

Enrolled
House Bill 2280

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Education)

CHAPTER

AN ACT

Relating to audits of education districts; creating new provisions; amending ORS 297.210 and 297.405; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1)(a) Based on factors identified by the State Board of Education by rule, the Department of Education may initiate a financial audit or a performance audit of a school district or an education service district.

(b) Prior to initiating an audit, the Department of Education shall:

(A) Give notice to the school district or the education service district of the department's intent to initiate the audit; and

(B) Provide the school district or the education service district with the opportunity to provide to the department any information related to the subject of the audit.

(c) Following the review of any information provided under paragraph (b) of this subsection, the department may:

(A) Decline to proceed with the audit; or

(B) Cause the audit to be conducted.

(2) For the purpose of causing an audit to be conducted as authorized by this section, the department may enter into a contract with:

(a) The Secretary of State in accordance with ORS 297.210; or

(b) If the Secretary of State is unable or unwilling to conduct the audit, a private entity.

(3)(a) If the Secretary of State conducts the audit, the school district or education service district may be charged for a portion of the costs incurred for the audit as provided by ORS 297.210.

(b) If a private entity conducts an audit, the Department of Education may charge the school district or education service district for a portion of the costs incurred for the audit.

(4) A copy of an audit conducted as provided by this section must be forwarded to the Department of Education and to any other entity identified by the department in accordance with rules adopted by the State Board of Education.

SECTION 2. ORS 297.210 is amended to read:

297.210. (1)(a) The Secretary of State, as State Auditor, shall have the accounts and financial affairs of state departments, boards, commissions, institutions and state-aided institutions and agencies of the state reviewed or audited as the Secretary of State considers advisable or necessary.

(b) The Secretary of State, as State Auditor, may conduct performance audits of school districts and education service districts. For audits conducted under this paragraph:

(A) The Secretary of State shall identify by rule factors and standards by which the secretary will determine whether to initiate an audit as authorized under this paragraph or to enter into a contract with the Department of Education to conduct an audit as provided by section 1 of this 2011 Act.

(B) Prior to initiating an audit, the Secretary of State shall:

(i) Give notice to the school district or the education service district of the secretary's intent to initiate the audit; and

(ii) Provide the school district or the education service district with the opportunity to provide to the secretary any information related to the subject of the audit.

(C) Following the review of any information provided under subparagraph (B) of this paragraph, the Secretary of State may:

(i) Decline to proceed with the audit; or

(ii) Cause the audit to be conducted.

(D) The Secretary of State may charge a school district or an education service district for a portion of the costs incurred for an audit authorized by this paragraph. Amounts charged as provided by this subparagraph shall be in lieu of any amounts that may be charged as provided by ORS 297.230.

[(b)] (c) The Secretary of State, as State Auditor, may conduct audits of the business practices of school districts and education service districts pursuant to a contract with the Department of Education authorized by ORS 326.133.

[(c)] (d) The Secretary of State may subpoena witnesses, require the production of books and papers and rendering of reports in such manner and form as the Secretary of State requires and may do all things necessary to secure a full and thorough investigation.

(e) The Secretary of State shall report, in writing, to the Governor. The report shall include a copy of the report on each audit.

(f) In addition to the report described in paragraph (e) of this subsection, the Secretary of State shall provide a report to a school district board or the board of directors of an education service district following an audit conducted as provided by paragraph (b) of this subsection.

(2) The Secretary of State may audit or review any institution or department of the state government at any time the executive head of the institution or department, for any reason, retires from the head's office or position. The secretary need not conduct an audit or review under this subsection if:

(a) The institution or department has been the subject of an audit or review of financial controls within the six months immediately preceding the retirement of the executive head of the institution or department; or

(b) The secretary has not received a report within the 12 months immediately preceding the retirement of the executive head of the institution or department indicating that the executive head of the institution or department was unable or unwilling to follow state law, rules, policies or procedures.

(3) The Secretary of State shall employ auditors upon such terms and for such compensation as the Secretary of State determines are advantageous and advisable.

(4) If a person fails to comply with any subpoena issued under subsection (1) of this section, a judge of the circuit court of any county, on application of the Secretary of State, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court.

SECTION 3. ORS 297.405 is amended to read:

297.405. As used in ORS 297.020, 297.230, 297.405 to 297.740 and 297.990:

(1) "Accountants" means all accountants whose names are included in the roster prepared and maintained by the Oregon Board of Accountancy as required by ORS 297.670.

(2) "Accounts" means all books, papers, files, letters and records of any nature or in any form used in conducting the affairs of the municipal corporation or in recording the transactions thereof.

- (3) "Board" means the Oregon Board of Accountancy.
- (4) "Fiscal affairs" means and includes all activities of any nature giving rise to or resulting from financial transactions, including compliance with legal requirements applicable to the operation of a municipal corporation.
- (5) "Municipal corporation" means a:
 - (a) City;
 - (b) County;
 - (c) Special district;
 - (d) School district or an education service district;**
 - [(d)] (e) Corporation, except a municipal corporation established pursuant to ORS 441.525 to 441.595, upon which is conferred powers of the state for the purpose of local government; or
 - [(e)] (f) Public corporation, including a cooperative body formed between municipal corporations.
- (6) "Public corporation" means a corporation the operation of which is subject to control by local government or its officers and which, at least in part, is organized to serve a public purpose of, and receives public funds or other support having monetary value from, such government.

SECTION 4. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House June 14, 2011

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 Ramona Kenady Line, Chief Clerk of House

 Bruce Hanna, Speaker of House

 Arnie Roblan, Speaker of House

Passed by Senate June 20, 2011

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 Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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 John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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 Kate Brown, Secretary of State