State of Tennessee Audit Committee Act of 2005

4-35-101  Short Title

This chapter shall be known and may be cited as the “State of Tennessee Audit Committee Act of 2005.”

4-35-102  Creation of audit committees

(a) A state governing board, council, commission, or equivalent body that has the authority to hire and terminate its employees shall create an audit committee, subject to sub-section (c).

(b) A state governing board, council, commission, or equivalent body that is responsible for the preparation of financial statements, whether included in the financial statements of other entities or free standing, shall create an audit committee, subject to subsection (c).

(c) A state governing board, council, commission, or equivalent body subject to subsections (a) and (b) may be excepted from the requirement to form an audit committee only upon the approval of the comptroller of the treasury.

4-35-103  Development of charter – Guidelines for and review of charter – Approval

(a) An audit committee created pursuant to this chapter shall develop a written charter addressing the audit committee’s purpose, powers, duties, and mission.

(b) The comptroller of the treasury shall establish guidelines for creation of an audit committee charter and shall review the proposed charter to determine whether the charter contains the minimum necessary requirements.

(c) The charter, and any subsequent amendments, shall be presented to the full state governing board, council, commission, or equivalent body, and the comptroller of the treasury for approval.

4-35-104  Standing committee – Members – Meetings

(a) The audit committee shall be a standing committee of the state governing board, council, commission, or equivalent body.

(b) An audit committee created pursuant to this chapter shall have at a minimum three (3) members, chosen as prescribed in the audit committee charter.

(c) (1) The audit committee’s charter shall provide for the frequency of and procedures relative to conducting meetings.

(2) The audit committee shall meet upon the request of the comptroller of the treasury.

4-35-105  Responsibilities of the audit committee
The responsibilities of an audit committee created pursuant to this chapter include, but are not limited to:

(1) Overseeing the financial reporting and related disclosures, especially when financial statements are issued;

(2) Evaluating management’s assessment of the body’s system of internal controls;

(3) Formally reiterating, on a regular basis to the state governing board, council, commission, equivalent body, or management and staff of the agency to which the audit committee is attached, the responsibility of the state governing board, council, commission, equivalent body, or management and staff of the agency for preventing, detecting, and reporting, fraud, waste, and abuse.;

(4) Serving as a facilitator of any audits or investigations of the body to which the audit committee is attached, including advising auditors and investigators of any information the audit committee may receive pertinent to audit or investigative matters;

(5) Informing the comptroller of the treasury of the results of assessment and controls to reduce the risk of fraud; and

(6) Promptly notifying the comptroller of the treasury of any indications of fraud.

4-35-106.1 Powers and duties

An audit committee created pursuant to this chapter shall have the power and duty to take whatever actions the audit committee deems necessary in carrying out its responsibilities in this chapter, including, but not limited to:

(1) Seeking information the audit committee requires from employees or external parties;

(2) Meeting with agency management, board, council, commission, or equivalent body members, external and internal auditors, legal counsel, or others as necessary; and

(3) Requiring internal auditors to report directly to the audit committee.

4-35-107 Establishment of confidential reporting of illegal, improper, wasteful or fraudulent activity

(a) An audit committee created pursuant to this chapter shall establish a process by which employees, taxpayers or other citizens may confidentially report suspected illegal, improper, wasteful or fraudulent activity. The detailed information received pursuant to such a report of illegal, improper, wasteful or fraudulent activity or any investigation thereof, except those matters disclosed in the final reports, shall be considered audit working papers and shall be confidential under the provisions of title 10, chapter 7.

(b) The provisions of 8-50-116 shall apply to all state governing board, council, commission or equivalent body employees. In addition, no state governing board, council, commission or equivalent body’s employees shall suffer any
of the prohibited retaliatory actions specified in 8-50-116 for reporting or cooperating with the audit committee, internal auditors, or auditors from, or approved by the comptroller of the treasury or for reporting any facts to the state governmental body to which the audit committee is attached. Any person knowingly and willingly retaliates or takes adverse action of any kind against any person for reporting alleged wrongdoing pursuant to the provisions of this chapter commits a Class A misdemeanor.

4-35-108 Notice of meetings – Open meetings – Exceptions

(a) Except as provided in subsection (b), all meetings of an audit committee created pursuant to this chapter shall abide by the notice requirements adhered to by the state governing board, council, commission, or equivalent body to which the audit committee is attached.

(b) All meetings of an audit committee created pursuant to this chapter shall be subject to the open meetings provision of title 8, chapter 44, except that the audit committee may hold confidential, nonpublic executive sessions to discuss:
   i. Items deemed not subject to public inspection under 10-7-503 and 10-7-504, and all other matters designated as confidential or privileged under this code;
   ii. Litigation;
   iii. Audits or investigations;
   iv. Information protected by federal law; and
   v. Matters involving information under 4-35-107(a), where the informant has requested anonymity.

(c) No business, other than that described under subdivisions (b)(1)-(b)(5), shall be considered during a confidential, nonpublic executive session by the audit committee.

(d) For purposes of providing notice of a confidential, nonpublic executive session, the agenda must disclose the general nature of discussion as described under subdivisions (b)(1) – (b)(5).

(e) A meeting at which both subject matter open to the public and confidential subject matter will be discussed shall be conducted as follows:
   1. All business relating to subject matter that is public in nature shall be conducted first; and
   2. At the conclusion of the meeting relating to subject matter that is public in nature, the chair shall announce that the public portion of the meeting is adjourned and that the remainder of the meeting will concern matters that are confidential under subdivisions (b)(1)- (b)(5). When everyone at the meeting who is not authorized to attend the confidential portion of the meeting has departed, the confidential portion of the meeting shall commence.

(f) This chapter is not intended to prevent the full state governing board, commission, council, or equivalent body from going into confidential,
nonpublic executive session for the purpose of further discussing those matters as described under subdivisions (b)(1)-(b)(5). All portions of meetings of the full state governing board, commission, council, or equivalent body, where matters described under subdivisions (b)(1)-(b)(5) will be discussed, shall be exempt from the provisions of title 8, chapter 44; provided, that the full state governing board, commission, council or equivalent body shall abide by the notice requirements of subsections (c)-(e).