

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 621 be amended to read as follows:

1 Page 3, between lines 6 and 7, begin a new paragraph and insert:
2 "SECTION 7. IC 5-11-5-1, AS AMENDED BY P.L.136-2012,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2013]: Sec. 1. (a) Whenever an examination is made under
5 this article, a report of the examination shall be made. The report must
6 include a list of findings and shall be signed and verified by the
7 examiner making the examination. A finding that is critical of an
8 examined entity must be based upon one (1) of the following:
9 (1) Failure of the entity to observe a uniform compliance
10 guideline established under IC 5-11-1-24(a).
11 (2) Failure of the entity to comply with a specific law.
12 A report that includes a finding that is critical of an examined entity
13 must designate the uniform compliance guideline or the specific law
14 upon which the finding is based. **If the examiner in an examination**
15 **under this article makes a finding of noncompliance with a uniform**
16 **compliance guideline established under IC 5-11-1-24(a) or a**
17 **specific law by a county elected office subject to IC 36-3-6-10, the**
18 **state examiner shall evaluate and describe in the report the extent**
19 **to which the noncompliance resulted in any part from an action or**
20 **omission of the controller under IC 36-3-6-10 and shall direct the**
21 **finding to the controller that contributed to the noncompliance.**
22 The reports shall immediately be filed with the state examiner, and,
23 after inspection of the report, the state examiner shall immediately file
24 one (1) copy with the officer or person examined, one (1) copy with the

1 auditing department of the municipality examined and reported upon,
2 and one (1) copy in an electronic format under IC 5-14-6 of the reports
3 of examination of state agencies, instrumentalities of the state, and
4 federal funds administered by the state with the legislative services
5 agency, as staff to the general assembly. Upon filing, the report
6 becomes a part of the public records of the office of the state examiner,
7 of the office or the person examined, of the auditing department of the
8 municipality examined and reported upon, and of the legislative
9 services agency, as staff to the general assembly. A report is open to
10 public inspection at all reasonable times after it is filed. If an
11 examination discloses malfeasance, misfeasance, or nonfeasance in
12 office or of any officer or employee, a copy of the report, signed and
13 verified, shall be placed by the state examiner with the attorney general
14 and the inspector general. The attorney general shall diligently institute
15 and prosecute civil proceedings against the delinquent officer, or upon
16 the officer's official bond, or both, and against any other proper person
17 that will secure to the state or to the proper municipality the recovery
18 of any funds misappropriated, diverted, or unaccounted for.

19 (b) Before an examination report is signed, verified, and filed as
20 required by subsection (a), the officer or the chief executive officer of
21 the state office, municipality, or entity examined must have an
22 opportunity to review the report and to file with the state examiner a
23 written response to that report. If a written response is filed, it becomes
24 a part of the examination report that is signed, verified, and filed as
25 required by subsection (a).

26 (c) Except as required by subsections (b) and (d), it is unlawful for
27 any deputy examiner, field examiner, or private examiner, before an
28 examination report is made public as provided by this section, to make
29 any disclosure of the result of any examination of any public account,
30 except to the state examiner or if directed to give publicity to the
31 examination report by the state examiner or by any court. If an
32 examination report shows or discloses the commission of a crime by
33 any person, it is the duty of the state examiner to transmit and present
34 the examination report to the grand jury of the county in which the
35 crime was committed at its first session after the making of the
36 examination report and at any subsequent sessions that may be
37 required. The state examiner shall furnish to the grand jury all evidence
38 at the state examiner's command necessary in the investigation and
39 prosecution of the crime.

40 (d) If, during an examination under this article, a deputy examiner,
41 field examiner, or private examiner acting as an agent of the state
42 examiner determines that the following conditions are satisfied, the
43 examiner shall report the determination to the state examiner:

44 (1) A substantial amount of public funds has been
45 misappropriated or diverted.

46 (2) The deputy examiner, field examiner, or private examiner

- 1 acting as an agent of the state examiner has a reasonable belief
2 that the malfeasance or misfeasance that resulted in the
3 misappropriation or diversion of the public funds was committed
4 by the officer or an employee of the office.
- 5 (e) After receiving a preliminary report under subsection (d), the
6 state examiner may provide a copy of the report to the attorney general.
7 The attorney general may institute and prosecute civil proceedings
8 against the delinquent officer or employee, or upon the officer's or
9 employee's official bond, or both, and against any other proper person
10 that will secure to the state or to the proper municipality the recovery
11 of any funds misappropriated, diverted, or unaccounted for.
- 12 (f) In an action under subsection (e), the attorney general may attach
13 the defendant's property under IC 34-25-2.
- 14 (g) A preliminary report under subsection (d) is confidential until
15 the final report under subsection (a) is issued, unless the attorney
16 general institutes an action under subsection (e) on the basis of the
17 preliminary report."
- 18 Renumber all SECTIONS consecutively.
(Reference is to ESB 621 as printed April 2, 2013.)

Representative Pryor