



HOUSE BILL 471: State Auditor/Info. Systems/Corrective Action.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 21, 2023
Introduced by:	Reps. Cleveland, Riddell	Prepared by:	Bill Patterson
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *House Bill 471 would make technical changes and do the following:*

- *Clarify that occupational licensing boards, including their materials and operations, are subject to audit by the State Auditor.*
- *Create and define "information systems" as an additional element of a State agency audit. Information systems would include State agency hardware, software, network communications, or data.*
- *Modify provisions governing the State Auditor's obligation to make records pertaining to an audit or investigation available for inspection to State or federal government officials seeking access to such records in connection with official civil or criminal investigations or potential prosecution conducted under the authority of their office.*
- *Require the State Auditor to recommend corrective action to State agencies following an audit that found certain deficiencies. State agencies would be required to submit a progress report on the corrective action taken to the Joint Legislative Oversight Committee on General Government and the Office of the State Auditor within one year.*
- *Remove the intent to interfere from the elements of obstruction of an audit and clarify that a violation for hindering or obstructing the Auditor or a designee requires an obstruction of the State Auditor's statutory duties.*

CURRENT LAW and BILL ANALYSIS:

Section 1

G.S. 93B-4 requires the State Auditor to audit occupational licensing boards. Their books, records, and operations are currently subject to the State Auditor's oversight. Occupational licensing boards with budgets of at least \$50,000 must conduct an annual financial audit and provide a copy to the State Auditor.

House Bill 471 would specify that books, records, and operations of occupational licensing boards are subject to audit by the State Auditor and make it discretionary whether occupational licensing boards with budgets of at least \$50,000 will provide a copy of their annual financial audits to the State Auditor.

Section 2

G.S. 147-64.4 provides various definitions for laws relating to the State Auditor. An "audit" currently has at least one of the following three elements: (1) financial and compliance, (2) economy and efficiency, and (3) program results.

House Bill 471 would include "information systems" as an additional element of an audit. This audit element would evaluate risks relevant to information system assets, verify the presence of controls to reduce or mitigate

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those risks, and verify that information systems and applications are appropriate to meet agency needs, are efficient, and are adequately controlled to ensure valid, reliable, and timely operations.

Section 3

Under current law the State Auditor is required to audit State agencies, specifying the areas that must be examined and the State Auditor's responsibilities. There are currently seven areas of examination in a State agency audit. Pertinent work papers and other supportive material related to an audit or investigation may, in the discretion of the Auditor and unless otherwise prohibited by law, be made available for inspection by authorized State and federal government representatives seeking access to the records in connection with a criminal investigation or other official matter.

House Bill 471 would:

- Add an eighth area of examination to State agency audits, requiring the State Auditor to examine whether State agencies are operating information systems in accordance with applicable laws and best practices.
- Provide that unless otherwise prohibited by law, the Auditor shall make available pertinent work papers and other supportive material related to an audit or investigation for inspection to any State or federal government representatives seeking access to such records in connection with official civil or criminal investigations or potential prosecutions conducted under the authority of their office.
- Provide that if the Auditor withholds the production of any requested papers or supportive material based on a claim that their production is prohibited by law, the Auditor is required to:
 - Provide a citation to the specific law prohibiting their production.
 - Describe the nature of the papers or supportive material withheld from production in a manner sufficient to permit the requesting party to assess the claim.
- Provide that the requesting party can commence a civil action in superior court to challenge the Auditor's asserted basis for withholding production of requested papers or supportive material, in which the requesting party would bear the burden of proving that production of the papers or supportive material is not prohibited by law.

Section 4

House Bill 471 would enact a new section in Article 5A of Chapter 147 of the General Statutes to require the State Auditor to include recommended, corrective action in a State agency audit report if the agency is deficient certain areas of examination. It would also require the State agency to report within one year on any progress made in those areas to the Joint Legislative Oversight Committee on General Government and the Office of the State Auditor.

Section 5

G.S. 147-64.7A makes it a Class 2 misdemeanor to obstruct an audit.

House Bill 471 would remove the intent to interfere from the elements of obstruction of an audit and clarify that a violation for hindering or obstructing the Auditor or a designee requires an obstruction of the State Auditor's statutory duties.

EFFECTIVE DATE: Section 5 would become effective December 1, 2023, and would apply to offenses committed on or after that date. The remainder of the act would become effective October 1, 2023.

**Kелette Wade and Brad Krehely, Staff Attorneys for the Legislative Analysis Division, contributed substantially to this summary.*