

ASSEMBLY, No. 381

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1970 SESSION

By Assemblyman DE KORTE

AN ACT concerning the organization and reorganization of the State Government, creating an Office of Fiscal Affairs in the Legislative Branch, prescribing the powers, duties and functions thereof, transferring the office of the Legislative Budget and Finance Director, and assigning the office of the State Auditor, to the Office of Fiscal Affairs, amending P. L. 1947, chapter 107, section 3, P. L. 1954, chapter 267, sections 2 and 9, and R. S. 52:24-3 and R. S. 52:24-4, and making an appropriation.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. It is the purpose and policy of the Legislature in enacting
2 this act:

3 a. To insure concurrent post-auditing of all transactions and
4 accounts kept by or for all departments, offices and agencies of
5 the State Government as required by the Constitution and laws
6 of this State;

7 b. To provide the Legislature with performance analysis of
8 programs and transactions at the request of the Joint Appropria-
9 tions Committee;

10 c. To conduct investigations and perform management analysis
11 on all transactions of all departments, offices and agencies of the
12 State Government in order to improve the efficiency, productivity
13 and performance of the State Government and to disclose and
14 prevent all malfeasance, and inefficiency in all departments of the
15 State Government;

16 d. To provide full disclosure of the results of financial opera-
17 tions, adequate financial information needed in the management

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

18 of State operations and effective control over income, expenditures,
19 funds, property and other assets;

20 e. To determine whether the financial transactions have been
21 consummated in accordance with laws, regulations or other legal
22 requirements, and adequate internal financial control over opera-
23 tions is exercised;

24 f. To centralize the operations in the foregoing areas within a
25 single agency in the Legislative Branch of the State Government.

1 2. There is hereby established in the Legislative Branch of the
2 State Government an Office of Fiscal Affairs which shall be ad-
3 ministered by an executive director under the control supervision
4 and direction of the Appropriations Committees of the Senate
5 and General Assembly as a joint committee of the Legislature.

1 3. The Office of Fiscal Affairs shall be headed by an executive
2 director who shall be an officer of the Legislature, appointed by
3 the Senate and General Assembly in joint session. He shall receive
4 basic compensation at the rate of \$35,000.00 per annum and his
5 appointment shall be made without reference to party affiliation
6 and solely on the ground of fitness to perform the duties of the
7 office.

1 4. Except as hereinafter provided in this section, the executive
2 director shall hold office for a term of 9 years and until the appoint-
3 ment and qualification of his successor, and shall not be eligible
4 for reappointment. The executive director may be removed at any
5 time by concurrent resolution adopted by a majority of all the
6 members of the Senate and General Assembly, after notice of
7 hearing, when, in the judgment of the Legislature, the executive
8 director has become permanently incapacitated or has been in-
9 efficient, or guilty of neglect of duty or of malfeasance in office,
10 or of any crime or conduct involving moral turpitude, and for no
11 other cause and in no other manner except by impeachment. Any
12 executive director removed in the manner provided in this section,
13 shall be ineligible for reappointment to that office. When an ex-
14 ecutive director attains the age of 70 years he shall be retired
15 from his office.

1 5. The Executive Director of the Office of Fiscal Affairs shall:

2 a. Keep and maintain such books and accounts and other ac-
3 counting records as may be necessary to enable him to accomplish
4 the purposes of the office as in this act provided.

5 b. Organize the office with such divisions, bureaus, and other
6 organizational units as he shall determine to be appropriate.

7 c. Appoint, employ, and within the limits of funds appropriated
8 therefor, fix the compensation of such assistants and employees

9 other than the State Auditor as he shall determine to be required
10 to perform the duties and functions of the office.

1 6. Assistants and employees shall be chosen solely on the grounds
2 of fitness to perform their duties and their employment and civil
3 service status shall be governed by subsection d of B. S. 11:4-4
4 except that (a) any person holding office, position or employment
5 in any department, board, commission or agency in the executive
6 branch of the State Government, which is in the classified service
7 of the civil service, who shall be appointed to any office, position
8 or employment in the Office of Fiscal Affairs shall hold the office,
9 position or employment to which he is so appointed with the same
10 civil service rights, privileges and protections as he had and enjoyed
11 in said office, position or employment in the Executive Branch of
12 the State Government, notwithstanding that the office, position or
13 employment to which he is so appointed shall itself be in the
14 unclassified service of the civil service and (b) employees perform-
15 ing stenographic or clerical duties may be appointed from the
16 classified service of the civil service of the State in any case in
17 which in the judgment of the executive director more competent
18 persons can be so employed and when so appointed such employees
19 shall have civil service status as members of the classified service
20 of the civil service, but no law or rule regulating assignment to
21 duties, hours of work or payment for overtime shall be binding
22 upon the Office of Fiscal Affairs as to persons employed by it
23 whether or not they are employed from the classified service of
24 the civil service.

1 7. The office of the Legislative Budget and Finance Director
2 together with all his functions, powers and duties is transferred
3 to and constituted within the Office of Fiscal Affairs. The person
4 in office as Legislative Budget and Finance Director on the effective
5 date of this act shall continue in office for the balance of the term
6 for which he was appointed.

1 8. The office of the State Auditor, as created by the Constitution,
2 is assigned to the Office of Fiscal Affairs. The State Auditor shall
3 continue to be appointed, hold office and perform his constitutional
4 duties as heretofore. Additional duties required of the State
5 Auditor pursuant to this act shall be performed under the direction
6 and supervision of the Executive Director of the Office of Fiscal
7 Affairs.

1 9. Such employees of the offices of the State Auditor and of the
2 Legislative Budget and Finance Director, the functions, powers
3 and duties of which are herein assigned or transferred to the Office
4 of Fiscal Affairs as the executive director thereof may determine

5 are needed for the performance of the functions and duties of the
6 Office of Fiscal Affairs are hereby transferred to the Office of
7 Fiscal Affairs. Nothing in this act shall deprive any person of any
8 rights of tenure or of any right or protection provided him by
9 Title 11 of the Revised Statutes, Civil Service, or under any pension
10 law or retirement system.

1 10. Unexpended balances of appropriations and all files, books,
2 papers, records, equipment and property of officers and offices,
3 the functions, powers and duties of which are by this act transferred
4 or assigned to the Office of Fiscal Affairs are transferred to said
5 office.

1 11. P. L. 1947, chapter 107, section 3 (C. 5:5-67.1) is amended
2 to read as follows:

3 3. The **[State Commissioner of Taxation and Finance]** *Execu-*
4 *tive Director of the Office of Fiscal Affairs* shall prescribe a uniform
5 method by which permit holders engaged in the business of conduct-
6 ing horse race meetings shall be required to maintain complete and
7 detailed financial accounts and records relating to the operations
8 of their tracks, and it shall be the duty of each permit holder to
9 comply therewith.

10 The **[State Commissioner of Taxation and Finance]** *Executive*
11 *Director of the Office of Fiscal Affairs* shall also annually cause
12 to be made by some competent person or persons in his department
13 a thorough audit of the books and records of each permit holder,
14 which audit shall be kept on file in his office at all times, and a
15 copy of which shall be forwarded to the commission immediately
16 upon the completion thereof; and each permit holder shall permit
17 access to its books and records for the purpose of having such
18 audit made, and shall produce, upon written order of the head of
19 said department, any and all papers and information required for
20 such purpose.

21 The commission may, after hearing, revoke the permit of any
22 permit holder failing to comply with the provisions of this section,
23 and every such failure shall be reported to the commission by the
24 **[State Commissioner of Taxation and Finance]** *Executive Direc-*
25 *tor of the Office of Fiscal Affairs.*

1 12. P. L. 1954, chapter 267, section 2 (C. 52:11-33) is amended
2 to read as follows:

3 2. It shall be the duty of the director to

4 (a) Collect and assemble factual information relating to the
5 fiscal affairs of the State for the use of the Joint Appropriations
6 Committee of the Legislature in formulating its annual proposals
7 as to the amounts to be appropriated for the support of the State

8 Government and for other purposes; examine all requests for ap-
9 propriations made by the divisions and other subdivisions of the
10 principal departments in the Executive Branch of the State Gov-
11 ernment, to the heads of such department and by the department
12 heads, to the Director of the Division of Budget and Accounting
13 and attend such hearings, held thereon, as it may be necessary for
14 him to attend to obtain complete information as to the subject
15 matter thereof,

16 (b) Examine other requests for appropriations and receive and
17 investigate the truth, fairness and correctness of all claims against
18 the State for payment of which appropriations are to be requested,

19 (c) Report to the Legislature through the Joint Appropriations
20 Committee, or in such other manner as shall be directed by the
21 Legislature, upon the foregoing and as to any other matters which
22 may be of assistance to said committee or the Legislature in form-
23 ing an independent judgment in the determination of any fiscal
24 matters before it and attend upon the Joint Appropriations Com-
25 mittee during its sittings and hearings and perform such services
26 for it as it shall direct,

27 (d) Perform such other duties and collect such other factual in-
28 formation as the [Legislature] *Executive Director of the Office*
29 *of Fiscal Affairs* may require to be performed and collected in order
30 that [it] *the Legislature* and its committees may be furnished with
31 full particulars and information in connection with proposals for
32 the appropriation of State moneys and the incurring of indebted-
33 ness by the State and the fiscal affairs of the State in general.

1 13. P. L. 1954, chapter 267, section 9 (C. 52:11-40) is amended
2 to read as follows:

3 9. The Legislative Budget and Finance Director shall, except
4 when in attendance upon the sittings and hearings of the Joint
5 Appropriations Committee, be under the general supervision and
6 control of the [Law Revision and Legislative Services Commis-
7 sion] *Executive Director of the Office of Fiscal Affairs*. [He may
8 employ such assistants and employees as shall be determined by
9 said commission and as shall be approved by it, and he and his
10 assistants shall receive such compensation from time to time as
11 shall be fixed by said commission subject to available appropria-
12 tions therefor. Such assistants and employees shall be chosen
13 without reference to party affiliations, solely on ground of fitness
14 to perform the duties for which they are employed and their em-
15 ployment and civil service status shall be governed by subsection d
16 of section 11:4-4 of the Revised Statutes, except that employees
17 performing stenographic or clerical duties may be appointed from

18 the classified service of the civil service of the State in any case
 19 in which, in the judgment of the commission, more competent per-
 20 sons can be so employed and when so appointed, such employees
 21 shall have civil service status as employees of the classified service
 22 of the civil service, but no law or rule regulating assignment to
 23 duties, hours of work or payment for overtime shall be binding as
 24 to persons so employed whether or not they are employed from the
 25 classified service of the civil service.】

1 14. R. S. 52:24-3 is amended to read as follows:

2 52:24-3. The State Auditor *subject to the approval of the Execu-*
 3 *tive Director of the Office of Fiscal Affairs*, shall appoint such
 4 necessary assistants and clerical help as shall be required to admin-
 5 ister the affairs of his office.

1 15. R. S. 52:24-4 is amended to read as follows:

2 52:24-4. It shall be the duty of the State Auditor to conduct
 3 *concurrent* post-audits of all transactions and accounts kept by or
 4 for all departments, offices and agencies of the State Government,
 5 to report to the Legislature or to any committee thereof and to the
 6 Governor, *and to the Director of the office of fiscal affairs*, as pro-
 7 vided by this chapter and as shall be required by law, and to perform
 8 such other similar or related duties as shall, from time to time, be
 9 required of him by law.

10 This State Auditor shall personally or by any of his duly autho-
 11 rized assistants, examine and post-audit all the accounts, reports
 12 and statements and make independent verifications of all assets,
 13 liabilities, revenues and expenditures of the State, its departments,
 14 institutions, boards, commissions, officers, and any and all other
 15 State agencies, now in existence or hereafter created, hereinafter in
 16 this article called "accounting agencies." The officers and em-
 17 ployees of each accounting agency shall assist the State Auditor,
 18 when and as required by him, for the purpose of carrying out the
 19 provisions of this article.

1 16. All acts and parts of acts inconsistent with this act are super-
 2 seded.

1 17. This act shall be known and may be cited as the "Office of
 2 Fiscal Affairs Act."

1 18. There is hereby appropriated to the Office of Fiscal Affairs
 2 for the period January 1, 1971 to June 30, 1971 the sum of
 3 \$750,000.00.

1 19. This act shall take effect January 1, 1971 but appointment of
 2 the Executive Director of the Office of Fiscal Affairs may be made
 3 in advance of said date.

Chapter 211 - Approved June 14, 1971

SENATE COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 381

STATE OF NEW JERSEY

ADOPTED MARCH 25, 1971

AN ACT concerning the organization and reorganization of the State Government, creating an Office of Fiscal Affairs in the Legislative Branch, prescribing the powers, duties and functions thereof, transferring the office of the Legislative Budget and Finance Director, and assigning the office of the State Auditor to the Office of Fiscal Affairs, amending P. L. 1954, c. 267, s. 2 and 9, R. S. 52:24-3 and R. S. 52:24-4, and making an appropriation.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. It is the purpose and policy of the Legislature in enacting
2 this act:

3 a. To insure concurrent post-auditing of all transactions and
4 accounts kept by or for all departments, offices and agencies of the
5 State Government as required by the Constitution and laws of this
6 State;

7 b. To provide the Legislature with expenditure information and
8 performance analysis of programs and transactions;

9 c. To conduct investigations and perform management analysis
10 on all transactions of all departments, offices and agencies of the
11 State Government in order to improve the efficiency, productivity
12 and performance of the State Government and to disclose and
13 prevent all malfeasance, and inefficiency in all departments of the
14 State Government;

15 d. To provide full disclosure of the results of financial opera-
16 tions, adequate financial information needed in the management
17 of State operations and effective control over income, expenditures,
18 funds, property and other assets;

19 e. To determine whether the financial transactions have been
20 consummated in accordance with laws, regulations or other legal
21 requirements, and adequate internal financial control over opera-
22 tions is exercised;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

✓
 23 f. To centralize the operations in the foregoing areas within a
 24 single agency in the Legislative Branch of the State Government;
 25 g. To perform such other duties as shall be required by law or
 26 directed by the Legislature.

1 2. There is hereby established in the Legislative Branch of the
 2 State Government an Office of Fiscal Affairs which shall be
 3 administered by an executive director under the control, supervision
 4 and direction of the Law Revision and Legislative Services Com-
 5 mission.

1 3. The executive director who shall be an officer of the Legisla-
 2 ture, shall be appointed by the Law Revision and Legislative
 3 Services Commission. He shall receive an annual salary, to be
 4 fixed by the Law Revision and Legislative Services Commission
 5 within the limits of available appropriations, which salary shall
 6 not be reduced during the term for which he is appointed. Appoint-
 7 ment of the executive director shall be made without reference to
 8 party affiliation and solely on the ground of fitness to perform the
 9 duties of the office.

1 4. Except as hereinafter provided in this section, the executive
 2 director shall hold office for a term of 5 years and until the appoint-
 3 ment and qualification of his successor. The executive director
 4 may be removed at any time by concurrent resolution adopted by
 5 a majority of all the members of the Senate and General Assembly,
 6 after notice and a hearing, when, in the judgment of the Legisla-
 7 ture, the executive director has become permanently incapacitated
 8 or has been inefficient, or guilty of neglect of duty or of malfeasance
 9 in office, or of any crime or conduct involving moral turpitude, and
 10 for no other cause and in no other manner except by impeachment.
 11 Any executive director removed in the manner provided in this
 12 section, shall be ineligible for reappointment to that office. When
 13 an executive director attains the age of 70 years he shall be retired
 14 from his office.

1 5. The executive director of the Office of Fiscal Affairs shall:

2 a. Keep and maintain such books and accounts and other ac-
 3 counting records as may be necessary to enable him to accomplish
 4 the purposes of the office as in this act provided.

5 b. Organize the office with such divisions, bureaus, and other
 6 organizational units as he shall determine to be appropriate.

7 c. Subject to the approval of the Law Revision and Legislative
 8 Services Commission he may appoint, employ, and within the limits
 9 of funds appropriated therefor, fix the compensation of such as-
 10 sistants and employees other than the State Auditor, as the com-

11 mission shall determine to be required to perform the duties and
12 functions of the office.

13 d. Subject to the approval of the Law Revision and Legislative
14 Services Commission, and within the limits of funds appropriated
15 therefor, contract for the performance of professional and tech-
16 nical services in connection with any audit or examination he is
17 required or directed to make.

18 e. Ascertain compliance with legislative intent by the conduct
19 of performance audits and efficiency studies, review of the fiscal
20 implications upon the state of Federal legislation, policies and
21 programs and examine and audit the application of funds appro-
22 priated from the proceeds of State bond issues.

23 f. Report at least annually to the Legislature on the operations
24 of the Office of Fiscal Affairs.

25 In the exercise of any of his powers the executive director may
26 by subpoena compel the attendance of witnesses and the production
27 of books, papers and records.

1 6. Assistants and employees shall be chosen solely on the grounds
2 of fitness to perform their duties and their employment and civil
3 service status shall be governed by subsection d. of R. S. 11:4-4
4 except that (a) any person holding office, position or employment
5 in any department, board, commission or agency of the State Gov-
6 ernment, which is in the classified service, who shall be transferred
7 or appointed to any office, position or employment in the Office of
8 Fiscal Affairs shall hold the office, position or employment to which
9 he is so appointed with the same civil service rights, privileges
10 and protections as he had and enjoyed in office, position or em-
11 ployment prior to his transfer or appointment to office, position
12 or employment in the Office of Fiscal Affairs, notwithstanding that
13 the office, position or employment to which he is so appointed shall
14 itself be in the unclassified service of the civil service and (b)
15 employees performing stenographic or clerical duties may be ap-
16 pointed from the classified service of the civil service of the State
17 in any case in which in the judgment of the executive director more
18 competent persons can be so employed and when so appointed
19 such employees shall have civil service status as members of the
20 classified service of the civil service, but no law or rule regulating
21 assignment to duties, hours of work or payment for overtime shall
22 be binding upon the Office of Fiscal Affairs as to persons employed
23 by it whether or not they are employed from the classified service
24 of the civil service.

1 7. The office of the Legislative Budget and Finance Director
2 together with all his functions, powers and duties is transferred
3 to and constituted within the Office of Fiscal Affairs. The person
4 in office as Legislative Budget and Finance Director on the effective
5 date of this act shall continue in office for the balance of the
6 term for which he was appointed.

1 8. The office of the State Auditor, as created by the Constitution,
2 is assigned to the Office of Fiscal Affairs. The State Auditor shall
3 continue to be appointed, hold office and perform his constitutional
4 duties as heretofore. Additional duties required of the State Auditor
5 pursuant to this act shall be performed under the direction
6 and supervision of the executive director of the Office of Fiscal
7 Affairs.

1 9. All persons holding office, position or employment in the offices
2 of the State Auditor and of the Legislative Budget and Finance
3 Director, the functions, powers and duties of which are by this act
4 assigned or transferred to the Office of Fiscal Affairs are hereby
5 transferred to the Office of Fiscal Affairs and shall be subject to
6 assignment to duty as determined by the executive director. Nothing
7 in this act shall deprive any person of any rights of tenure or of
8 any right of protection provided him by Title 11 of the Revised
9 Statutes, Civil Service, or under any pension law or retirement
10 system.

1 10. Unexpended balances of appropriations, including funds ap-
2 propriated for the fiscal year commencing July 1, 1971, and all files,
3 books, papers, records, equipment and property of officers and
4 offices, the functions, powers and duties of which are by this act
5 transferred or assigned to the Office of Fiscal Affairs are trans-
6 ferred to said office.

1 11. P. L. 1954, c. 267, s. 2 (C. 52:11-33) is amended to read as
2 follows:

3 2. It shall be the duty of the director to
4 (a) Collect and assemble factual information relating to the
5 fiscal affairs of the State for the use of the Joint Appropriations
6 Committee of the Legislature in formulating its annual proposals
7 as to the amounts to be appropriated for the support of the State
8 Government and for other purposes; examine all requests for ap-
9 propriations made by the divisions and other subdivisions of the
10 principal departments in the Executive Branch of the State Gov-
11 ernment, to the heads of such department and by the department
12 heads, to the Director of the Division of Budget and Accounting
13 and attend such hearings, held thereon, as it may be necessary for

14 him to attend to obtain complete information as to the subject
15 matter thereof,

16 (b) Examine other requests for appropriations and receive and
17 investigate the truth, fairness and correctness of all claims against
18 the State for payment of which appropriations are to be requested,

19 (c) Report to the Legislature through the Joint Appropriations
20 Committee, or in such other manner as shall be directed by the
21 Legislature, upon the foregoing and as to any other matters which
22 may be of assistance to said committee or the Legislature in form-
23 ing an independent judgment in the determination of any fiscal
24 matters before it and attend upon the Joint Appropriations Com-
25 mittee during its sittings and hearings and perform such services
26 for it as it shall direct,

27 (d) Perform such other duties and collect such other factual in-
28 formation as the Legislature or the executive director of the Office
29 of Fiscal Affairs may require to be performed and collected in order
30 that [it] the Legislature and its committees may be furnished with
31 full particulars and information in connection with proposals for
32 the appropriation of State moneys and the incurring of indebted-
33 ness by the State and the fiscal affairs of the State in general.

1 12. P. L. 1954, c. 267, s. 9 (C. 52:11-40) is amended to read as
2 follows:

3 9. The Legislative Budget and Finance Director shall, except
4 when in attendance upon the sittings and hearings of the Joint
5 Appropriations Committee, be under the general supervision and
6 control of the [Law Revision and Legislative Services Commis-
7 sion] executive director of the Office of Fiscal Affairs. [He may
8 employ such assistants and employees as shall be determined by
9 said commission and as shall be approved by it, and he and his
10 assistants shall receive such compensation from time to time as
11 shall be fixed by said commission subject to available appropria-
12 tions therefor. Such assistants and employees shall be chosen
13 without reference to party affiliations, solely on ground of fitness
14 to perform the duties for which they are employed and their em-
15 ployment and civil service status shall be governed by subsection d.
16 of section 11:4-4 of the Revised Statutes, except that employees
17 performing stenographic or clerical duties may be appointed from
18 the classified service of the civil service of the State in any case
19 in which, in the judgment of the commission, more competent per-
20 sons can be so employed and when so appointed, such employees
21 shall have civil service status as employees of the classified service
22 of the civil service, but no law or rule regulating assignment to
23 duties, hours of work or payment for overtime shall be binding as

24 to persons so employed whether or not they are employed from the
25 classified service of the civil service.】

1 13. R. S. 52:24-3 is amended to read as follows:

2 52:24-3. The State Auditor *subject to the approval of the execu-*
3 *tive director of the Office of Fiscal Affairs*, shall appoint such
4 necessary assistants and clerical help as shall be required to ad-
5 minister the 【affairs】 *constitutional and statutory duties* of his
6 office.

1 14. R. S. 52:24-4 is amended to read as follows:

2 52:24-4. It shall be the duty of the State Auditor to conduct
3 post-audits of all transactions and accounts kept by or for all de-
4 partments, offices and agencies of the State Government, to report
5 to the Legislature or to any committee thereof and to the Governor,
6 *and to the executive director of the Office of Fiscal Affairs*, as
7 provided by this chapter and as shall be required by law, and to
8 perform such other similar or related duties as shall, from time
9 to time, be required of him by law.

10 【This】 *The State Auditor shall personally or by any of his duly*
11 *authorized assistants, or by contract with independent public ac-*
12 *countant firms*, examine and post-audit all the accounts, reports
13 and statements and make independent verifications of all assets,
14 liabilities, revenues and expenditures of the State, its departments,
15 institutions, boards, commissions, officers, and any and all other
16 State agencies, now in existence or hereafter created, hereinafter
17 in this article called "accounting agencies." The officers an' em-
18 ployees of each accounting agency shall assist the State Auditor,
19 when and as required by him, for the purpose of carrying out the
20 provisions of this article.

1 15. All acts and parts of acts inconsistent with this act are
2 superseded.

1 16. This act shall be known and may be cited as the "Office of
2 Fiscal Affairs Act."

1 17. There is hereby appropriated to the Office of Fiscal Affairs
2 for the fiscal year commencing June 30, 1971 the sum of \$250,000.00.

1 18. This act shall take effect July 1, 1971 but appointment of the
2 executive director of the Office of Fiscal Affairs may be made in
3 advance of said date.