

House Bill 1285 (AM)

By: Representative Walker of the 141st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 50 of the Official Code of Georgia Annotated, relating to the
2 state auditor, so as to change provisions relating to the state auditor's authority to conduct
3 special examinations and audits and to obtain documentary evidence in connection therewith;
4 to provide for the state auditor's powers to conduct vulnerability assessments and reviews
5 of electronic information systems and computer security systems; to provide for
6 confidentiality of such reviews and assessments and of related work papers; to provide for
7 confidentiality of work papers generally; to provide for related matters; to provide for an
8 effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 6 of Title 50 of the Official Code of Georgia Annotated, relating to the state auditor,
12 is amended by striking Code Section 50-6-4, relating to special examinations and audits by
13 the state auditor, and inserting in its place a new Code section to read as follows:

14 "50-6-4.

15 Either the Governor, the Appropriations Committee of the House of Representatives, or the
16 Appropriations Committee of the Senate shall have the right and authority to direct and
17 require the state auditor to make a special examination into and audit of all the books,
18 records, accounts, vouchers, warrants, bills, and other papers, records, financial
19 transactions, and management of any department, institution, agency, commission, bureau,
20 or office of the state at any time. The state auditor may conduct special examinations and
21 audits which are, without limitation, financial audits (including financial related audits and
22 financial statement audits), compliance audits, performance audits, and vulnerability
23 assessments or reviews. Without limitation, vulnerability assessments or reviews may be
24 made with respect to any electronic financial information systems; other information,
25 management, or operational systems; computers; computer operating and applications
26 software; computing networks; Internet websites; and data processing centers. Tests

1 conducted in connection with such reviews and assessments may include, but are not
 2 limited to, penetration testing and network, web, and data base scanning."

3 SECTION 2.

4 Said chapter is further amended by adding at the end of Article 1 a new Code Section 50-6-9
 5 to read as follows:

6 "50-6-9.

7 (a) Work papers and preliminary drafts of reports created in the course of the discharge of
 8 duties and powers of the Department of Audits and Accounts and the state auditor shall not
 9 be subject to inspection as public records until an audit or special examination is concluded
 10 and a report pertaining to those work papers or preliminary drafts is released as a public
 11 record, if a report is to be done. If a public request to inspect such documents has been
 12 pending for at least six months, the state auditor's decision not to disclose the documents
 13 shall be subject to judicial review in the Superior Court of Fulton County. On judicial
 14 review, the state auditor shall have the burden of establishing that the state's interest in
 15 nondisclosure outweighs the public interest in access to the records.

16 (b) If in performing a vulnerability assessment or review the state auditor determines in
 17 his or her discretion that a vulnerability or security deficiency may exist, such findings and
 18 related work papers shall not be disclosed publicly or otherwise except as determined by
 19 the state auditor. The findings shall not be considered a public record until the state auditor
 20 determines no material risk is present from disclosure. Those parts of findings and work
 21 papers which identify the methods of the state auditor or which may cause or perpetuate
 22 vulnerability shall remain confidential and protected from disclosure until the state auditor
 23 otherwise directs. A decision of the state auditor not to disclose documents pursuant to this
 24 subsection shall be subject to judicial review in the Superior Court of Fulton County,
 25 provided a public request to inspect such documents has been pending for at least six
 26 months. The state auditor shall have the burden of establishing that the state's interest in
 27 nondisclosure outweighs the public interest in access to the records."

28 SECTION 3.

29 Said chapter is further amended by striking Code Section 50-6-29, relating to the state
 30 auditor's power to compel production of evidence, and inserting in its place a new Code
 31 section to read as follows:

32 "50-6-29.

33 For the purpose of more completely discharging the duties resting upon him or her and to
 34 discover the truth and to make his or her reports truthful in all matters handled by him or
 35 her, the state auditor is empowered to conduct hearings, to summon witnesses, to

1 administer oaths, to take the testimony of such witnesses, and to compel the production,
2 inspection, and copying of documentary evidence, including without limitation evidence
3 in electronic form and documentary evidence that is confidential or not available to the
4 general public, at such time and place as he or she may designate for the purpose of
5 investigating and determining the conduct and record of the employees and officials of any
6 department of the state government. Notwithstanding any other provision of law, the state
7 auditor shall have access to inspect, compel production of, and copy confidential
8 information in any form unless the law making such information confidential expressly
9 refers to this Code section and qualifies or supersedes it in that particular instance. When
10 the audit or special examination of the state auditor is concluded, the Department of Audits
11 and Accounts shall redact, destroy, or return to the custodial agency all confidential
12 information except that information which the state auditor determines is necessary to
13 retain for audit purposes or to disclose for other public purposes. For audit purposes, the
14 state auditor may retain such confidential information in working papers as is minimally
15 necessary to support findings and to comply with generally accepted governmental auditing
16 standards. The state auditor may also disclose confidential information to other officers
17 independently entitled to its receipt, such as for law enforcement purposes. Except as
18 stated above in this Code section, confidential information in the hands of the state auditor
19 shall have the same confidential status as it does in the hands of the custodial entity, and
20 the state auditor shall protect its confidentiality with at least the care and procedures by
21 which it is protected by the custodial agency or substantially equivalent care and
22 procedures."

23 **SECTION 4.**

24 This Act shall become effective upon its approval by the Governor or upon its becoming law
25 without such approval.

26 **SECTION 5.**

27 All laws and parts of laws in conflict with this Act are repealed.