



SPONSOR: Sen. Walsh & Rep. K. Williams & Rep. Kowalko
Sens. Lockman, Paradee, Poore, Sokola, Sturgeon,
Delcollo, Pettyjohn, Wilson; Reps. Baumbach, Bennett,
Brady, Dorsey Walker, Longhurst, Matthews, Mitchell,
Osienski, Michael Smith, Viola

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 159

AN ACT TO AMEND TITLE 14 AND TITLE 29 OF THE DELAWARE CODE RELATING TO CHARTER SCHOOL AUDITS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 513, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 513. Reporting and oversight.

(d)(1) Unless subject to an audit by the Auditor of Accounts under paragraph (d)(2) or (d)(4) of this section, the board of directors of each charter school shall contract to have an audit of the business and financial transactions, records, and accounts after July 1 for the prior fiscal year. The results of the audit shall be shared by October 1 with the Department of Education, the Auditor of Accounts, the Division of Accounting, and the citizen budget oversight committee established under § 1508 of this title.

(2) The Auditor of Accounts shall conduct or contract for an audit of the charter school's business and financial transactions, records, and accounts after July 1 for the prior fiscal year in the event the charter school has any of the following:

a. A financial audit opinion with any of the following in any of the prior fiscal years under the current charter term:

1. Material exceptions.

2. A going concern disclosure in the notes or in an explanatory paragraph related thereto.

3. A finding of material weakness on either internal control or compliance. For purposes of this paragraph, "material weakness" means a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis.

b. Has failed to maintain a current status with Internal Revenue Service Form 990 filings, if said filings are required of that charter school.

c. Has existed for a total of fewer than 5 years under its current and prior charter terms.

(3) If, however, a financial audit opinion ~~of~~ under paragraph (d)(2)a. of this section is not the required annual audit and is, instead, performed at the request of the board of directors of its own volition and then provided to the Auditor of Accounts, then that financial audit opinion shall not form the basis for the Auditor of Accounts conducting or contracting the audit under paragraph (d)(2) of this section.

(4)a. The Governor, Attorney General, Secretary of the Department, or General Assembly, including a house, joint committee, committee, or member of the General Assembly, may request the Auditor of Accounts conduct or contract for an audit of a charter school's business and financial transactions, records, and accounts if 1 of the following applies:

1. The Public Integrity Commission makes an advisory finding under § 5807(c) of Title 29 or final finding under § 5810 of Title 29 that a violation of § 5805 or § 5806 of Title 29 has occurred.

2. The Governor, Attorney General, Secretary of the Department, or General Assembly has evidence of the misuse of State money or a violation of any of the following State laws or regulations promulgated under the State laws:

A. Part I of Title 11 (relating to the Delaware Criminal Code).

B. Chapter 5 of Title 14 (relating to charter schools).

C. Subchapter I of Chapter 58 of Title 29 (relating to the State employees', officers', and officials' code of conduct).

D. Chapter 69 of Title 29 (relating to State procurement).

b. The Auditor of Accounts shall conduct or contract for an audit of a charter school's business and financial transactions, records, and accounts if requested under paragraph (d)(4)a. of this section.

c. The audit the Auditor of Accounts conducts or contracts for under this paragraph (d)(4) of this section must comply with generally accepted accounting principles.

d. When an audit is conducted or contracted for under this paragraph (d)(4) of this section, the Auditor of Accounts shall file a written report containing the information under § 2909(b) of Title 29 with the Governor, Attorney General, Secretary of the Department, and the President Pro Tempore of the Senate and Speaker of the House of Representatives who shall distribute the report to the members of the General Assembly and the Controller General and Director of the Division of Research.

Section 2. Amend § 2906, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2906. Duties of the Auditor of Accounts.

(h) The Auditor of Accounts shall conduct audits of the State-funded portion of the finances of the University of Delaware as authorized by § 5109 of Title 14. The contractor conducting the audit shall be selected jointly by the University of Delaware and the Auditor of Accounts.

(i) Notwithstanding subsection (d) of this section, the Auditor of Accounts may not charge for an audit conducted or contracted for under § 513(d)(4) of Title 14.

SYNOPSIS

This Act authorizes the Governor, Attorney General, Secretary of the Department, or General Assembly to request, and requires the Auditor of Accounts conduct or contract for, an audit of a charter school's business and financial transactions, records, and accounts in certain circumstances.

Such a request must be based on evidence of misuse of State money or a violation of the following State law, or regulation promulgated under the State law:

- (1) Part I of Title 11 (relating to the Delaware Criminal Code).
- (2) Chapter 5 of Title 14 (relating to charter schools).
- (3) Subchapter I of Chapter 58 of Title 29 (relating to the State employees', officers', and officials' code of conduct).
- (4) Chapter 69 of Title 29 (relating to State procurement).

In addition, this Act makes clear that the Auditor of Accounts may not charge for an audit conducted or contracted for under this Act.

Author: Senator Walsh