

House Bill 2110

Introduced and printed pursuant to House Rule 12.00. Presession 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**.

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.

A BILL FOR AN ACT

1
2 Relating to municipal audits; amending ORS 297.435 and 297.466.

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

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

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

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

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

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

21 [(c) *For counties and cities, upon receipt by the secretary of the audit report and the plan of action*
22 *adopted under subsection (2) of this section, the secretary shall either acknowledge the county or city's*
23 *plan of action to address the deficiencies cited in the audit report or notify the county or city of defi-*
24 *ciencies that, if not addressed, could result in withholding of funds under this section. If the governing*
25 *body of the county or city does not agree with the notification by the secretary, the secretary shall*
26 *provide the governing body with an opportunity for a conference regarding the notification, audit de-*
27 *terminations or corrective measures to be taken.*]

28 [(4) *If the Secretary of State determines that a county or city has not filed an audit report with the*

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 secretary as required under ORS 297.465, the secretary may certify the determination to the State
2 Treasurer, the Director of the Department of Revenue, the Director of Transportation and the Director
3 of the Oregon Department of Administrative Services.]

4 [(5) If the Secretary of State concurs with determinations made under subsection (1) of this section
5 in two successive audits and reviews of the same county or city, and determines that the governing body
6 of the county or city has not taken adequate action to address the deficiencies cited in the notifications
7 given under subsection (3) of this section, 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. The certificate of the secretary under this sub-
10 section may be issued only after notice, opportunity to be heard and hearing pursuant to the provisions
11 of ORS chapter 183, governing contested cases. The hearing shall be held within the jurisdiction of the
12 county or city.]

13 [(6) Upon receipt of a certificate from the Secretary of State under subsection (4) or (5) of this
14 section, the State Treasurer, the Director of the Department of Revenue, the Director of Transportation
15 and the Director of the Oregon Department of Administrative Services shall withhold from distribution
16 to the county or city 10 percent of the moneys otherwise to be distributed to it under ORS 221.770,
17 323.455, 366.762 to 366.768, 366.785 to 366.820, 471.805 and 471.810. The moneys withheld shall be
18 disbursed to the county or city only after the officer responsible for disbursement has received notice
19 from the secretary that:]

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

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

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

29 [(8)] (4) As used in this section, “generally accepted accounting principles” means those ac-
30 counting principles sanctioned by recognized authoritative bodies such as the Governmental Ac-
31 counting Standards Board, the American Institute of Certified Public Accountants, the Financial
32 Accounting Standards Board or their successors.

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

34 297.435. (1) Subject to ORS 297.445, ORS 297.425 does not apply to any municipal corporation,
35 except a county or a school district, if, with respect to any one calendar year or fiscal year, the
36 municipal corporation meets all the conditions in either subsection (2) or (3) of this section.

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

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

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

45 (3)(a) Total expenditures [for all purposes, including moneys expended for debt retirement,] ex-

1 ceeded [*\$150,000*] **\$250,000** but did not exceed [*\$500,000*] **\$1,000,000** for the year;

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

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

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

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

16 (5)(a) **The Secretary of State shall establish, by rule, procedures that the secretary deems**
17 **appropriate for addressing risks to municipal corporations to be performed on financial**
18 **statements under subsection (3) of this section.**

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

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