

## House Bill 17-1223

CONCERNING THE CREATION OF A FRAUD REPORTING HOTLINE TO BE ADMINISTERED BY THE STATE AUDITOR, AND, IN CONNECTION THEREWITH, ESTABLISHING REFERRAL AND REPORTING PROCESSES AND STATE AUDITOR INVESTIGATIVE AUTHORITY

---

## What Would This Bill Do?

- Directs the State Auditor to establish and maintain a fraud reporting hotline whereby anyone may report an allegation of fraud committed by a current or former state employee or an individual currently or formerly acting under a contract, purchase order, or other similar agreement for the procurement of goods and services with a state agency. Anonymous reports to the hotline are permitted.
- Defines “fraud” for purposes of the hotline as *occupational fraud*, which is the use of one’s occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization’s resources or assets.
- Requires the State Auditor to refer calls alleging fraud by a Medicaid recipient or provider or contractor to the Department of Health Care Policy and Financing or the Office of the Attorney General’s Medicaid Fraud Control Unit, as appropriate.
- Requires the State Auditor to consult and coordinate with the affected state agency or the Governor’s Office, when the State Auditor determines through his or her initial screening of a hotline call that the matter being reported constitutes an allegation of fraud committed by a state employee or a contracted individual.
- Specifies that, upon receiving a fraud hotline call from the State Auditor, the state agency is responsible for determining and taking appropriate action to respond to the referred hotline call. In responding to a referred hotline call, the state agency may request the assistance of the State Auditor to participate in an investigation or request that the State Auditor conduct the entire investigation.
- When, at the request of a state agency, the State Auditor either participates in or conducts an investigation of a referred hotline call, this bill:
  - Provides the State Auditor with the authority to access agency records and information that is directly related to the scope of the investigation.
  - Requires the State Auditor to report the results of the investigation to the head of the affected agency and, under certain circumstances, to the Governor and the Legislative Audit Committee.
  - Requires immediate reporting to a law enforcement agency, a district attorney, or the attorney general, as appropriate, if the investigation finds evidence of apparently illegal transactions or misuse or embezzlement of public funds or property.

- When the State Auditor is not involved in any subsequent investigation of a referred hotline call, this bill:
  - Requires the agency to report to the State Auditor on the disposition of the referred hotline call, including action the agency has taken to respond to the fraud allegation and the results of any subsequent investigation. Reporting occurs at 90-day intervals until such time as the state agency has reached a disposition on the referral.
- Requires that all workpapers prepared or maintained by the State Auditor in connection with fraud hotline activities be held as strictly confidential and not intended for public release. Workpapers of the fraud hotline are not public records for purposes of the Colorado Open Records Act. The State Auditor may not disclose the identity of the individual who called the hotline to the public or another agency without the express permission of the individual, except when such disclosure is made to a law enforcement agency, district attorney, or the Attorney General in connection with a criminal investigation, or to the Department of Health Care Policy and Financing or the Attorney General in connection with hotline calls alleging fraud by a Medicaid recipient or provider or contractor.
- Requires the State Auditor to prepare an annual report, which is a public document, to the Legislative Audit Committee that provides an aggregate summary of the fraud hotline activities during the preceding year.
- Includes provisions in the whistleblower statutes (Sections 24-50.5-103 and 24-114-102, C.R.S.) prohibiting retaliation against individuals who report allegations of fraudulent activity to the fraud hotline.

### **Why Are These Changes Being Requested?**

In July 2013, the Office of the State Auditor (OSA) took over operation of a fraud reporting hotline from the Office of the State Controller. Since July 2013, the OSA has received 31 hotline calls that identified the State as the victim entity of an alleged fraud scheme. For 16 calls (52%), the OSA made a referral to the affected state agency, for seven calls (22%) the OSA referred the call to its audit topic planning group or a contract auditor, and for eight calls (26%), the OSA closed the case due to a lack of sufficient detail or inability to contact the caller for follow up.

Based on the OSA's experience operating the fraud hotline for the last 3 years, establishing a statutory framework for the hotline that facilitates the communication and coordination between the OSA and state agencies and provides authority to the OSA to conduct the investigations when requested, would improve the State's ability to receive and respond effectively to reported allegations of occupational fraud.