

Enrolled
House Bill 2174

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Secretary of State Kate Brown)

CHAPTER

AN ACT

Relating to municipal audits; creating new provisions; amending ORS 297.425, 297.465 and 297.466; and declaring an emergency.

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

SECTION 1. ORS 297.425 is amended to read:

297.425. (1) Except as provided in ORS 297.435, the accounts and fiscal affairs of every municipal corporation shall be audited and reviewed at least once each calendar or fiscal year, and more often if considered advisable by the governing body or managing or executive officer of the municipal corporation. The audits and reviews shall be made by accountants pursuant to contracts entered into by the governing body, or managing or executive officer, and accountants, or by the Secretary of State pursuant to a duly adopted ordinance or resolution. Upon request of the secretary [*of State*], the governing body, or managing or executive officer, shall provide the secretary with a copy of the contract entered into or an ordinance or resolution adopted under this section.

[(2) All contracts for conducting audits and reviews shall be in a form prescribed or approved by the Secretary of State.]

[(3)] (2) The compensation for audits and reviews performed by accountants shall be as agreed upon between the governing body, or managing or executive officer of the municipal corporation, and the accountant, and shall be paid in the same manner as other claims against the municipal corporation are paid.

[(4)] (3) All expenses and costs incurred by the Secretary of State in conducting audits and reviews for municipal corporations shall be borne by the municipal corporation for which a particular audit or review is made. The expenses and costs shall be paid to the secretary [*of State*] in the same manner as other claims against the municipal corporation are paid.

[(5)] (4) Audits and reviews required by this section shall inquire into:

- (a) The principles of accounting and methods followed by the municipal corporation in recording, summarizing and reporting its financial transactions and financial condition;
- (b) The accuracy and legality of the transactions, accounts, records, files and financial reports of the officers and employees of the municipal corporation as they relate to its fiscal affairs; and
- (c) Compliance with requirements, orders and regulations of other public officials which pertain to the financial condition or financial operations of the municipal corporation.

SECTION 2. ORS 297.465 is amended to read:

297.465. (1) The Secretary of State, in cooperation with the Oregon Board of Accountancy, and in consultation with the Oregon Society of Certified Public Accountants, shall prescribe the minimum standards for conducting audits of municipal corporations, preparing the resulting audit re-

ports and expressing opinions upon the financial condition and results of operation for the period under audit. The expression of opinion shall be signed by the accountant signing the contract, or in the case of a partnership or professional corporation, by a partner or stockholder who is an accountant as defined in ORS 297.405, who has personally conducted the audit to an extent satisfactory to the secretary [of State] and to the municipal corporation.

(2) The municipal corporation shall be furnished with a written audit report, containing a signed expression of opinion, in the form prescribed by the Secretary of State. A copy of the audit report shall be furnished to each person who was a member of the governing body at the end of the calendar or fiscal year and to each member of the current governing body. Other copies shall be furnished the municipal corporation as are requested by the chairperson of the governing body or the managing or executive officer. The accountant shall furnish the audit report to the municipal corporation within six months after the close of the calendar or fiscal year under audit, *[except that the Secretary of State, for good cause shown, may grant to the accountant a reasonable extension of time]* **unless the secretary has granted the municipal corporation an extension under subsection (3) of this section.**

(3)(a) The municipal corporation shall file one copy of its audit report with the Secretary of State **within six months after the close of the calendar or fiscal year under audit, unless the secretary, for good cause shown, grants to the municipal corporation a reasonable extension of time. The extension may not exceed one year after the close of the calendar or fiscal year under audit unless the secretary finds that extraordinary circumstances justify a longer extension. A municipal corporation is delinquent for purposes of the filing requirement under this subsection if the municipal corporation does not file the audit report by the deadline or any extended deadline described in this subsection.**

(b) The report *[shall be]* is subject to review by the secretary *[of State]*, who may also require submission of the supporting documentation and audit programs of the accountant.

(c) If an audit, audit report or expression of opinion is found by the secretary *[of State]* not to be in accordance with the prescribed standards, the secretary *[of State]* shall request compliance. If the accountant fails to comply with the request, the secretary *[of State]* shall *[so]* report **the failure to comply** to the Oregon Board of Accountancy, which *[thereupon]* may remove or suspend the name of the accountant from the roster required by ORS 297.670.

(4) Audit reports or financial statements filed with the Secretary of State as required by ORS 297.405 to 297.555 shall include the names, mailing addresses and titles of the officers and members of the governing board of the municipal corporation. The report or statement of a special district shall include the name of its registered agent and the address of its registered office as provided by ORS 198.335 to 198.365.

SECTION 3. ORS 297.466 is amended to read:

297.466. (1) In performing an audit and review required under ORS 297.425, the accountant under contract with the municipal corporation or the Secretary of State, whoever performs the audit and review, shall determine if the municipal corporation has, or has not, followed generally accepted accounting principles in reporting its financial condition and operations, established appropriate accounting systems and internal controls and substantially complied with legal requirements in conducting its financial affairs. The determination shall either be included in the signed expression of opinion or otherwise disclosed in the audit report required under ORS 297.465.

(2) Upon receipt of an audit report under ORS 297.465, the governing body of a *[county or city]* **municipal corporation** shall determine the measures it considers necessary to *[correct]* **address** any deficiencies disclosed in the report. The governing body shall adopt a *[resolution setting forth the corrective measures it proposes and the period of time estimated to complete them]* **plan of action to address the deficiencies. The plan must include the estimated period of time necessary to complete the planned actions.**

(3)(a) Within 30 days after *[a county or city files a copy of its]* **filing an** audit report with the Secretary of State under ORS 297.465, **a municipal corporation shall file with the secretary a**

copy of *[the resolution prepared]* **the plan of action adopted** under subsection (2) of this section *[shall also be filed]*.

(b) At the request of the governing body of the municipal corporation, the secretary shall make suggestions for addressing the deficiencies cited in the audit report.

(c) For counties and cities, upon receipt by the secretary of the audit report and *[the resolution]* the plan of action adopted under subsection (2) of this section, the secretary *[of State]* shall either acknowledge the *[city or county's plans to correct]* **county or city's plan of action to address the deficiencies cited in the audit report or notify the county or city of *[those]* deficiencies *[which, if not corrected,]* **that, if not addressed,** could result in withholding of funds under this section. *[At the request of the governing body of the city or county the Secretary of State shall make suggestions for correcting those deficiencies.]* If the governing body of the county or city does not agree with the notification by the secretary *[of State, it shall be granted]*, **the secretary shall provide the governing body with** an opportunity for a conference regarding the notification, audit determinations or corrective measures to be taken.**

(4) If the Secretary of State determines that a county or city has not filed an audit report with the secretary as required under ORS 297.465, the secretary may certify the determination to the State Treasurer, the Director of the Department of Revenue, the Director of Transportation and the Director of the Oregon Department of Administrative Services.

[(4)] **(5)** If the Secretary of State concurs with determinations made under subsection (1) of this section in two successive audits and reviews of the same county or city, and determines that the governing body of the county or city has not taken adequate action to *[correct]* **address** the deficiencies cited in the notifications given under subsection (3) of this section, the secretary *[of State]* may certify *[these facts]* **the determination** to the State Treasurer, the Director of the Department of Revenue, the Director of Transportation and the Director of the Oregon Department of Administrative Services. The certificate of the secretary *[of State shall only]* **under this subsection may** be issued **only** after notice, opportunity to be heard and hearing pursuant to the provisions of ORS chapter 183, governing contested cases. The hearing shall be held within the jurisdiction of the county or city.

[(5)] **(6)** Upon receipt of a certificate from the Secretary of State under subsection (4) **or** (5) of this section, the State Treasurer, the Director of the Department of Revenue, the Director of Transportation and the Director of the Oregon Department of Administrative Services shall withhold from distribution to the county or city 10 percent of the moneys otherwise to be distributed to it under ORS 221.770, 323.455, 366.762 to 366.768, 366.785 to 366.820, 471.805 and 471.810. The moneys withheld shall be disbursed to the county or city only after the officer responsible for disbursement has received notice from the secretary *[of State]* that:

(a) The county or city has filed the audit report required under ORS 297.465 with the secretary; or

(b) The governing body of the county or city has taken action to follow generally accepted accounting principles in reporting financial condition and operations and establish appropriate accounting systems and internal controls and will substantially comply with legal requirements in conducting its financial affairs.

[(6)] **(7)** The Secretary of State may not issue a certificate under subsection *[(4)]* (5) of this section for failure to follow generally accepted accounting principles if a county or city has followed accounting practices authorized by state law.

[(7)] **(8)** As used in this section, "generally accepted accounting principles" means those accounting principles sanctioned by recognized authoritative bodies such as the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, the Financial Accounting Standards Board or their successors.

SECTION 4. Section 5 of this 2015 Act is added to and made a part of ORS 297.405 to 297.555.

SECTION 5. (1) For each calendar or fiscal year under audit, the Secretary of State shall prepare and maintain a summary report that includes, at a minimum:

(a) A list of the municipal corporations that were required to file audit reports with the secretary for the calendar or fiscal year as required by ORS 297.405 to 297.555;

(b) A list of the municipal corporations that filed audit reports with the secretary within six months after the close of the calendar or fiscal year under audit;

(c) A list of the municipal corporations that did not request a filing extension and did not file audit reports with the secretary within six months after the close of the calendar or fiscal year under audit;

(d) A list of the municipal corporations that requested and were granted filing extensions and either filed or did not file audit reports with the secretary in accordance with the approved extension;

(e) A list of the number and type of deficiencies cited in the audit report by the accountants for each municipal corporation for the calendar or fiscal year under audit; and

(f) A description of whether the municipal corporation submitted a plan of action for deficiencies cited in the audit report for the calendar or fiscal year under audit to the secretary as described in ORS 297.466 (2) and (3).

(2) Not later than March 1 of each odd-numbered year, the Secretary of State shall submit to the appropriate legislative committee with authority over audits copies of the two most recent summary reports prepared under subsection (1) of this section. The secretary shall make the summary reports available for public inspection in accordance with the secretary's established procedures.

SECTION 6. Section 5 of this 2015 Act and the amendments to ORS 297.425, 297.465 and 297.466 by sections 1 to 3 of this 2015 Act apply to contracts entered into and audit reports required to be filed on or after the effective date of this 2015 Act.

SECTION 7. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House March 11, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate April 8, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State