

House Bill 2174

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

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Deletes requirement that Secretary of State prescribe form of contract for conduct of municipal audits.

Allows Secretary of State to direct withholding of certain moneys from county or city that fails to file municipal audit report with secretary.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to municipal audits; creating new provisions; amending ORS 297.425 and 297.466; and de-
3 claring an emergency.

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

5 **SECTION 1.** ORS 297.425 is amended to read:

6 297.425. (1) Except as provided in ORS 297.435, the accounts and fiscal affairs of every municipal
7 corporation shall be audited and reviewed at least once each calendar or fiscal year, and more often
8 if considered advisable by the governing body or managing or executive officer of the municipal
9 corporation. The audits and reviews shall be made by accountants pursuant to contracts entered
10 into by the governing body, or managing or executive officer, and accountants, or by the Secretary
11 of State pursuant to a duly adopted ordinance or resolution. Upon request of the secretary [*of*
12 *State*], the governing body, or managing or executive officer, shall provide the secretary with a copy
13 of the contract entered into or an ordinance or resolution adopted under this section.

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

16 [(3)] (2) The compensation for audits and reviews performed by accountants shall be as agreed
17 upon between the governing body, or managing or executive officer of the municipal corporation,
18 and the accountant, and shall be paid in the same manner as other claims against the municipal
19 corporation are paid.

20 [(4)] (3) All expenses and costs incurred by the Secretary of State in conducting audits and re-
21 views for municipal corporations shall be borne by the municipal corporation for which a particular
22 audit or review is made. The expenses and costs shall be paid to the secretary [*of State*] in the same
23 manner as other claims against the municipal corporation are paid.

24 [(5)] (4) Audits and reviews required by this section shall inquire into:

25 (a) The principles of accounting and methods followed by the municipal corporation in recording,
26 summarizing and reporting its financial transactions and financial condition;

27 (b) The accuracy and legality of the transactions, accounts, records, files and financial reports
28 of the officers and employees of the municipal corporation as they relate to its fiscal affairs; and

29 (c) Compliance with requirements, orders and regulations of other public officials which pertain

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 to the financial condition or financial operations of the municipal corporation.

2 **SECTION 2.** ORS 297.466 is amended to read:

3 297.466. (1) In performing an audit and review required under ORS 297.425, the accountant under
 4 contract with the municipal corporation or the Secretary of State, whoever performs the audit and
 5 review, shall determine if the municipal corporation has, or has not, followed generally accepted
 6 accounting principles in reporting its financial condition and operations, established appropriate
 7 accounting systems and internal controls and substantially complied with legal requirements in
 8 conducting its financial affairs. The determination shall either be included in the signed expression
 9 of opinion or otherwise disclosed in the audit report required under ORS 297.465.

10 (2) Upon receipt of an audit report under ORS 297.465, the governing body of a county or city
 11 shall determine the measures it considers necessary to correct any deficiencies disclosed in the re-
 12 port. The governing body shall adopt a resolution setting forth the corrective measures it proposes
 13 and the period of time estimated to complete them.

14 (3) Within 30 days after *[a county or city files a copy of its]* **filing an** audit report with the Sec-
 15 retary of State under ORS 297.465, **a county or city shall file with the secretary** a copy of *[the]*
 16 **any** resolution prepared under subsection (2) of this section *[shall also be filed]*. Upon receipt of the
 17 audit report and the resolution, the secretary *[of State]* shall either acknowledge the city or county's
 18 plans to correct deficiencies cited in the audit report or notify the county or city of those deficien-
 19 cies which, if not corrected, could result in withholding of funds under this section. At the request
 20 of the governing body of the city or county, the secretary *[of State]* shall make suggestions for cor-
 21 recting those deficiencies. If the governing body of the county or city does not agree with the no-
 22 tification by the secretary *[of State, it shall be granted]*, **the secretary shall provide the governing**
 23 **body with** an opportunity for a conference regarding the notification, audit determinations or cor-
 24 rective measures to be taken.

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

29 *[(4)]* **(5)** If the Secretary of State concurs with determinations made under subsection (1) of this
 30 section in two successive audits and reviews of the same county or city, and determines that the
 31 governing body of the county or city has not taken adequate action to correct the deficiencies cited
 32 in the notifications given under subsection (3) of this section, the secretary *[of State]* may certify
 33 *[these facts]* **the determination** to the State Treasurer, the Director of the Department of Revenue,
 34 the Director of Transportation and the Director of the Oregon Department of Administrative Ser-
 35 vices. The certificate of the secretary *[of State shall only]* **under this subsection may** be issued
 36 **only** after notice, opportunity to be heard and hearing pursuant to the provisions of ORS chapter
 37 183, governing contested cases. The hearing shall be held within the jurisdiction of the county or
 38 city.

39 *[(5)]* **(6)** Upon receipt of a certificate from the Secretary of State under subsection (4) **or (5)** of
 40 this section, the State Treasurer, the Director of the Department of Revenue, the Director of
 41 Transportation and the Director of the Oregon Department of Administrative Services shall withhold
 42 from distribution to the county or city 10 percent of the moneys otherwise to be distributed to it
 43 under ORS 221.770, 323.455, 366.762 to 366.768, 366.785 to 366.820, 471.805 and 471.810. The moneys
 44 withheld shall be disbursed to the county or city only after the officer responsible for disbursement
 45 has received notice from the secretary *[of State]* that:

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

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

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

10 [(7)] **(8) As used in this section, “generally accepted accounting principles” means those ac-**
11 **counting principles sanctioned by recognized authoritative bodies such as the Governmental Ac-**
12 **counting Standards Board, the American Institute of Certified Public Accountants, the Financial**
13 **Accounting Standards Board or their successors.**

14 **SECTION 3. The amendments to ORS 297.425 and 297.466 by sections 1 and 2 of this 2015**
15 **Act apply to contracts entered into and audit reports required to be filed on or after the ef-**
16 **fective date of this 2015 Act.**

17 **SECTION 4. This 2015 Act being necessary for the immediate preservation of the public**
18 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
19 **on its passage.**

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