

A

BILL FOR

<i>Long title.</i>	A Law to establish the Offices of the Auditor-General for Akwa Ibom State and Auditor-General for Local Governments and for other matters connected therewith.
<i>Commencement.</i>	()
<i>Enactment.</i>	BE IT ENACTED by the Akwa Ibom State House of Assembly as follows –

PART I

Establishment of Offices of State Auditor-General and Auditor General for Local Governments

<i>Establishment of Offices of State Auditor-General and Auditor-General for Local Governments.</i>	<p>1. (1) In accordance with the provisions of Section 125 (1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), there is hereby established an office to be known as the Office of the State Auditor-General which shall be independent and permanent.</p> <p>(2) There is hereby established the office of Auditor-General for Local Governments in Akwa Ibom State which shall be independent and permanent.</p> <p>(3) The offices of the State Auditor-General and Auditor General for Local Governments respectively shall be a body corporate with perpetual succession and common seal, may sue and be sued in its corporate name and may acquire, hold or dispose of any property, movable or immovable for the purpose of carrying out of its functions under this Law.</p>
<i>Appointment of Auditor-General for State and Auditor General for Local Governments.</i>	2. The respective State Auditor-General and Auditor-General for Local Governments shall be appointed by the Governor on the recommendation of the Akwa Ibom State Civil Service Commission subject to confirmation by the State House of Assembly.
<i>Qualification for appointment as</i>	3. (1) A person shall be appointed State Auditor-General and Auditor General for Local Governments, provided the person is an

State Auditor General and Auditor General for Local Governments. Accountant who has held full membership of a professional accounting body recognized by an Act of Parliament in Nigeria, and is able to demonstrate and provide independent testament to a minimum of fifteen years cognate experience in auditing the public sector.

(2) Where the post of the State Auditor-General and Auditor General for Local Governments is vacant, the vacancy shall be advertised and filled by the most qualified person with cognate experience from the Public Service or the Private Sector.

(3) Where the applicant is from the Public Service, he shall have at least four years to serve before he/she is due for retirement.

(4) Where the applicant is not from the Public Service, he shall not be less than fifty-two years old or more than fifty-six years old at the date of appointment.

(5) The procedure for appointment shall be open, transparent and competitive, and all qualified candidates shall be invited to go through a competitive interview conducted by the Civil Service Commission after which the names of the three most qualified candidates shall be shortlisted and forwarded to the Governor for appointment.

Tenure of Offices of State Auditor-General and Auditor for Local Governments. 4. (1) The State Auditor-General and Auditor General for Local Governments shall hold office for a term of four years renewable for another term of four years and no more.

(2) The State Auditor-General and Auditor General for Local Governments shall remain in Office until he has attained the retirement age of sixty years or has put in thirty-five years of service, whichever is earlier in accordance with the extant Pensions Law of the State, or as may be prescribed by law except where he is removed under the provisions of this Law.

(3) Where an Auditor-General attains the age of sixty years or thirty-five years of service during tenure of his office, he shall retire immediately.

Remuneration,
Salaries and
Allowances of State
Auditor-General and
Auditor-General for
Local Governments.

5. (1) The State Auditor-General and Auditor General for Local Governments shall be paid such remuneration and salaries as may be prescribed by the House of Assembly, but not less than the amount as shall have been determined by the Revenue Mobilization, Allocation and Fiscal Commission of the Federal Republic of Nigeria.

(2) The remuneration and salaries of the State Auditor-General and Auditor-General for Local Governments shall be charged upon the Consolidated Revenue Fund of the State.

(3) The remuneration and allowances payable to the State Auditor-General and Auditor-General for Local Governments and his conditions of service shall not be altered to his disadvantage after his appointment.

(4) The State Auditor-General and Auditor-General for Local Governments shall upon reaching the age of retirement be entitled to pension for life at a rate equivalent to the salary inclusive of all allowances of the incumbent Auditor-General.

(5) Any pension granted to the retiring Auditors-General by virtue of sub-section (4) above shall be charged upon the Consolidated Revenue Fund of the State.

(6) The Auditors-General shall not later than three months before the close of each financial year, submit a budget comprising proposed income, revenue and expenditure for their offices for the following financial year to the State House of Assembly through the Public Accounts Committee of the House of Assembly which funds shall be charged to the Consolidated Revenue Fund of the State and disbursed in equal monthly instalments.

(7) The Offices of the Auditors-General shall have reasonable human, material and financial resources to perform their statutory responsibilities and the Executive shall not control or direct access to these resources.

Cessation of offices
of State Auditor-
General and Auditor

6. A person holding the Offices of the State Auditor-General and Auditor General for Local Governments shall cease to hold office if –

General for Local Governments.

- (a) he is removed by the Governor acting on an address supported by two-thirds majority of the House of Assembly praying that he be so removed for inability to discharge the functions of his Office (whether arising from infirmity of mind or body or any other cause) or for misconduct:

Provided that he shall have been given at least twenty-one working days notice in writing to defend himself on the floor of the House of Assembly;

- (b) resigns/retires; or
- (c) is permanently incapacitated.

Vacancy in Offices of State Auditor-General and Auditor General for Local Governments.

7. (1) In the event of the absence or incapacitation of the State Auditor-General and Auditor General for Local Governments or where the Offices of the State Auditor-General and Auditor General for Local Governments is vacant, the Governor may, on the recommendation of the State Civil Service appoint a person to perform the duties of the State Auditor-General temporarily in acting capacity.

(2) A person appointed pursuant to sub-section (1) of this section shall possess the qualifications specified in Section 3 of this Law.

(3) No person shall act in the Offices of State Auditor-General and Auditor General for Local Governments for a period exceeding six months except by resolution of the State House of Assembly.

Immunity, autonomy and independence of Auditors-General.

8. (1) In the exercise of his function under this Law, the State Auditor General and Auditor-General for Local Governments, and any other staff, member or authorized auditor shall be exempted from legal action or prosecution before a court of law for carrying out a duty or exercising a power under of this Law, in so far as the execution of such duty or the exercising of such power emanates from a formally approved audit engagement and was carried out in good faith. The aforesaid immunity shall apply to the entire tenure of active service.

(2) The State Auditor-General and the Auditor General for Local Governments in terms of this Law, shall be afforded full and unencumbered independence in the execution of duties or the exercise of powers which shall be equal in extent to that afforded the Auditor-General in section 125(6) of the Constitution and the Auditors-General shall not be subject to the direction or control of any other authority or person.

(3) Pursuant to sub-section (2) above, the Auditors-General shall be free from direction and interference from the State House of Assembly and the Executive Council in the –

- (a) selection of audit issues;
- (b) planning, programming, conduct, reporting and follow-up of audits;
- (c) organization and management of his office; and
- (d) enforcement and application of sanctions.

(4) Notwithstanding the provisions of subsection (3) above, the Auditors-General shall be free to exercise full discretion, in the discharge of his responsibilities, to cooperate with government or public entities that strive to improve the use and management of public fund.

(5) The Auditors-General shall not be involved or seen to be involved, in any manner, whatsoever, in the management of any auditable entity.

PART II

Functions and Powers of the State Auditor-General and Auditor General for Local Governments

Functions of State Auditor-General.

9. (1) The State Auditor-General shall –
- (a) take all reasonable precautions to safeguard the collection of public monies and ensure

that the law, directions and instructions relating to the said collection have been duly observed and compiled with;

- (b) ensure that all monies appropriated or otherwise disbursed have been expended on and applied for the purpose for which the grants made by the Executive Council of the State and the State House of Assembly were intended, and that the expenditure conforms to the authority which governs it;
- (c) ensure that adequate audit regulations exist for Accounting and Financial operations in the State and that they are duly observed;
- (d) ensure that monies have been expended with efficiency and effectiveness and with due regard to Financial Regulations;
- (e) ensure that satisfactory procedures have been established to measure and report the effectiveness of programmes, where such procedures could appropriately and reasonably be implemented;
- (f) ensure that the attention of the appropriate authorities have been drawn to any irregularity observed during the examination of the account as soon as facts of such irregularities have been established and confirmed;
- (g) ensure that, as a result of the audit conducted by him, all queries and observations are addressed to the Accountant-General, the Accounting Officer or any other appropriate person and call for such accounts, vouchers, statements, documents, and explanations as he may deem fit;

- (h) where he deems it fit, surcharge and specify to the appropriate Head of Department or Institution, the amount due from any person upon whom he had surcharged and the reason for the surcharge and shall report the circumstances of the case to the Accounting Officer of the affected department; and
 - (i) carry out such audits as he may deem necessary to safeguard government assets.
- (2) The State Auditor-General shall also audit –
- (a) the use of public monies, resources or assets by a recipient or beneficiary regardless of its legal nature;
 - (b) collection of revenues owed to the State Government or other public entities;
 - (c) the quality of financial management and reporting by the State Ministries, Departments and Agencies; and
 - (d) the implementation of policies of government and public entities.

(3) The State Auditor-General shall, in exercising his functions under the provisions of this Law, express his opinion as to whether the financial statements and accounts represent the financial information in accordance with applicable statutory provisions, stated accounting policies of government, generally accepted accounting principles and standards, and are essentially consistent with those of the preceding year.

- (4) The State Auditor-General shall –
- (a) prepare an audit plan and associated budget for the approval of the House of Assembly not later than three months before the end of the budget year;
 - (b) audit all public accounts of the State;

- (c) either by himself or any person authorized by him, have access to all the books, records, returns, and other documents relating to the accounts referred to in paragraph (b) of this sub-section whether kept electronically or otherwise;
- (d) within ninety days of the receipt of the Accountant General's financial statement and annual accounts of the State, submit his report to the House of Assembly; and
- (e) in the exercise of his responsibility, publish and disseminate the annual statutory report once they have been formally submitted to the State House of Assembly, electronically and manually.

(5) Nothing in sub section (4) (b) above, shall be construed as authorizing the State Auditor-General to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by Law. However, the State Auditor-General shall –

- (a) provide such bodies with –
 - (i) a list of qualified auditors to be appointed by them as external auditors and from which the bodies shall appoint their external auditors;
 - (ii) a guideline on the level of fees to be paid to external auditors; and
- (b) comment on their annual accounts and auditor's report thereon.

(6) The State Auditor-General shall evaluate the adequacy of the State's enterprise risk management strategies and policies and make recommendations for their improvement.

(7) In the performance of his functions under this Law, the State Auditor-General shall not be subject to the direction or control of any authority or person.

*Powers of State
Auditor-General.*

10. (1) The State Auditor-General shall have power to conduct periodic checks of all government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by a law of the State House of Assembly and draw attention to the following –

- (a) the profitability, liquidity, stability or solvency of such body as well as performance of the body in the capital market, where applicable;
- (b) any delay in the payment of government's portion of any dividend into the consolidated Revenue Fund;
- (c) any fraud or loss and, if so, their underlying causes and person(s) responsible for such fraud or losses;
- (d) any internal control weaknesses which were identified;
- (e) the general corporate performance indicating achievement against set targets and objectives; and
- (f) whether the finances of the body have been conducted with due regard to economy, efficiency and effectiveness, having regard to the resources utilized.

(2) If at any time it appears to the State Auditor-General that any irregularities have occurred in the receipt, custody or expenditure of public monies or in the receipt, custody, issue, sale, transfer or delivery of any securities, stores or other Government property, or in the accounting of same, he shall immediately bring the matter to the notice of the Governor or the Accounting Officer of the affected Ministry or Agency and to any other officer he may deem fit.

(3) The State Auditor-General may –

- (a) seek the advice or opinion of the office of the Attorney-General of the State, in writing, on any question or issue arising from the provisions of this Law in respect of all matters and issues, that may be necessary for the due performance and exercise of the duties and powers vested in him;
- (b) deploy any officer in his office to any government department, authority, commission or agency to enable the officer carry out his duties effectively for a given period; and such Government Agency shall provide accommodation and other necessary facilities for the officer to perform his duties.

(4) For the purpose of discharging the functions of his office, the State Auditor-General, subject to the provisions of this Law, may do anything necessary and enter into any transaction necessary to ensure the proper performance of those functions; this may include –

- (a) implementing a human resource management system and policies for managing the staff and staff developmental programmes;
- (b) developing and maintaining such systems, whether by computer or other means, for the collection, storage, analysis and retrieval of relevant information;
- (c) engaging the services of professionals to serve on a contract basis for limited engagements, including those required as part of agreements with international organizations, provided that all audit opinions shall remain those of the State Auditor- General; and

