

# House Bill 2103

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

## 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**.

Modifies laws relating to municipal audits.

## A BILL FOR AN ACT

1  
2 Relating to municipal audits; creating new provisions; amending ORS 297.425, 297.435, 297.445,  
3 297.465, 297.471, 297.475, 297.485, 297.525 and 297.720; and repealing ORS 297.455, 297.459 and  
4 297.701.

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

6 **SECTION 1. The Secretary of State shall, by rule, specify categories and types of spend-**  
7 **ing that constitute expenditures for purposes of ORS 297.435 and 297.485.**

8 **SECTION 2.** ORS 297.425 is amended to read:

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

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

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

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

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

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

30 [*(c) Compliance with requirements, orders and regulations of other public officials which pertain*  
31 *to the financial condition or financial operations of the municipal corporation.*] **be performed in ac-**

**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 **cordance with standards promulgated by the American Institute of Certified Public Ac-**  
2 **countants and shall inquire into principles of accounting, methods of operations and**  
3 **compliance with regulations as identified by rule of the Secretary of State.**

4 **SECTION 3. ORS 297.455 and 297.459 are repealed.**

5 **SECTION 4.** ORS 297.465 is amended to read:

6 297.465. (1) The Secretary of State, in cooperation with the Oregon Board of Accountancy, and  
7 in consultation with the Oregon Society of Certified Public Accountants, shall prescribe the mini-  
8 mum standards for conducting audits of municipal corporations, preparing the resulting audit reports  
9 and expressing opinions upon the financial condition and results of operation for the period under  
10 audit. The expression of opinion shall be signed by the accountant signing the contract, or in the  
11 case of a partnership or professional corporation, by a partner or stockholder who is an accountant  
12 as defined in ORS 297.405, who has personally conducted the audit to an extent satisfactory to the  
13 secretary and to the municipal corporation.

14 (2) The municipal corporation shall be furnished with a written audit report, containing a signed  
15 expression of opinion, in the form prescribed by the Secretary of State. A copy of the audit report  
16 shall be furnished to each person who was a member of the governing body at the end of the [*cal-*  
17 *endar or*] fiscal year and to each member of the current governing body. [*Other copies shall be fur-*  
18 *nished the municipal corporation as are requested by the chairperson of the governing body or the*  
19 *managing or executive officer.*] The accountant shall furnish the audit report to the municipal cor-  
20 poration within six months after the close of the [*calendar or*] fiscal year under audit, unless the  
21 secretary has granted the municipal corporation an extension under subsection (3) of this section.

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

30 (b) The report is subject to review by the secretary, who may also require submission of the  
31 supporting documentation and audit programs of the accountant.

32 (c) If an audit, audit report or expression of opinion is found by the secretary not to be in ac-  
33 cordance with the prescribed standards, the secretary shall request compliance. [*If the accountant*  
34 *fails to comply with the request,*] The secretary [*shall*] **may** report the [*failure*] **request** to comply to  
35 the Oregon Board of Accountancy, which may **investigate the accountant's work or** remove or  
36 suspend the name of the accountant from the roster required by ORS 297.670.

37 (4) Audit reports or financial statements filed with the Secretary of State as required by ORS  
38 297.405 to 297.555 shall include the names, **physical or electronic** mailing addresses and titles of  
39 the officers and members of the governing board of the municipal corporation. The report or state-  
40 ment of a special district shall include the name of its registered agent and the address of its reg-  
41 istered office as provided by ORS 198.335 to 198.365.

42 **SECTION 5.** ORS 297.485 is amended to read:

43 297.485. (1) At the time an audit report, prepared by an accountant, is filed with the Secretary  
44 of State, as required by ORS 297.465, the municipal corporation shall pay to the Secretary of State  
45 a filing fee. The filing fee shall be determined by the total expenditures made by the municipal

1 corporation [for any and all purposes] during the [calendar or] fiscal year audited[, except that  
 2 expenditures for principal of bonded debt, principal of short-term loans, principal of warrants redeemed  
 3 which were issued during prior audit periods, transfers or loans between funds and turnovers of taxes  
 4 or other trust moneys to other municipal corporations shall not be included in the total expenditures  
 5 upon which the amount of the fee is based].

6 (2) The filing fee to be paid shall be as indicated for those municipal corporations whose total  
 7 expenditures fall within the classifications as follows:

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	Over	Not Over	Fee
		\$ 50,000	\$ 20
\$	50,000	150,000	40
	150,000	500,000	150
	500,000	1,000,000	200
	1,000,000	5,000,000	250
	5,000,000	10,000,000	300
	10,000,000	50,000,000	350
	50,000,000		400

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21 (3) Audit reports filed by the administrative office of the county, under ORS 328.465 (2), for  
 22 school districts with less than 1,000 children according to the latest school census in the county,  
 23 shall be considered one report for purposes of the filing fee required by this section. The filing fee  
 24 shall be paid by the county administrative office and deducted pro rata from moneys due to the se-  
 25 veral school districts.

26 **SECTION 6.** ORS 297.525 is amended to read:

27 297.525. The annual audit required to be made of the accounts and fiscal affairs of a county shall  
 28 include a cost audit, **in accordance with rules of the Secretary of State**, of the cost account for  
 29 county road work.

30 **SECTION 7. ORS 297.701 is repealed.**

31 **SECTION 8. ORS 297.670 to 297.740 are added to and made a part of ORS 673.010 to**  
 32 **673.465.**

33 **SECTION 9.** ORS 297.720 is amended to read:

34 297.720. Every auditor or accountant whose name is included on the roster of authorized ac-  
 35 countants referred to in ORS 297.670 shall pay to the Oregon Board of Accountancy biennially a fee  
 36 for continuance thereon. The fee shall be in an amount [not to exceed \$100 as] determined by the  
 37 board by rule.

38 **SECTION 10.** ORS 297.435 is amended to read:

39 297.435. (1) Subject to ORS 297.445, ORS 297.425 does not apply to any municipal corporation,  
 40 except a county or a school district, if, with respect to any one [calendar year or] fiscal year, the  
 41 municipal corporation meets all the conditions in either subsection (2) or (3) of this section.

42 (2)(a) Total expenditures for all purposes, including moneys expended for debt retirement, did  
 43 not exceed \$150,000 for the year;

44 (b) The municipal corporation has submitted financial statements for the year to the Secretary  
 45 of State within 90 days following the end of the year; and

1 (c) A certificate has been submitted with the financial statements stating that the principal re-  
 2 sponsible official of the municipal corporation was covered during the entire year by a fidelity or  
 3 faithful performance bond in an amount at least equal to the total amount of moneys received by  
 4 the municipal corporation during the year.

5 (3)(a) Total expenditures for all purposes, including moneys expended for debt retirement, ex-  
 6 ceeded \$150,000 but did not exceed \$500,000 for the year;

7 (b) The municipal corporation has submitted financial statements for the year to the Secretary  
 8 of State within 180 days following the end of the year, and the financial statements have been re-  
 9 viewed by an accountant or the Secretary of State in accordance with standards prescribed by the  
 10 Secretary of State; and

11 (c) A certificate has been submitted with the financial statements stating that the official re-  
 12 sponsible for receiving and disbursing moneys on behalf of the municipal corporation was covered  
 13 during the entire year by a fidelity or faithful performance bond in an amount at least equal to 10  
 14 percent of the total receipts for the year, but not less than \$10,000.

15 (4) The financial statements required by this section shall be in a form prescribed by the Sec-  
 16 retary of State and shall be considered audit reports for the purpose of the filing fee required by  
 17 ORS 297.485.

18 (5) The provisions of ORS 297.466 apply to financial statements for cities reviewed under sub-  
 19 section (3) of this section.

20 **SECTION 11.** ORS 297.445 is amended to read:

21 297.445. (1) ORS 297.435 does not apply to a municipal corporation for any [*calendar or*] fiscal  
 22 year if a petition requesting an audit, signed by residents of the municipal corporation who are  
 23 subject to taxes, fees, assessments or other charges levied by the municipal corporation, is filed with  
 24 the Secretary of State within six months of the end of the fiscal year for which the audit is re-  
 25 quested. In a municipal corporation with a population of 150 or less, the petition must be signed by  
 26 at least 10 residents. In a municipal corporation with a population of more than 150, the petition  
 27 must be signed by at least 30 residents.

28 (2) The Secretary of State shall give notice of the petition to the governing body of the munic-  
 29 ipal corporation within 10 days of its receipt. Upon receipt of notice of the petition from the Sec-  
 30 retary of State, the governing body or managing or executive officer of the municipal corporation  
 31 shall immediately comply with the provisions of ORS 297.425. If a copy of a signed contract between  
 32 the governing body or managing or executive officer and an accountant, or a duly authorized ordi-  
 33 nance or resolution requesting an audit by the Secretary of State, is not received within 30 days  
 34 of the dispatch of notice of petition, the Secretary of State shall cause an audit and review to be  
 35 made of the accounts and fiscal affairs of the municipal corporation designated in the petition.

36 (3) The costs incurred by the Secretary of State in making the audit and review shall be borne  
 37 by the municipal corporation, and shall be paid to the Secretary of State in the same manner as  
 38 other claims against the municipal corporation.

39 **SECTION 12.** ORS 297.471 is amended to read:

40 297.471. (1) For each [*calendar or*] fiscal year under audit, the Secretary of State shall prepare  
 41 and maintain a summary report that includes, at a minimum:

42 (a) A list of the municipal corporations that were required to file audit reports with the secre-  
 43 tary for the [*calendar or*] fiscal year as required by ORS 297.405 to 297.555;

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

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

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

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

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

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

17 **SECTION 13.** ORS 297.475 is amended to read:

18 297.475. Whenever any municipal corporation has made a request to the Secretary of State,  
19 pursuant to ORS 297.425, for the audit of its accounts and fiscal affairs, the municipal corporation  
20 may cancel that request by ordinance or resolution adopted and furnished to the Secretary of State  
21 at least 90 days prior to the end of a [*calendar or*] fiscal year.

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