

In addition, at pre-filing or introduction, the chief clerical officer may request an actuarial note, and the chairman of the committee to which the bill or resolution is referred may request an actuarial note immediately upon referral of the bill or resolution.

**Q.100.** What information should the actuarial note contain? [R.S. 24:521\(C\)](#)

**A.100.** The note shall be factual in nature, brief and concise, and shall, if possible, provide a reliable estimate in dollars.

The note shall:

- Include both the immediate effect and, if determinable or reasonably foreseeable, the long range fiscal and actuarial effect of the measure.
- The fiscal and actuarial effect of the measure shall include any impact on the costs to or the revenues of the retirement system and the estimated fiscal impact on governmental entities, including the effect on Federal, State, and local funds.
- Shall set forth the reasons why no dollar estimate can be given if, after careful investigation, it is determined that no dollar estimate is possible.

**Q.101.** Does an actuarial note make a recommendation to the author or the Legislature regarding the proposed instrument? [R.S. 24:521\(C\)](#)

**A.101.** No. The actuarial note should not include a comment or opinion with regard to the merit, or lack thereof, of the measure for which the note is prepared. However, technical or mechanical defects may be noted.

**Q.102. What happens if the proposed legislative instrument is amended after the actuarial note is prepared? [R.S. 24:521\(D\)](#)**

**A.102.** Any time a committee of either house reports any legislative instrument, to which an actuarial note was attached at the time of committee consideration, with any amendment that would substantially affect the costs to or the revenues of any retirement system or the estimated fiscal impact on governmental entities, including the effect on Federal, State, and local funds as stated in the actuarial note attached to the measure at the time of consideration, it is the responsibility of the chairman of the committee reporting the instrument to obtain from the LLA an actuarial note of the fiscal and actuarial effect of the change proposed by the amendment.

The revised actuarial note shall be attached to the report of the committee on the measure as a supplement, but shall not be printed in the journal.

**Q.103. What if a floor amendment is offered without an actuarial note? [R.S. 24:521\(D\)](#)**

**A.103.** The proposed amendment could be withdrawn. If a floor amendment is offered in either house to any bill or resolution, to which an actuarial note was attached at the time of committee consideration or committee report, and if the amendment would substantially affect the cost to or the revenues of any retirement system or the estimated fiscal impact on governmental entities, including the effect on Federal, State, and local funds as stated in the most recent actuarial note and the member proposing such amendment does not present to the house an actuarial note prepared by the LLA as to the fiscal and actuarial effect of his proposed amendment, any member may offer a motion that the proposed amendment be withdrawn.

A provision exists to correct the omission. If the motion is adopted by the favorable vote of a majority of the quorum present, the amendment is deemed to be withdrawn, though the amendment may be proposed again at any time it would otherwise be in order, provided that the required actuarial note is presented at that time.

**Q.104. What is the duty of the LLA regarding confidentiality of subject matter of proposed legislation? [R.S. 24:521\(E\)](#)**

**A.104.** Prior to pre-filing or introduction, the subject matter of bills or resolutions submitted to the LLA for preparation of the required information for actuarial notes shall be kept in strict confidence. No information relating to the proposed instrument or relating to the fiscal or actuarial effect of any such bill or resolution shall be divulged by the LLA or any of his employees, except to:

1. The author or authors of the bill or resolution,

2. The chief clerical officer and the staff of the house in which the author serves, and
3. The legislative fiscal officer and his staff.

**Q.105.** Who receives copies of the actuarial note? [R.S. 24:521\(E\)](#)

**A.105.** After pre-filing or introduction, copies of the actuarial note on any bill or resolution shall be furnished to the author, the chief clerical officer of the house in which the author is a member, and the committee to which the bill or resolution is referred.

## **XI. Performance Audit**

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**Q.106.** What law establishes the Louisiana Performance Audit Program? [R.S. 24:522\(A\)](#)

**A.106.** R.S. 24:522 establishes the LA Performance Audit Program to identify and plan for the state's long-term needs and to find solutions to current fiscal problems.

**Q.107.** To which entities does the Louisiana Performance Audit Program apply? [R.S. 24:522\(B\)](#)

**A.107.** The LA Performance Audit Program applies to “state agencies” defined as “any state agency, office, department, board, commission, institution, division, committee, program, or legal entity, currently existing or created within the legislative or executive branch of state government, including an institution of higher education,” but does not apply to any agency, governing body, or officer of any local government or political subdivision of the state.

**Q.108.** Are there special performance audit provisions associated with the GRAD Act?

**A.108.** The GRAD Act, (Louisiana Granting Resources and Autonomy for Diplomas Act) amended [R.S. 17: 3139.4](#) to require the LLA, in cooperation and coordination with the Board of Regents, to annually audit data submitted or to be submitted to the Board of Regents as institution’s indicators of meeting performance objective targets established under R.S. 17:3139 to ensure the data is reliable. The auditor shall complete all audits pursuant to this R.S. 17:3139.4 and report findings to the Board of Regents and to the legislature prior to the board's annual vote on whether an institution will be able to exercise R.S. 17:3139 tuition authority. Each institution shall provide to the LLA all information that the auditor requests for R.S. 17:3139.4 audits. The LLA shall charge the actual costs of the audits to the institution being audited; no institution, however, shall be charged more than ten thousand dollars (\$10,000) in any single fiscal year unless the LAAC authorizes a higher amount. The

council may authorize the auditor to charge an institution more than \$10,000 in a fiscal year if the additional actual costs are proven to be related to the scope of work described in this Subsection. No provision of this Subsection shall be construed to limit the authority of the auditor under any other provision of law. The LLA shall, to the extent feasible and in the best interests of the state, take steps to minimize disruption of normal operations at the institutions, e.g., conducting GRAD Act audits in conjunction with the institution's financial audit.

**Q.109. What does the Louisiana Performance Audit Program provide to the Legislature? [R.S. 24:522\(C\)](#)**

**A.109.** The Louisiana Performance Audit Program provides the Legislature with evaluation and audit of the functions and activities of the agencies of state government.

**Q.110. How does the LLA evaluate and audit the agencies for the Louisiana Performance Audit Program? [R.S. 24:522\(C\)\(1-10\)](#)**

- A.110.** The Louisiana Performance Audit Program evaluations and audits are based on appropriate standards. To accomplish this, the LLA may:
- 1) Evaluate the basic assumptions underlying any and all state agencies and the programs and services provided by the state to assist the Legislature's identification of those that are vital to the best interests of the people of the state of Louisiana and those are not.
  - 2) Evaluate the programs, policies, services, and activities administered by the agencies of state government and identify overlapping functions, outmoded programs or methodologies, areas needing improvement, and/or programs amenable to privatization.
  - 3) Evaluate the impact, effectiveness, and cost-effectiveness of all state agencies and of their programs, services, and activities.
  - 4) Evaluate the efficiency with which state agencies operate the programs under their jurisdictions and fulfill their duties.
  - 5) Evaluate methods agencies use to maximize the amount of Federal and private funds received by the state for its programs in order to ensure that the people of Louisiana receive a fair share of the taxes paid to the United States government and to provide for the effective, efficient use of private resources.
  - 6) Evaluate the management of state debt.
  - 7) Evaluate the assessment, collection, and application of user fees.

- 8) Make recommendations each year relative to the programs and services the various state agencies provide as well as recommendations for elimination of or reduction in funding for agencies, programs, or services based on the results of performance audits. Such recommendations shall be submitted in a report to each member of the Legislature no later than February fifteenth each year.
- 9) Make annual recommendations to the appropriate oversight committees of the Legislature and LAAC as to amendments to statutory and constitutional provisions that will improve the efficiency of state government, including, if appropriate, recommendations concerning the reorganization or consolidation of state agencies.
- 10) Evaluate the methods used by each agency in the estimation, calculation, and reporting of its performance, and evaluate the actual outcomes of each agency's performance with regard to its performance indicators as defined in [R.S. 39:2](#). Provide agencies with information relative to the methods used to evaluate their performance.

**Q.111. How do state agencies assist the LLA with performance audits?**

[R.S. 24:522\(D\)](#)

- A.111.** All state agencies and their officials and staff shall assist the LLA and furnish requested information, reports, aid, services, and assistance, all without any cost or charge to the LLA.

All state agencies shall develop specific goals and objectives for each of their programs to include measures of performance. They shall report on program goals and objectives in developing annual budgets and shall submit such information to the legislature as a part of the appropriations process.

**Q.112. What other entities assist the LLA in conducting performance audits under R.S. 24:522?**

- A.112.** The LLA may request assistance (including the use of personnel from the state treasurer, the commissioner of administration, and administrators of the various state agencies) that may be necessary to enable accomplishment of the goals of the performance audits.

**Q.113. Does the annual audit of the legislative branch include a performance audit? If so, by what standards?**

[R.S. 24:522\(G\)](#)

- A.113.** Yes, the annual audits of the legislative branch of state government shall include performance audit issues consistent with the LLA's audits of the executive branch of state government.



**Q.114.** Are state employees encouraged to participate in performance audits?  
[R.S. 24:522\(H\)](#)

**A.114.** Yes, state employee involvement is encouraged by the reward and recognition policy approved by the State Civil Service Commission.

**Q.115.** Does the LLA have responsibility for performance audits of the judicial branch of state government?  
[R.S. 24:522\(J\)](#)

**A.115.** No, all provisions relating to judicial strategic planning, performance budgeting, the judicial appropriation bill, and judicial performance reporting and auditing shall be strictly governed by the provisions of Part I-A of Chapter 2 of Title 13 of the Louisiana Revised Statutes of 1950. [R.S. 13:85](#) provides that judicial administrators do the performance audits.

**Q.116.** How often does the LLA audit the executive branch of government under the Louisiana Performance Audit Program?  
[R.S. 24:522 \(K\)](#)

**A.116.** The LLA follows a schedule for execution of performance audits that ensures the completion and publishing of the audits of no fewer than two different agencies from at least two different executive departments in each year. These audits are published no later than thirty (30) days prior to commencement of the regular session of the legislature. The schedule is constructed to ensure that within the seven-year (7) period beginning with the 1997-98 FY, at least one performance audit is completed and published for each of the twenty (20) departments of the executive branch of state government.

## **XII. Notice and Other Records Issues**

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**Q.117.** What are the notice requirements for auditees' books and records?  
[R.S. 24:515\(A\)](#)

**A.117.** All auditees shall designate or provide an office for their secretary, treasurer, or principal finance officer where their books and records must be kept.

**Q.118.** Who determines the form for all accounts of public funds?  
[R.S.24:515\(A\)](#)

**A.118.** The LLA prescribes the form, and has the authority to install a system of accounting in any office that the LLA is authorized to examine and audit.

Any failure of any auditee to furnish the LLA with any information requested shall be immediately reported to LAAC, which shall take whatever action it may deem proper.

**Q.119. Who maintains the records of immovable property and fixed assets of the auditee? [R.S. 24:515\(B\)\(1\)](#)**

**A.119.** The head of every auditee subject to examination and audit under the provisions of [R.S. 24:513](#)(A), shall maintain records of all immovable property such as land and buildings, improvements other than buildings, and equipment, and any other general fixed assets that were purchased or otherwise acquired, and for which the entity is accountable.

**Q.120. What information must be included in the records of immovables and fixed assets? [R.S. 24:515\(B\)\(1\)](#)**

**A.120.** The records shall include:

- a) the date of purchase of the property or equipment,
- b) the initial cost,
- c) the disposition, if any,
- d) the purpose of any disposition, and
- e) the recipient of the property or equipment disposed of.

The records shall not include office supplies.

The records shall be used as one criteria in determining the rating that the auditee will be given.

The records required to be maintained for state government shall be prepared on forms and conform to procedures developed and established by the DOA in accordance with the APA.

*Note: If determining the exact cost, exact selling price, or any other relevant information on property or equipment obtained prior to January 1, 1980, creates a hardship on the auditee, the agency may provide estimates of the information.*

**Q.121. When and to whom should the records of immovables and fixed assets be made available? [R.S. 24:515\(B\)\(1\)](#)**

**A.121.** The records shall be made available to the LLA or, when the audit is conducted by a CPA, to the CPA, at the time of examination and audit of the auditee, or any time they are requested by the LLA or CPA.

### **XIII. Reporting Fraud, Waste and Abuse**

**Q.122. How may fraud, waste and abuse be reported?**

**A.122.** [R.S. 24:523.1](#) provides for the posting of notices relative to misappropriation, fraud, waste, or abuse of public funds. Every auditee is required to post and keep posted, in conspicuous places on its premises and website, a notice prepared by the Legislative Auditor and located on the LLA website, setting forth information concerning the reporting of the misappropriation, fraud, waste, or abuse of public funds.

Click here for [Fight Fraud Hotline](#) on the LLA website

**Q.123. What procedure must an agency head follow if he or she suspects impropriety in the management of public funds? [R.S 24:523](#)**

**A.123.** An agency head who has actual knowledge of, or reasonable cause to believe, that there has been a misappropriation of the public funds or assets of his agency shall immediately provide written notice of the misappropriation to the Legislative Auditor and the district attorney of the parish in which the agency is domiciled. “Reasonable cause” shall include information obtained as a result of the filing of a police report, an internal audit finding, or other source indicating occurrence of a misappropriation of agency funds or assets.

**Q.124. May misappropriated funds be recovered from the responsible party? [R.S. 24:523](#) and [R.S. 24:524](#)**

**A.124.** When a misappropriation is discovered and reported, the Attorney General, at the request of the Legislative Auditor, is authorized to recover by civil suit misappropriated funds from the responsible party. Additionally, the Attorney General and District Attorneys are tasked with seeking restitution of these costs in any criminal proceeding against a responsible party.

If an auditee has already paid the costs of an audit to the LLA, then costs obtained from responsible parties will be utilized to reimburse the auditee.

**Q.125. May the Legislative Auditor recover costs of investigating fraud, theft, or misappropriation?**

**A.125.** [R.S. 24:524](#) provides for recovery of costs incurred by the Legislative Auditor to audit, investigate, or report possible fraud, theft, or other misappropriation by civil suit filed by the Attorney General against the responsible party. Additionally, the Attorney General and District Attorneys are tasked with seeking restitution of these costs in any criminal proceeding against a responsible party.

If an auditee has already paid the costs of an audit to the LLA, then costs obtained from responsible parties will be utilized to reimburse the auditee.

#### **XIV. Injunctions Regarding Issuance of Audits**

**Q.126.** Is there a specific legal process required to prevent the issuance of an audit?  
**R.S. 24:513(G)(2)**

**A.126.** Yes. R.S. 24:513(G)(2) provides the legal process which must occur in any action seeking a court to restrain the issuance of an audit by the Legislative Auditor. The process required is as follows:

Application for injunction and hearing before the 19<sup>th</sup> Judicial District Court in the Parish of East Baton Rouge.

- Any application or petition to the 19<sup>th</sup> JDC seeking a temporary restraining order (TRO), preliminary injunction, or permanent injunction barring the issuance of an audit report by the Legislative Auditor shall be assigned for hearing within at least ten days but no less than two days from date of legal service; and
- Any order granting or denying the TRO or injunctive relief shall be rendered by the district court within forty-eight (48) hours of the conclusion of the court hearing.

Appeal – 1<sup>st</sup> Circuit Court of Appeal

- If an aggrieved party seeks an appeal of the district court's decision, the appeal shall be filed in the First Circuit Court of Appeal no later than seven days from the district court rendering its judgment;
- The matter shall be given preference over other cases and be tried on the original record; and
- The Court of Appeal shall render its decision within ten days after the matter has been submitted (on briefs or following oral argument).

## **XV. Uniform Reporting and Electronic Access Requirements**

### **Q.127. Are there uniform reporting requirements for certain types of audits?**

**A.127.** R.S. 24:515.2, enacted with [Act 87 of the 2020 Regular Session](#), requires the LLA to develop a uniform format for audit reports for local and state auditees that assess, collect, or receive revenue from pre- or post-adjudication costs, fines, and fees.

The law further provides that the report shall require the reporting of information that helps to provide a more complete and accurate understanding of the types of costs, fines, and fees that are assessed, the amounts of the assessments, how the assessed amounts are collected and disbursed, and the cost of collecting the assessed amounts.

The law requires the LLA and the Louisiana Supreme Court to:

- (1) Require that uniform audit reports include the amounts of all pre- and post adjudication court costs, fines, and fees assessed or imposed; the amounts collected; the amounts outstanding; the amounts retained; the amounts disbursed; and the amounts received from disbursements.
- (2) Develop, supervise, and require the use of uniform, standardized, and consistent terminology.
- (3) Develop reporting schedules to assist auditees with the standardized and uniform reporting requirements.

The law provides for the review and revision of the reporting schedule and deadlines for initial implementation of this new law

Current information on this required reporting, including copies of the required schedules and contact information for questions, can be found on the LLA's website at the following link:

[Justice System Funding Reporting \(Act 87\)](#)

### **Q.128. What are the electronic access requirements?**

**A.128.** R.S. 24:513(P) provides that upon request, either pursuant to a concurrent resolution adopted by the Legislature or a written joint request from the speaker of the House and the president of the Senate, an auditee of state government shall provide the LLA with electronic access to a synchronized copy of data points as they exist in the auditee's system.

The LLA shall utilize this data to perform and fulfill his constitutional and statutory duties as a fiscal advisor to the Legislature and to audit the fiscal records of the state and other entities. The LLA must comply with any and all restrictions imposed by law on any of the data received pursuant to this provision that is deemed confidential, privileged, or otherwise restricted. Any reports which use such data to be released or published in a manner that maintains any and all such restrictions.

The LLA is required to develop a plan for the implementation of this provision and such plan is subject to the review and approval of the Legislative Audit Advisory Council.

Any costs related to establishing the portals or connectivity necessary for auditees to comply with this provision shall be subject to the approval of the speaker of the House of Representatives and the president of the Senate.

This provision of law does not apply to the Dept. of Justice or the Dept. of State and shall not be construed to require electronic access to information if the information is protected by attorney-client privilege or if disclosure of the information is prohibited by federal law, rule, or regulation or contractual obligation.

The same penalties contained in R.S. 24:513(K) apply to information obtained under this provision.

## **XVI. The Legislative Auditor**

### **Q.129. Is the LLA elected or appointed?**

**A.129.** The LLA is elected by the legislature, by a concurrence of a majority of the elected members of each house.

### **Q.130. How may the LLA be removed?**

**A.130.** The LLA may resign from the position or may be removed by the concurrence of two-thirds of the elected members of each house.

### **Q.131. What are the qualifications to be LLA? [R.S. 24:511](#)**

**A.131.** The LLA must be a duly qualified elector and a licensed certified public accountant (CPA).

### **Q.132. What is the term of office of the LLA?**

**A.132.** There is no term of office; the LLA serves at the pleasure of the legislature.

**Q.133. What is the procedure to assume office?**

**A.133.** The LLA shall:

- take an oath
- give bond with good and solvent surety (\$50,000) in favor of the president of the senate and the speaker of the house of representatives, jointly, and conditioned on faithful performance of duties and filed with the secretary of state within 30 days of issuance of the commission by the governor.

**Q.134. What is the procedure to fill the office of the LLA?**

**A.134.** A temporary appointment requires concurrence of the president of the senate, the speaker of the house, and the chairman and vice chairman of the Legislative Audit Advisory Council (LAAC), or any three of them.

For a permanent appointment, the Special Recommendation Commission notifies the legislature of a vacancy within 15 days of the vacancy, submits names to the legislature to fill the office, and considers nominees submitted to it by the legislature. The commission must submit its recommendations to the legislature no later than the convening of the legislative session following the vacancy.

**R.S. 24:511.1**

**Q.135. What is the Special Recommendation Commission and who are the members?**

**A.135.** The Commission submits to the legislature the name of any person or persons the commission recommends to permanently fill a vacancy in the office of Legislative Auditor. The statute contains a list of the membership.

**Q.136. Who appoints the first assistant Legislative Auditor and what are the first assistant's duties?**

**A.136.** **R.S. 24:511**(E) provides for:

- Appointment of a first assistant by the Legislative Auditor (LLA), confirmed by the Senate
- First Assistant to serve at the pleasure of the LLA
- First Assistant salary fixed by the LLA
- LLA to determine/assign duties of first assistant
- First Assistant to act as LLA in absence of LLA or vacancy of office until a temporary LLA is appointed or elected or until a new LLA is elected by the legislature.

**Q.137.** Are the accounts of the office of the LLA audited and, if so, by whom? [R.S. 24:520](#)

**A.137.** Yes, the president of the Senate and the speaker of the House of Representatives, jointly, shall annually order an audit to be made of the accounts of the office of LLA for the fiscal year ending on the preceding June 30th and shall select the CPA to perform the audit in accordance with generally accepted auditing standards.

**Q.138.** What is the scope of the audit performed on the office of the LLA? [R.S. 24:520\(B\)](#)

**A.138.** The audit shall include all accounts relating to the operation of the office of the LLA. The LLA is required to make available all books and records that might be needed to accomplish the audit

**Q.139.** Who pays the cost of the audit of the LLA? [R.S. 24:520\(C\)](#)

**A.139.** The cost of the audit shall be paid out of funds appropriated for the operation of the legislature and may be prorated from funds allocated to the Senate and House of Representatives, respectively, as agreed upon by the president of the Senate and the speaker of the House of Representatives.

### [CASE LAW](#)

**Louisiana Board of Ethics v. Daryl G. Purpera, in his official capacity as Legislative Auditor for the Louisiana Legislative Auditor's Office, 2020-0801 (La. App. 1 Cir. 02/19/21), 321 So.3d 401.**

The Louisiana First Circuit affirmed the trial court's judgment that the Legislative Auditor's access to records under the Audit Law does not extend to the investigative files of the Board of Ethics that are deemed confidential and privileged by statute.

**Daryl Purpera, in his official capacity as Louisiana Legislative Auditor and as Chairman of the Task Force on Coordination of Medicaid Fraud Detection and Prevention Initiatives v. Kimberly Lewis Robinson, in her official capacity as Secretary, Louisiana Department of Revenue, 2020-0815 (La. App. 1 Cir. 02/19/21), 320 So.3d 425.**

The Louisiana First Circuit affirmed the trial court's judgment dismissing the Legislative Auditor's Petition for Declaratory Judgment. The First Circuit noted that the Auditor, pursuant to R.S. 24:513.1, does not have standing to bring a declaratory judgment action and that no justiciable question exists concerning a request for statistical records made by



the Auditor to the Louisiana Department of Revenue (LDR), when LDR was not the auditee. As stated by the First Circuit, “Until the Auditor issues a subpoena for the requested documents, the Auditor does not have a legally protected interest.” Therefore, the Auditor must first seek to compel the production of request documents from LDR through issuance of a subpoena in order for the Auditor to have standing to bring a declaratory judgment action concerning the production of the requested documents from LDR.

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**Louisiana State Board of Medical Examiners v. Daryl G. Purpera, in his official capacity as Legislative Auditor**, 2018-0483 (La. App. 1 Cir. 12/20/18) 2018 WL 6716926

The Louisiana First Circuit affirmed the trial court’s judgment that the Louisiana State Board of Medical Examiner (LSBME) was required to make available certain records to the LLA. The LSBME argued that the records were protected by the health care provider-patient privilege (aka the doctor-patient privilege). The Court held that the LSBME, as a third party regulator of the practice of medicine in the State, was not authorized to invoke the privilege. In doing so, the Court distinguished the case from *Louisiana Dep’t of Ins. ex rel. Donelon v. Theriot*, 2010-0069 (La. App. 1 Cir. 5/3/11), 64 So. 3d 854, 862, writ denied, 2011-1139 (La. 9/30/11), 71 So. 3d 286, wherein the Department of Insurance invoked the evidentiary attorney-client privilege in its own attorney-client communications. In LSBME’s case, the Court found that health care provider-patient privilege is a testimonial privilege that may be claimed by the parties identified in the statute: the patient or his legal representative and the patient's physician, psychotherapist, or health care provider, or their representatives. See La. C.E. art. 510(D). The LSBME was not acting as the patient's physician, psychotherapist, or health care provider at the time that it obtained the patient's medical records. Rather, the records were obtained in the LSBME's capacity as regulator. The records were confidential, not privileged, in the LSBME’s hands. The Court concluded that the LLA is authorized to access confidential records of an auditee in connection with a performance audit and is required to comply with any and all restrictions imposed by law on documents, data, or information deemed confidential by law and furnished to his office. La. R.S. 24:513(I). The LSBME is not authorized to assert the health care provider-patient privilege on behalf of a patient to prevent the LLA access to patient and licensee medical records in the LSBME's possession.

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**Patrick H. DeJean v. Daryl Purpera, in his capacity as Legislative Auditor**, 2015-1214 (La. App. 1 Cir. 04/15/26), 199 So.3d 11.

The Louisiana First Circuit Court of Appeal affirmed the trial court’s denial of the Justice of the Peace’s Petition for Preliminary Injunction, which sought to prevent the issuance of an investigative audit report performed by the Louisiana Legislative Auditor. The First Circuit in its decision affirmed the legal authority of the Louisiana Legislative Auditor to

conduct audits of the judiciary, including a justice of the peace, and noted that such audit does not violate the separation of powers between the Legislative and Judicial branches of State government. Further, the First Circuit recognized that an interest in preserving one's reputation alone is not sufficient grounds to warrant enjoinder of an audit; the proper procedure for alleged injury of reputation is to file a tort action, such as a suit for defamation. Finally, the First Circuit noted that a Justice of the Peace does not have a privacy interest in the self-generated funds obtained in the performance of their duties, and that while a Justice of the Peace may pay themselves a salary from the funds of their office, the funds are public funds and not their personal funds, as a portion of the funds are to be used to fund the operations of their office, the constable's office, and the justice court.

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**Herbert and Carol Rowe aka/dba Upperroom Bible Church Academy and Preschool v. Daryl G Purpera aka/dba Louisiana Legislative Auditor, State of Louisiana**

The 19<sup>th</sup> Judicial District Court denied Upperroom's request for a preliminary injunction preventing the issuance of the Legislative Auditor's investigative audit of Upperroom's participation in the Student Scholarships for Educational Excellence Program. The District Court, in denying the injunctive relief, ruled that the investigative audit by the Legislative Auditor was performed in accordance with R.S. 17:4022, which requires that the Louisiana Department of Education forward to the LLA for review and investigation any irregularities or findings of the independent financial audit of the school participating in the Program.

Upperroom dismissed its appeal and requests for supervisory writs in the matter.

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**St Tammany Parish Hospital Service District No. 2 d/b/a Slidell Memorial Hospital v. Daryl G Purpera, in His Official Capacity as Legislative Auditor, 2015-1756 (La. App. 1 Cir. 8/10/16), 2016 WL 4245375**

Hospital Service District (HSD) filed for injunctive relief and declaratory judgment that the HSD should be exempted from publically reporting the salary, benefits, and reimbursements of its Chief Executive Officer (CEO) under R.S. 24:513(A)(3) as a supplemental report in its audit, pursuant to the Enhanced Ability to Compete Act, R.S. 46:1071, et seq. The HSD introduced a board resolution declaring the salary, benefits, and reimbursements of the CEO to be part of the HSD's strategic plan and thus confidential under the Enhanced Ability to Compete Act.

The district court denied the HSD's request for injunctive relief and held:

- The provisions of R.S. 24:513(A)(3), as amended by Act 706 of the 2014 Regular Session, are the latest express of Legislative Will in regard to financial reporting by Hospital Service Districts;

- HSDs are required by R.S. 24:513(A)(3) to file a supplemental report containing the compensation, benefits, and reimbursements of its agency head or CEO; and
- The supplemental report shall be included within the publicly issued audit report of the HSD.

On appeal, the First Circuit Court of Appeal affirmed the trial court’s decision in regard to Slidell Memorial’s required compliance with R.S. 24:513(A)(3), and noted that the board’s resolution alone was insufficient evidence to trigger the provisions of the Enhanced Ability to Compete Act.

Slidell Memorial did not request rehearing or file writs with the Louisiana Supreme Court.

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**In re Myers**, 14-1528 (La. 10/15/14), 156 So.3d 11

The Louisiana Supreme Court suspended a Justice of the Peace without pay for failing to timely submit their sworn financial statements to the Legislative Auditor in accordance with R.S. 24:513(J)(1)(c)(i)(cc) and 24:514. The Court held that the Justice of the Peace’s failure to timely file their required annual sworn financial statements constituted a violation of Canons 1 and 2(A) of the Code of Judicial Conduct.

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**Louisiana High School Athletics Association v. State**, 2012-1471  
(La.1/29/13), 107 So. 3d 583, 609.

Regarding the status of LHSAA the Louisiana Supreme Court ruled as follows:

**“We conclude the LHSAA is not a “quasi public agency or body” under the statute because it is not subject to the Open Meetings Law. We overrule our prior decision in *Spain v. Louisiana High School Athletic Association*, 398 So.2d 1386 (La.1981), in which the Court erred in concluding the former, unincorporated LHSAA was a “public body” for the limited purpose of La. R.S. 42:5, the Open Meetings Law, because it constituted a committee or subcommittee of BESE or parish school boards. We find the LHSAA is not a “public agency or body” for purposes of the Open Meetings Law and therefore, cannot be a “quasi public agency or body,” as defined in La. [R.S. 24:513\(A\)\(1\)\(b\)\(v\)](#). The district court also erred in denying the LHSAA's Motion for Summary Judgment in part, to the extent the LHSAA sought a declaration that La. [R.S. 24:513\(J\)\(4\)\(a\)](#) and (b) are unconstitutional. We find these statutes are unconstitutional under the Equal Protection Clause because they are arbitrary and capricious and they are not rationally related to a legitimate state interest. We therefore reverse the portion of the district court's judgment denying the LHSAA's Motion for Summary Judgment and conclude La. [R.S.](#)**

**24:513(A)(1)(b)(v) does not apply to the LHSAA and La. R.S. 24:513(J)(4)(a) and (b) are unconstitutional**

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**Retired State Employees Association v. State**, 2013-0499 (La. 6/28/13),  
119 So.3d 568

The Louisiana Supreme Court analyzes the role the actuarial note plays in proposed retirement legislation. The Court stated as follows regarding the actuarial note:

**“Finally, we hold La. Const. art. III, § 11, and La. Rev. Stats. 24:513 and 24:521, when read together, mandate that the Legislative Auditor shall prepare the requisite actuarial note to be attached to any proposed retirement legislation, and this note is determinative of whether La. Const. art. X, § 29(F) applies to require a two-thirds vote for enactment of the proposed legislation.”**

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**Louisiana Dep't of Ins. ex rel. Donelon v. Theriot**, 2010-0069 (La. App. 1 Cir. 5/3/11), 64 So. 3d 854, 862, writ denied, 2011-1139 (La. 9/30/11), 71 So. 3d 286.

In this case, the First Circuit Court of Appeal held that the phrase “confidential or otherwise,” in statute granting Auditor access to a state agency's documents did not include materials protected by the evidentiary attorney-client privilege or deliberative process privilege.

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**PIAL v. LLA**, 09-1152 (La. 03/16/10), 31 So.3d 1012

The Louisiana Supreme Court held that Property Insurance Association of Louisiana (PIAL) does not meet all four of the criteria that define a public entity, as established in *State v. Smith*, 357 So.2d 505 (La. 1978), and found that PIAL is not a public entity for all purposes.

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**In re Flaherty**, 11-0418 (La. 07/01/11), 66 So.3d 461

The Louisiana Supreme Court ruled on a violation of court rules related to a financial disclosure required to be filed by a Justice of the Peace. The court distinguished the financial disclosure required by the LLA from the financial disclosure required by the court rules.

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## Attorney General Opinions

[AG Op. No. 17-0172](#) – Hospital Service District must report its CEO’s total compensation, reimbursements and benefits within the District’s supplemental financial reporting to the Legislative Auditor as required under R.S. 24:513(A)(3). The District may not evade the statutory requirement to report the financials of its CEO through a title designation of “agency head” to its board chairman within the District’s by-laws.

[AG Op. No. 16-0167](#) – As the publication and notice requirements of Article VII, §23(C) and R.S. 47:1705 were met prior to holding its public hearing for a roll-forward millage, the school board’s subsequent re-vote with public comment approving the resolution to adopt the roll-forward millage at a subsequent meeting was valid. The subsequent vote with public comment cured any defects from the vote on the resolution at a prior meeting at which public comment was not provided.

[AG Op. No. 16-0164](#) – Fire Protection District’s attempt to adopt roll-forward millage without having at least two-thirds of its total board membership present was an absolute nullity, as the law requires two-thirds of the entire membership of a public entity to adopt a roll-forward millage. Therefore, the District may vote on adoption of the roll-forward millage at a subsequent meeting without additional notice and public hearing under R.S. 47:1705(B)(2)(c)(ii)(aa).

[AG Op. No. 15-0058](#) – Non-profit cooperative economic development corporation created by municipalities pursuant to R.S. 33:9022 are subject to audit by the Louisiana Legislative Auditor.

[AG Op. No. 15-0104](#) – Inmate Accounts, Safe Keeping Accounts, and Evidence Accounts are under the control of an elected police chief and maintained separate from the general fund of a municipality; however, these funds remain subject to discretionary review by the Louisiana Legislative Auditor.

[AG Op. No. 15-0080](#) - The AG discussed whether a Volunteer Fire Department is a public entity and whether it must comply with state laws including, but not limited to, the Open Meetings Law, Public Records Law, Public Bid Law, Local Government Budget Act, etc. The AG noted that a volunteer fire department will be subject to the Audit Law if it meets any of the requirements of a quasi-public entity under the Audit Law.

[AG Op. No. 13-0043](#) – Discussion by the AG of when a non-profit entity can be considered to be public; when a non-profit can be a public body for purposes of the Open Meetings Law; and the fact that an entity receives public money does not mean that it is a public body for purposes of the Open Meetings Law. There is also a discussion of *Louisiana High School Athletics Ass’n v. State*, 2012-1471 (La. 1/29/13), 107 So.3d 583.

[AG Op. No. 11-0189A](#) - HANI Non-Profit Housing, Inc. is a quasi-public entity pursuant to La. [R.S. 24:513](#)(A)(1)(b)(i) despite the fact that it does not receive any public funds. The receipt or expenditure of public funds is not necessary to be considered a quasi-public entity under La. [R.S. 24:513](#). To the extent La. Atty. Gen. Op. No. 11-0189 conflicts with this conclusion, it is recalled.

[AG Op. No. 11-0197](#) – Directs the 25<sup>th</sup> JDC to seek the advice of the LLA as to how to manage surplus funds in the misdemeanor probation account.

[AG Op. No. 11-0151](#) – It is within the discretion of the LLA to determine how audits for the Non-Flood and Flood Authorities should be completed. Nonetheless, because both the flood and non-flood assets are owned by the Orleans Levee District, all of the assets are subject to audit under R.S. 38:322.

[AG Op. No. 10-0292](#) - Funds received by the Horsemen Protection and Benevolent Association, pursuant to statute and in furtherance of the public function and purpose are properly classified as public funds.

[AG Op. No. 10-0232](#) - FEMA funds are not treated differently from other revenue for budgeting purposes and should be included in a political subdivision's annual budget even if only shown as an estimated amount. If the receipt of FEMA funds after the budget has been adopted results in a political subdivision having a change in operations, the budget must be amended to reflect receipt of the funds.

[AG Op. No. 10-0236](#): AG Opinion related to employee contribution rates for LSERS when the funded status of the system falls below one-hundred percent.

[AG Op. No. 10-0127](#): AG Opinion related to procedures for returning unclaimed bond monies.

[AG Op. No. 10-0078](#): RSD may require an employee to reimburse the agency the cost of equipment lost through his gross negligence if the policy is clear and requires reimbursement and the employee is aware of the policy. [R.S. 24:523](#)

[AG Op. No. 10-0083](#): The mayor selects auditor required by [R.S. 24:513](#) subject to the approval of the board of aldermen.

[AG Op. No. 10-0074](#): Regarding seizure of cash by police department. Cites the LLA's best practices for evidence rooms.

[AG Op. No. 10-0090](#): Pursuant to LLA's request, AG opined:

Considering the exception for the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, the Board of Supervisors of the University of Louisiana System, and the colleges and universities supervised and managed by each under La. R.S. 49:308(E)(2)(d), it is the opinion of this office that such entities are excluded from

the requirements of the State Cash Management Review Board, La. R.S. 39:371, et seq. To the extent Atty. Gen. Op. No. 97-450 conflicts with our assessment, it is hereby recalled and set aside.

**AG Op. No. 10-0039:** A lobbyist registration charge imposed by the Louisiana Public Service Commission does not appear to be a charge related to the regulation of common carriers and public utilities. As such, it is our opinion that such a charge would not be considered a “fee” under Article VII, Section 2.1 of the Louisiana Constitution.

With respect to a public entity's liability for assessing an unlawful charge or for raising revenue/public funds outside of its statutory authority, our review of Louisiana law fails to provide a clear indication of the type of penalty, if any, that may be assessed. Any such penalty would likely be assessed by a court of law based on arguments raised by individuals who were assessed the unlawful charge. Alternatively, this issue may fall within the purview of the Louisiana Legislative Auditor.

**AG Op. No. 09-0300:** Publication requirements of R.S. 43:171 re: financial statements required by and furnished to the Legislative Auditor.

**AG Op. No. 10-0030:** Pursuant to tax assessors, the provisions contained in La. R.S. 47:1705(B) through (D) do apply to Orleans Parish.

**AG Op. No. 09-0156:** Funds seized and in connection with criminal investigations and prosecutions stored in New Orleans Police Department evidence and property rooms, do not fall under the definition of “public funds” provided in La. **R.S. 24:523**, and the misappropriation of such is not subject to the additional reporting requirements of that statute. The Legislative Auditor nevertheless retains the authority to examine, audit, or review the books of the NOPD and make necessary and appropriate findings related thereto, because the NOPD is a department of the City of New Orleans, which is a political subdivision of the State of Louisiana. Further any such misappropriation should be reported to the Orleans Parish District Attorney's Office, because the misappropriation may affect ongoing criminal proceedings and to the Independent Police Monitor Division of the New Orleans Inspector General's Office, which has authority to monitor the operations of the NOPD. Editor’s note: contains a discussion of public funds.”

The Legislature, in several other statutes unrelated to La. **R.S. 24:523**, has defined “public funds” as “any funds obtained from legislative appropriation or any form of state or local taxation.” In addition to these other laws, the Louisiana Supreme Court General Administrative Rules, Part G, § 1 (a) (ii) similarly asserts that the phrase ““public funds’ means legislatively appropriated funds, judicial expense funds, self-generated funds, funds of federal, state, local, parish or municipal governments, and any other sources of public funds.” Black's Law Dictionary (8th ed. 2004) defines “public funds” as “[t]he revenue or money of a governmental body” or “[t]he securities of a state or national government.” Thus, it is clear that the “generally prevailing meaning” of “public funds” does not include seized funds in the possession of a governmental entity until such time that a court orders

such funds forfeited in whole or in part to public agencies pursuant to Louisiana law on the subject.

**AG Op. No. 09-0189**: The mandatory duty, set forth in La. R.S. 47:1705(A), for governing authorities to “furnish the assessor and the Legislative Auditor the authorizing ordinances or resolutions and the tax rate to be applied to the assessed values for ad valorem tax purposes not later than June 1 of each year” is not conditioned upon the requirements of La. R.S. 18:1292 et seq. being satisfied.

**AG Op. No. 09-0056**: Pursuant to La. R.S. 33:3819, the \$25.00 per diem paid to the water district commissioners was increased to \$60.00 in June of 2008. Since the increase, the Legislative Auditor's Office has advised that the commissioners may have to pay back the per diem increase (\$35.00) to the waterworks district for the months of June 2008 through February 2009. You have specifically asked whether the Prairie Road Water District Commissioners must return the per diem increase of \$35.00.

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Therefore, it is the further opinion of this office that as long as the per diem increase was enacted pursuant to La. R.S. 33:3811, et seq, the commissioners do not have to return the increased per diem amount of \$35.00 for the months of June 2008 through February 2009.

**AG Op. No. 08-0318**: Based on the above statutes and analysis, it is the opinion of the Attorney General that the Louisiana State Racing Commission, by virtue of the broad delegation of power from the Legislature to regulate and oversee the business of horse racing, has direct regulatory oversight and adjudicatory authority over the Horsemen's Benevolent and Protective Association as it relates to horse racing. This adjudicatory authority, in the opinion of this office, also extends to complaints or disputes an HBPA member may have against the HBPA, insofar as the complaint or dispute arises out of or relates to the application of the horse racing laws or the business of horse racing, including disputes over the quantification, collection, allocation and distribution of money earned at a racetrack that is statutorily dedicated for the horsemen as purse money, which is paid by the racetrack to the HBPA for disbursement by the Horsemen's Bookkeeper according to the statutory schedule of payments.