

A-Engrossed
House Bill 2110

Ordered by the House February 6
Including House Amendments dated February 6

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.

Removes requirement for certain state agencies to withhold moneys from municipal corporations that fail to file audit reports with Secretary of State. Removes certain provisions relating to addressing deficiencies identified in audit reports.

Modifies expenditure thresholds for audit exemptions for municipal corporations.

Replaces requirement for certain municipal corporations to have financial statements reviewed with requirement to have certain procedures performed on financial statements.

Modifies fee schedule for filing of audit reports by municipal corporations.

Makes other changes to 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, 297.466, 297.471, 297.475, 297.485, 297.525 and 297.720; and repealing ORS 297.455,
4 297.459 and 297.701.

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

6 **SECTION 1.** ORS 297.466 is amended to read:

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

14 (2) Upon receipt of an audit report under ORS 297.465, the governing body of a municipal cor-
15 poration shall determine the measures it considers necessary to address any deficiencies disclosed
16 in the report. The governing body shall adopt a plan of action to address the deficiencies. The plan
17 must include the estimated period of time necessary to complete the planned actions.

18 (3)[(a)] Within 30 days after filing an audit report with the Secretary of State under ORS 297.465,
19 a municipal corporation shall file with the secretary a copy of the plan of action adopted under
20 subsection (2) of this section.

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

23 [(c) *For counties and cities, upon receipt by the secretary of the audit report and the plan of action*
24 *adopted under subsection (2) of this section, the secretary shall either acknowledge the county or city's*

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 *plan of action to address the deficiencies cited in the audit report or notify the county or city of defi-*
 2 *ciencies that, if not addressed, could result in withholding of funds under this section. If the governing*
 3 *body of the county or city does not agree with the notification by the secretary, the secretary shall*
 4 *provide the governing body with an opportunity for a conference regarding the notification, audit de-*
 5 *terminations or corrective measures to be taken.]*

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

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

19 *[(6) Upon receipt of a certificate from the Secretary of State under subsection (4) or (5) of this*
 20 *section, the State Treasurer, the Director of the Department of Revenue, the Director of Transportation*
 21 *and the Director of the Oregon Department of Administrative Services shall withhold from distribution*
 22 *to the county or city 10 percent of the moneys otherwise to be distributed to it under ORS 221.770,*
 23 *323.455, 366.762 to 366.768, 366.785 to 366.820, 471.805 and 471.810. The moneys withheld shall be*
 24 *disbursed to the county or city only after the officer responsible for disbursement has received notice*
 25 *from the secretary that:]*

26 *[(a) The county or city has filed the audit report required under ORS 297.465 with the secretary;*
 27 *or]*

28 *[(b) The governing body of the county or city has taken action to follow generally accepted ac-*
 29 *counting principles in reporting financial condition and operations and establish appropriate account-*
 30 *ing systems and internal controls and will substantially comply with legal requirements in conducting*
 31 *its financial affairs.]*

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

35 *[(8) (4) As used in this section, “generally accepted accounting principles” means those ac-*
 36 *counting principles sanctioned by recognized authoritative bodies such as the Governmental Ac-*
 37 *counting Standards Board, the American Institute of Certified Public Accountants, the Financial*
 38 *Accounting Standards Board or their successors.*

39 **SECTION 2.** ORS 297.435 is amended to read:

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

43 (2)(a) Total expenditures *[for all purposes, including moneys expended for debt retirement,]* did not
 44 exceed *[\$150,000]* **\$250,000** for the year;

45 (b) The municipal corporation has submitted financial statements for the year to the Secretary

1 of State within 90 days following the end of the year; and

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

6 (3)(a) Total expenditures [*for all purposes, including moneys expended for debt retirement,*] ex-
7 ceeded [*\$150,000*] **\$250,000** but did not exceed [*\$500,000*] **\$1,000,000** for the year;

8 (b) The municipal corporation has submitted financial statements for the year to the Secretary
9 of State within 180 days following the end of the year, and [*the financial statements have been re-*
10 *viewed by an accountant or the Secretary of State in accordance with standards prescribed by the*
11 *Secretary of State*] **an accountant or the Secretary of State has performed the procedures es-**
12 **tablished under subsection (5) of this section on the financial statements;** and

13 (c) A certificate has been submitted with the financial statements stating that the official re-
14 sponsible for receiving and disbursing moneys on behalf of the municipal corporation was covered
15 during the entire year by a fidelity or faithful performance bond in an amount at least equal to 10
16 percent of the total receipts for the year, but not less than [*\$10,000*] **\$25,000**.

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

20 [*(5) The provisions of ORS 297.466 apply to financial statements for cities reviewed under sub-*
21 *section (3) of this section.*]

22 (5)(a) **The Secretary of State shall, by rule, establish procedures to be performed on fi-**
23 **ancial statements under subsection (3) of this section that the secretary deems appropriate**
24 **to:**

25 (A) **Address risks to municipal corporations; and**

26 (B) **Ensure compliance by municipal corporations with applicable laws.**

27 (b) **In adopting or amending rules under this subsection, the Secretary of State shall**
28 **consult with the Oregon Board of Accountancy, the Oregon Society of Certified Public Ac-**
29 **countants and one or more organizations representing municipal corporations.**

30 **SECTION 3. The Secretary of State shall, by rule, specify categories and types of spend-**
31 **ing that constitute expenditures for purposes of ORS 297.435 and 297.485.**

32 **SECTION 4.** ORS 297.425 is amended to read:

33 297.425. (1) Except as provided in ORS 297.435, the accounts and fiscal affairs of every municipal
34 corporation shall be audited and reviewed at least once each [*calendar or*] fiscal year[, *and more*
35 *often if considered advisable by the governing body or managing or executive officer of the municipal*
36 *corporation*]. The audits and reviews shall be made by accountants pursuant to contracts entered
37 into by the governing body, or managing or executive officer, and accountants, or by the Secretary
38 of State pursuant to a duly adopted ordinance or resolution. Upon request of the secretary, the
39 governing body, or managing or executive officer, shall provide the secretary with a copy of the
40 contract entered into or an ordinance or resolution adopted under this section.

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

45 (3) All expenses and costs incurred by the Secretary of State in conducting audits and reviews

1 for municipal corporations shall be borne by the municipal corporation for which a particular audit
 2 or review is made. The expenses and costs shall be paid to the secretary in the same manner as
 3 other claims against the municipal corporation are paid.

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

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

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

9 [*(c) Compliance with requirements, orders and regulations of other public officials which pertain*
 10 *to the financial condition or financial operations of the municipal corporation.*] **be performed in ac-**
 11 **cordance with standards promulgated by the American Institute of Certified Public Ac-**
 12 **countants and shall inquire into principles of accounting, methods of operations and**
 13 **compliance with regulations as identified by rule of the Secretary of State.**

14 **SECTION 5. ORS 297.455 and 297.459 are repealed.**

15 **SECTION 6.** ORS 297.465 is amended to read:

16 297.465. (1) The Secretary of State, in cooperation with the Oregon Board of Accountancy, and
 17 in consultation with the Oregon Society of Certified Public Accountants, shall prescribe the mini-
 18 mum standards for conducting audits of municipal corporations, preparing the resulting audit reports
 19 and expressing opinions upon the financial condition and results of operation for the period under
 20 audit. The expression of opinion shall be signed by the accountant signing the contract, or in the
 21 case of a partnership or professional corporation, by a partner or stockholder who is an accountant
 22 as defined in ORS 297.405, who has personally conducted the audit to an extent satisfactory to the
 23 secretary and to the municipal corporation.

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

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

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

42 (c) If an audit, audit report or expression of opinion is found by the secretary not to be in ac-
 43 cordance with the prescribed standards, the secretary shall request compliance. [*If the accountant*
 44 *fails to comply with the request,*] The secretary [*shall*] **may** report the [*failure*] **request** to comply to
 45 the Oregon Board of Accountancy, which may **investigate the accountant's work or** remove or

1 suspend the name of the accountant from the roster required by ORS 297.670.

2 (4) Audit reports or financial statements filed with the Secretary of State as required by ORS
 3 297.405 to 297.555 shall include the names, **physical or electronic** mailing addresses and titles of
 4 the officers and members of the governing board of the municipal corporation. The report or state-
 5 ment of a special district shall include the name of its registered agent and the address of its reg-
 6 istered office as provided by ORS 198.335 to 198.365.

7 **SECTION 7.** ORS 297.485 is amended to read:

8 297.485. (1) At the time an audit report, prepared by an accountant, is filed with the Secretary
 9 of State, as required by ORS 297.465, the municipal corporation shall pay to the Secretary of State
 10 a filing fee. The filing fee shall be determined by the total expenditures made by the municipal
 11 corporation [*for any and all purposes*] during the [*calendar or*] fiscal year audited[, *except that*
 12 *expenditures for principal of bonded debt, principal of short-term loans, principal of warrants redeemed*
 13 *which were issued during prior audit periods, transfers or loans between funds and turnovers of taxes*
 14 *or other trust moneys to other municipal corporations shall not be included in the total expenditures*
 15 *upon which the amount of the fee is based*].

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

18 [_____]

	<i>Over</i>	<i>Not Over</i>	<i>Fee</i>
		\$ 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

29 [_____]

	Over	Not Over	Fee
		\$ 50,000	\$ 40
	\$ 50,000	150,000	80
	150,000	250,000	150
	250,000	500,000	250
	500,000	1,000,000	300
	1,000,000	5,000,000	350
	5,000,000	10,000,000	400
	10,000,000	50,000,000	450
	50,000,000		500

43 _____

44
 45 (3) Audit reports filed by the administrative office of the county, under ORS 328.465 (2), for

1 school districts with less than 1,000 children according to the latest school census in the county,
 2 shall be considered one report for purposes of the filing fee required by this section. The filing fee
 3 shall be paid by the county administrative office and deducted pro rata from moneys due to the se-
 4 veral school districts.

5 **SECTION 8.** ORS 297.525 is amended to read:

6 297.525. The annual audit required to be made of the accounts and fiscal affairs of a county shall
 7 include a cost audit, **in accordance with rules of the Secretary of State**, of the cost account for
 8 county road work.

9 **SECTION 9. ORS 297.701 is repealed.**

10 **SECTION 10.** ORS 297.720 is amended to read:

11 297.720. Every auditor or accountant whose name is included on the roster of authorized ac-
 12 countants referred to in ORS 297.670 shall pay to the Oregon Board of Accountancy biennially a fee
 13 for continuance thereon. The fee shall be in an amount [*not to exceed \$100 as*] determined by the
 14 board by rule.

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

16 297.445. (1) ORS 297.435 does not apply to a municipal corporation for any [*calendar or*] fiscal
 17 year if a petition requesting an audit, signed by residents of the municipal corporation who are
 18 subject to taxes, fees, assessments or other charges levied by the municipal corporation, is filed with
 19 the Secretary of State within six months of the end of the fiscal year for which the audit is re-
 20 quested. In a municipal corporation with a population of 150 or less, the petition must be signed by
 21 at least 10 residents. In a municipal corporation with a population of more than 150, the petition
 22 must be signed by at least 30 residents.

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

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

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

35 297.471. (1) For each [*calendar or*] fiscal year under audit, the Secretary of State shall prepare
 36 and maintain a summary report that includes, at a minimum:

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

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

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

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

1 sion;

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

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

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

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

13 297.475. Whenever any municipal corporation has made a request to the Secretary of State,
14 pursuant to ORS 297.425, for the audit of its accounts and fiscal affairs, the municipal corporation
15 may cancel that request by ordinance or resolution adopted and furnished to the Secretary of State
16 at least 90 days prior to the end of a [*calendar or*] fiscal year.

17