

By: Horne

To: Appropriations

HOUSE BILL NO. 662

1 AN ACT TO AMEND SECTION 7-7-211, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE STATE DEPARTMENT OF AUDIT TO PREAUDIT, INVESTIGATE THE
3 FINANCIAL AFFAIRS OF, AND POSTAUDIT ANY EXPENDITURES OR DONATIONS
4 BY A LOCAL GOVERNMENTAL UNIT, IN ANY CASE IN WHICH SUCH
5 EXPENDITURES OR DONATIONS ARE ASSOCIATED WITH PROMOTING A PROGRAM,
6 GOAL OR STATE INTEREST OF THE LOCAL GOVERNMENTAL UNIT; TO PROVIDE
7 THAT THE AUDIT REPORT SHALL INCLUDE SUPPLEMENTAL SCHEDULES OF
8 EXPENDITURES, SHOWING DETAILED INFORMATION WITH REGARD TO EACH
9 INDIVIDUAL EXPENDITURE; TO REQUIRE THAT THE AUDIT REPORT BE
10 PUBLISHED IN A LOCAL NEWSPAPER; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. Section 7-7-211, Mississippi Code of 1972, is
13 amended as follows:

14 7-7-211. The department shall have the power and it shall be
15 its duty:

16 (a) To identify and define for all public offices of
17 the state and its subdivisions generally accepted accounting
18 principles as promulgated by nationally recognized professional
19 organizations and to consult with the State Fiscal Officer in the
20 prescription and implementation of accounting rules and
21 regulations;

22 (b) To prescribe, for all public offices of regional
23 and local subdivisions of the state, systems of accounting,
24 budgeting and reporting financial facts relating to said offices
25 in conformity with legal requirements and with generally accepted

26 accounting principles as promulgated by nationally recognized
27 professional organizations; to assist such subdivisions in need of
28 assistance in the installation of such systems; to revise such
29 systems when deemed necessary, and to report to the Legislature at
30 periodic times the extent to which each office is maintaining such
31 systems, along with such recommendations to the Legislature for
32 improvement as seem desirable;

33 (c) To study and analyze existing managerial policies,
34 methods, procedures, duties and services of the various state
35 departments and institutions upon written request of the Governor,
36 the Legislature or any committee or other body empowered by the
37 Legislature to make such request to determine whether and where
38 operations can be eliminated, combined, simplified and improved;

39 (d) To postaudit each year and, when deemed necessary,
40 preaudit and investigate the financial affairs of the departments,
41 institutions, boards, commissions or other agencies of state
42 government, as part of the publication of a comprehensive annual
43 financial report for the State of Mississippi. In complying with
44 the requirements of this subsection, the department shall have the
45 authority to conduct all necessary audit procedures on an interim
46 and year-end basis;

47 (e) To postaudit and, when deemed necessary, preaudit
48 and investigate separately the financial affairs of (i) the
49 offices, boards and commissions of county governments and any
50 departments and institutions thereof and therein; (ii) public
51 school districts, departments of education and junior college
52 districts; and (iii) any other local offices or agencies which
53 share revenues derived from taxes or fees imposed by the State
54 Legislature or receive grants from revenues collected by
55 governmental divisions of the state; the cost of such audits,
56 investigations or other services to be paid as follows: Such part

57 shall be paid by the state from appropriations made by the
58 Legislature for the operation of the State Department of Audit as
59 may exceed the sum of One Hundred Dollars (\$100.00) per day for
60 the services of each staff person engaged in performing the audit
61 or other service, which sum shall be paid by the county, district,
62 department, institution or other agency audited out of its general
63 fund or any other available funds from which such payment is not
64 prohibited by law;

65 (f) To postaudit and, when deemed necessary, preaudit
66 and investigate the financial affairs of the levee boards;
67 agencies created by the Legislature or by executive order of the
68 Governor; profit or nonprofit business entities administering
69 programs financed by funds flowing through the State Treasury or
70 through any of the agencies of the state, or its subdivisions; and
71 all other public bodies supported by funds derived in part or
72 wholly from public funds, except municipalities which annually
73 submit an audit prepared by a qualified certified public
74 accountant using methods and procedures prescribed by the
75 department;

76 (g) To make written demand, when necessary, for the
77 recovery of any amounts representing public funds improperly
78 withheld, misappropriated and/or otherwise illegally expended by
79 an officer, employee or administrative body of any state, county
80 or other public office, and/or for the recovery of the value of
81 any public property disposed of in an unlawful manner by a public
82 officer, employee or administrative body, such demands to be made
83 (i) upon the person or persons liable for such amounts and upon
84 the surety on official bond thereof, and/or (ii) upon any

85 individual, partnership, corporation or association to whom the
86 illegal expenditure was made or with whom the unlawful disposition
87 of public property was made, if such individual, partnership,
88 corporation or association knew or had reason to know through the
89 exercising of reasonable diligence that the expenditure was
90 illegal or the disposition unlawful. Such demand shall be
91 premised on competent evidence, which shall include at least one
92 (1) of the following: (i) sworn statements, (ii) written
93 documentation, (iii) physical evidence, or (iv) reports and
94 findings of government or other law enforcement agencies. Other
95 provisions notwithstanding, a demand letter issued pursuant to
96 this subsection shall remain confidential by the State Auditor
97 until the individual against whom the demand letter is being filed
98 has been served with a copy of such demand letter. If, however,
99 such individual cannot be notified within fifteen (15) days using
100 reasonable means and due diligence, such notification shall be
101 made to the individual's bonding company, if he or she is bonded.
102 Each such demand shall be paid into the proper treasury of the
103 state, county or other public body through the office of the
104 department in the amount demanded within thirty (30) days from the
105 date thereof, together with interest thereon in the sum of one
106 percent (1%) per month from the date such amount or amounts were
107 improperly withheld, misappropriated and/or otherwise illegally
108 expended. In the event, however, such person or persons shall
109 refuse, neglect or otherwise fail to pay the amount demanded and
110 the interest due thereon within the allotted thirty (30) days, the
111 State Auditor shall have the authority and it shall be his duty to
112 institute suit, and the Attorney General shall prosecute the same

113 in any court of the state to the end that there shall be recovered
114 the total of such amounts from the person or persons and surety on
115 official bond named therein; and the amounts so recovered shall be
116 paid into the proper treasury of the state, county or other public
117 body through the State Auditor;

118 (h) To investigate any alleged or suspected violation
119 of the laws of the state by any officer or employee of the state,
120 county or other public office in the purchase, sale or the use of
121 any supplies, services, equipment or other property belonging
122 thereto; and in such investigation to do any and all things
123 necessary to procure evidence sufficient either to prove or
124 disprove the existence of such alleged or suspected violations.
125 The Department of Investigation of the State Department of Audit
126 may investigate, for the purpose of prosecution, any suspected
127 criminal violation of the provisions of this chapter. For the
128 purpose of administration and enforcement of this chapter, the
129 enforcement employees of the Department of Investigation of the
130 State Department of Audit have the powers of a peace officer of
131 this state only over those persons under indictment or at the
132 direction of another duly authorized law enforcement agency having
133 jurisdiction over the case. All enforcement employees of the
134 Department of Investigation of the State Department of Audit hired
135 on or after July 1, 1993, shall be required to complete the Law
136 Enforcement Officers Training Program and shall meet the standards
137 of the program.

138 (i) To issue subpoenas, with the approval of, and
139 returnable to, a judge of a chancery or circuit court, in termtime
140 or in vacation, to examine the records, documents or other

141 evidence of persons, firms, corporations or any other entities
142 insofar as such records, documents or other evidence relate to
143 dealings with any state, county or other public entity. The
144 circuit or chancery judge must serve the county in which the
145 records, documents or other evidence is located; or where all or
146 part of the transaction or transactions occurred which are the
147 subject of the subpoena;

148 (j) In any instances in which the State Auditor is or
149 shall be authorized or required to examine or audit, whether
150 preaudit or postaudit, any books, ledgers, accounts or other
151 records of the affairs of any public hospital owned or owned and
152 operated by one or more political subdivisions or parts thereof or
153 any combination thereof, or any school district, including
154 activity funds thereof, it shall be sufficient compliance
155 therewith, in the discretion of the State Auditor, that such
156 examination or audit be made from the report of any audit or other
157 examination certified by a certified public accountant and
158 prepared by or under the supervision of such certified public
159 accountant. Such audits shall be made in accordance with
160 generally accepted standards of auditing, with the use of an audit
161 program prepared by the State Auditor, and final reports of such
162 audits shall conform to the format prescribed by the State
163 Auditor. All files, working papers, notes, correspondence and all
164 other data compiled during the course of the audit shall be
165 available, without cost, to the State Auditor for examination and
166 abstracting during the normal business hours of any business day.
167 The expense of such certified reports shall be borne by the
168 respective hospital, or any available school district funds other

169 than minimum program funds, subject to examination or audit. The
170 State Auditor shall not be bound by such certified reports and
171 may, in his or their discretion, conduct such examination or audit
172 from the books, ledgers, accounts or other records involved as may
173 be appropriate and authorized by law;

174 (k) The State Auditor shall have the authority to
175 contract with qualified public accounting firms to perform
176 selected audits required in subsections (d), (e) and (f) of this
177 section, if funds are made available for such contracts by the
178 Legislature, or if funds are available from the governmental
179 entity covered by subsections (d), (e) and (f). Such audits shall
180 be made in accordance with generally accepted standards of
181 auditing, with the use of an audit program prepared by the State
182 Auditor, and final reports of such audits shall conform to the
183 format prescribed by the State Auditor. All files, working
184 papers, notes, correspondence and all other data compiled during
185 the course of the audit shall be available, without cost, to the
186 State Auditor for examination and abstracting during the normal
187 business hours of any business day;

188 (l) The State Auditor shall have the authority to
189 establish training courses and programs for the personnel of the
190 various state and local governmental entities under the
191 jurisdiction of the office of the State Auditor. The training
192 courses and programs shall include, but not be limited to, topics
193 on internal control of funds, property and equipment control and
194 inventory, governmental accounting and financial reporting, and
195 internal auditing. The State Auditor is authorized to charge a
196 fee from the participants of these courses and programs, which fee

197 shall be deposited into the Department of Audit Special Fund.
198 State and local governmental entities are authorized to pay such
199 fee and any travel expenses out of their general funds or any
200 other available funds from which such payment is not prohibited by
201 law;

202 (m) Upon written request by the Governor or any member
203 of the State Legislature, the State Auditor may audit any state
204 funds and/or state and federal funds received by any nonprofit
205 corporation incorporated under the laws of this state;

206 (n) To conduct performance audits of personal or
207 professional service contracts by state agencies on a random
208 sampling basis, or upon request of the State Personal Service
209 Contract Review Board under Section 25-9-120(3);

210 (o) To preaudit, investigate the financial affairs of,
211 and postaudit any expenditures of or donations by a local
212 governmental unit, in any case in which such expenditures or
213 donations are associated with promoting a program, goal or stated
214 interest of the local governmental unit; any such audit or
215 investigation shall be performed in accordance with generally
216 accepted auditing standards and the financial statements prepared
217 by the local governmental unit shall be in accordance with
218 generally accepted accounting principles; the audit report shall
219 include supplemental schedules of expenditures for salaries,
220 travel, legal fees and audit fees, showing for each individual
221 expenditure: (i) to whom the expenditure was made, (ii) the
222 amount of the expenditure, and (iii) an explanation of why the
223 expenditure was made; the audit report shall be published within
224 thirty (30) days after being received, in at least one (1)

225 newspaper having general circulation in the city and/or county
226 where the governmental unit is located; the cost of such audits
227 and investigations shall be paid by the state from appropriations
228 made by the Legislature for the operation of the State Department
229 of Audit as may exceed the sum of One Hundred Dollars (\$100.00)
230 per day for the services of each staff person engaged in
231 performing the audit or other service, which sum shall be paid by
232 the local governmental unit out of its general fund.

233 SECTION 2. This act shall take effect and be in force from
234 and after July 1, 2000.