



## **Bill Analysis**

Author: Patterson

Sponsor:

Bill Number: AB 884

Related Bills: See Legislative  
History

Introduced: February 17, 2021

### **SUBJECT**

State Agency to Post Internal Audit Finding on Website

### **SUMMARY**

This bill would require all state agencies, who meet specified criteria, to establish an ongoing audit function and an audit committee as specified. In addition, state agencies will be required to post on their internet website audit findings and recommendations.

This analysis only discusses the provisions that impact the department's programs and operations.

### **RECOMMENDATION**

No position.

### **SUMMARY OF AMENDMENTS**

Not applicable.

### **REASON FOR THE BILL**

The reason for this bill is for state agencies to conduct internal audits and post findings and recommendations on their website.

### **ANALYSIS**

Under the Government Code (GC), this bill would require that all state agencies with an aggregate spending of fifty million dollars or more annually establish an ongoing audit function.

Under current law, any governing body that oversees a state agency that performs or reviews internal audits is required to establish an audit committee that generally meets the frameworks recommended by the American Institute of Certified Public Accountants, as specified. This bill would, for governing bodies that are subject to the Bagley-Keene Open Meeting Act (Bagley-Keene Act), require an audit committee established by the governing body, to also be subject to the Bagley-Keene Act.

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This bill would also require state agencies to post any audit findings and recommendations on their internet website, within five days of the report being made, in addition to the existing requirements for internal audit operations that require a report.

#### *Effective/Operative Date*

This bill would become effective and operative January 1, 2022.

#### *Federal/State Law*

##### *Federal Law*

Various federal statutes establish open meeting requirements for federal agencies. Agencies may publish notices of upcoming meetings and hearings in the Federal Register. The Federal Advisory Committee Act, which became law in 1972, applies to government committees that advise the President and executive agencies on specific matters. Most federal agencies are subject to the open meeting provisions of the Government in the Sunshine Act, passed in 1976. This law requires "every portion of every meeting of an agency to be open to public observation." The exemptions to this requirement include matters of national defense, internal agency matters, and matters covered by privacy statutes.

##### *State Law*

Current state law provides that, state and local agencies with an aggregate spending of fifty million dollars or more annually, shall consider establishing an ongoing audit function. An audit committee, that meets the frameworks recommended by the American Institute of Certified Public Accountants, as specified, shall be overseen by the governing body of the state agency. The chief internal auditor shall report audit findings and recommendations made to the audit committee and the general counsel to the governing body.

#### *Implementation Considerations*

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The bill is silent on whether the department would be able to redact confidential or proprietary information from internal audit reports.

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The time allotted to post the final report on the internet website does not allow sufficient time for required Franchise Tax Board (FTB) staff to review and post the report to the website. To avoid disputes between taxpayers and the department, and to ensure consistency with the author's intent, this bill should be amended.

#### *Technical Considerations*

None noted.

#### *Policy Considerations*

None noted.

### **LEGISLATIVE HISTORY**

AB 29 (Cooper, 2021/2022) would, under the GC, modify provisions of the Bagley-Keene Act). AB 29 is currently in the Assembly Government Organization Committee.

AB 2028 (Aguilar-Curry & Gonzalez, 2019/2020) would have, under the GC, modified provisions of the Bagley-Keene Act. AB 2028 did not pass out of the Senate.

AB 2958 (Quirk, Chapter 881, Statutes of 2018) modified the Bagley-Keene Act to authorize members of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body that has no rule-making authority to attend meetings remotely via teleconference, as specified, provided the meeting complies with all other applicable requirements of the Bagley-Keene Act.

SB 387 (Jackson, Chapter 537, Statutes of 2016), among other things, modified the definition of "state body" for purposes of the Bagley-Keene Act to include the State Bar of California.

### **PROGRAM BACKGROUND**

FTB has an Internal Audit (IA) function, which was established in 1981 by an Executive Officer. IA is an integral part of FTB's business operations and performs a wide variety of tasks including:

- Evaluates business processes and operations for ways to improve effectiveness and efficiency.
- Helps business areas comply with various federal and state laws and regulations, as well as departmental rules and policies.
- Ensures business processes have proper internal controls in place to safeguard our resources.

**FISCAL IMPACT**

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

**ECONOMIC IMPACT**

*Revenue Estimate*

This bill as introduced February 17, 2021, would not impact state income or franchise tax revenue.

**LEGAL IMPACT**

None noted.

**APPOINTMENTS**

None noted.

**SUPPORT/OPPOSITION**

To be determined.

**ARGUMENTS**

To be determined.

**LEGISLATIVE CONTACT**

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