

HB 2110-2  
(LC 261)  
1/31/23 (DFY/ps)

Requested by HOUSE COMMITTEE ON EMERGENCY MANAGEMENT, GENERAL GOVERNMENT, AND VETERANS (at the request of Secretary of State Shemia Fagan)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2110**

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest  
2 of the line and insert “creating new provisions; amending ORS 297.425,  
3 297.435, 297.445, 297.465, 297.466, 297.471, 297.475, 297.485, 297.525 and 297.720;  
4 and repealing ORS 297.455, 297.459 and 297.701.”.

5 Delete lines 4 through 28 and delete pages 2 and 3 and insert:

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

7 “297.466. (1) In performing an audit and review required under ORS  
8 297.425, the accountant under contract with the municipal corporation or the  
9 Secretary of State, whoever performs the audit and review, shall determine  
10 if the municipal corporation has, or has not, followed generally accepted  
11 accounting principles in reporting its financial condition and operations,  
12 established appropriate accounting systems and internal controls and sub-  
13 stantially complied with legal requirements in conducting its financial af-  
14 fairs. The determination shall either be included in the signed expression of  
15 opinion or otherwise disclosed in the audit report required under ORS  
16 297.465.

17 “(2) Upon receipt of an audit report under ORS 297.465, the governing  
18 body of a municipal corporation shall determine the measures it considers  
19 necessary to address any deficiencies disclosed in the report. The governing  
20 body shall adopt a plan of action to address the deficiencies. The plan must  
21 include the estimated period of time necessary to complete the planned

1 actions.

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

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

8 “[(c) *For counties and cities, upon receipt by the secretary of the audit re-*  
9 *port and the plan of action adopted under subsection (2) of this section, the*  
10 *secretary shall either acknowledge the county or city’s plan of action to address*  
11 *the deficiencies cited in the audit report or notify the county or city of defi-*  
12 *ciencies that, if not addressed, could result in withholding of funds under this*  
13 *section. If the governing body of the county or city does not agree with the*  
14 *notification by the secretary, the secretary shall provide the governing body*  
15 *with an opportunity for a conference regarding the notification, audit deter-*  
16 *minations or corrective measures to be taken.*]

17 “[(4) *If the Secretary of State determines that a county or city has not filed*  
18 *an audit report with the secretary as required under ORS 297.465, the secretary*  
19 *may certify the determination to the State Treasurer, the Director of the De-*  
20 *partment of Revenue, the Director of Transportation and the Director of the*  
21 *Oregon Department of Administrative Services.*]

22 “[(5) *If the Secretary of State concurs with determinations made under*  
23 *subsection (1) of this section in two successive audits and reviews of the same*  
24 *county or city, and determines that the governing body of the county or city*  
25 *has not taken adequate action to address the deficiencies cited in the notifica-*  
26 *tions given under subsection (3) of this section, the secretary may certify the*  
27 *determination to the State Treasurer, the Director of the Department of Reve-*  
28  *nue, the Director of Transportation and the Director of the Oregon Department*  
29 *of Administrative Services. The certificate of the secretary under this sub-*  
30 *section may be issued only after notice, opportunity to be heard and hearing*

1 *pursuant to the provisions of ORS chapter 183, governing contested cases. The*  
2 *hearing shall be held within the jurisdiction of the county or city.]*

3 “[(6) *Upon receipt of a certificate from the Secretary of State under sub-*  
4 *section (4) or (5) of this section, the State Treasurer, the Director of the De-*  
5 *partment of Revenue, the Director of Transportation and the Director of the*  
6 *Oregon Department of Administrative Services shall withhold from distrib-*  
7 *ution to the county or city 10 percent of the moneys otherwise to be distributed*  
8 *to it under ORS 221.770, 323.455, 366.762 to 366.768, 366.785 to 366.820, 471.805*  
9 *and 471.810. The moneys withheld shall be disbursed to the county or city only*  
10 *after the officer responsible for disbursement has received notice from the sec-*  
11 *retary that:]*

12 “[(a) *The county or city has filed the audit report required under ORS*  
13 *297.465 with the secretary; or]*

14 “[(b) *The governing body of the county or city has taken action to follow*  
15 *generally accepted accounting principles in reporting financial condition and*  
16 *operations and establish appropriate accounting systems and internal controls*  
17 *and will substantially comply with legal requirements in conducting its fi-*  
18 *nancial affairs.]*

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

22 “[(8)] (4) As used in this section, ‘generally accepted accounting  
23 principles’ means those accounting principles sanctioned by recognized au-  
24 thoritative bodies such as the Governmental Accounting Standards Board,  
25 the American Institute of Certified Public Accountants, the Financial Ac-  
26 counting Standards Board or their successors.

27 **“SECTION 2.** ORS 297.435 is amended to read:

28 “297.435. (1) Subject to ORS 297.445, ORS 297.425 does not apply to any  
29 municipal corporation, except a county or a school district, if, with respect  
30 to any one [*calendar year or*] fiscal year, the municipal corporation meets

1 all the conditions in either subsection (2) or (3) of this section.

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

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

7 “(c) A certificate has been submitted with the financial statements stating  
8 that the principal responsible official of the municipal corporation was cov-  
9 ered during the entire year by a fidelity or faithful performance bond in an  
10 amount at least equal to the total amount of moneys received by the mu-  
11 nicipal corporation during the year.

12 “(3)(a) Total expenditures [*for all purposes, including moneys expended for*  
13 *debt retirement,*] exceeded [*\$150,000*] **\$250,000** but did not exceed [*\$500,000*]  
14 **\$1,000,000** for the year;

15 “(b) The municipal corporation has submitted financial statements for the  
16 year to the Secretary of State within 180 days following the end of the year,  
17 and [*the financial statements have been reviewed by an accountant or the*  
18 *Secretary of State in accordance with standards prescribed by the Secretary*  
19 *of State*] **an accountant or the Secretary of State has performed the**  
20 **procedures established under subsection (5) of this section on the fi-**  
21 **nancial statements;** and

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

27 “(4) The financial statements required by this section shall be in a form  
28 prescribed by the Secretary of State and shall be considered audit reports for  
29 the purpose of the filing fee required by ORS 297.485.

30 “[*5*] *The provisions of ORS 297.466 apply to financial statements for cities*

1 *reviewed under subsection (3) of this section.]*

2 **“(5)(a) The Secretary of State shall, by rule, establish procedures**  
3 **to be performed on financial statements under subsection (3) of this**  
4 **section that the secretary deems appropriate to:**

5 **“(A) Address risks to municipal corporations; and**

6 **“(B) Ensure compliance by municipal corporations with applicable**  
7 **laws.**

8 **“(b) In adopting or amending rules under this subsection, the Sec-**  
9 **retary of State shall consult with the Oregon Board of Accountancy,**  
10 **the Oregon Society of Certified Public Accountants and one or more**  
11 **organizations representing municipal corporations.**

12 **“SECTION 3. The Secretary of State shall, by rule, specify catego-**  
13 **ries and types of spending that constitute expenditures for purposes**  
14 **of ORS 297.435 and 297.485.**

15 **“SECTION 4. ORS 297.425 is amended to read:**

16 **“297.425. (1) Except as provided in ORS 297.435, the accounts and fiscal**  
17 **affairs of every municipal corporation shall be audited and reviewed at least**  
18 **once each [*calendar or*] fiscal year[, *and more often if considered advisable***  
19 ***by the governing body or managing or executive officer of the municipal cor-***  
20 ***poration*]. The audits and reviews shall be made by accountants pursuant to**  
21 **contracts entered into by the governing body, or managing or executive of-**  
22 **ficer, and accountants, or by the Secretary of State pursuant to a duly**  
23 **adopted ordinance or resolution. Upon request of the secretary, the govern-**  
24 **ing body, or managing or executive officer, shall provide the secretary with**  
25 **a copy of the contract entered into or an ordinance or resolution adopted**  
26 **under this section.**

27 **“(2) The compensation for audits and reviews performed by accountants**  
28 **shall be as agreed upon between the governing body, or managing or execu-**  
29 **tive officer of the municipal corporation, and the accountant, and shall be**  
30 **paid in the same manner as other claims against the municipal corporation**

1 are paid.

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

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

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

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

14 “[*(c) Compliance with requirements, orders and regulations of other public*  
15 *officials which pertain to the financial condition or financial operations of the*  
16 *municipal corporation.*] **be performed in accordance with standards**  
17 **promulgated by the American Institute of Certified Public Account-**  
18 **ants and shall inquire into principles of accounting, methods of oper-**  
19 **ations and compliance with regulations as identified by rule of the**  
20 **Secretary of State.**

21 **“SECTION 5. ORS 297.455 and 297.459 are repealed.**

22 **“SECTION 6.** ORS 297.465 is amended to read:

23 “297.465. (1) The Secretary of State, in cooperation with the Oregon Board  
24 of Accountancy, and in consultation with the Oregon Society of Certified  
25 Public Accountants, shall prescribe the minimum standards for conducting  
26 audits of municipal corporations, preparing the resulting audit reports and  
27 expressing opinions upon the financial condition and results of operation for  
28 the period under audit. The expression of opinion shall be signed by the ac-  
29 countant signing the contract, or in the case of a partnership or professional  
30 corporation, by a partner or stockholder who is an accountant as defined in

1 ORS 297.405, who has personally conducted the audit to an extent satisfac-  
2 tory to the secretary and to the municipal corporation.

3 “(2) The municipal corporation shall be furnished with a written audit  
4 report, containing a signed expression of opinion, in the form prescribed by  
5 the Secretary of State. A copy of the audit report shall be furnished to each  
6 person who was a member of the governing body at the end of the [*calendar*  
7 *or*] fiscal year and to each member of the current governing body. [*Other*  
8 *copies shall be furnished the municipal corporation as are requested by the*  
9 *chairperson of the governing body or the managing or executive officer.*] The  
10 accountant shall furnish the audit report to the municipal corporation within  
11 six months after the close of the [*calendar or*] fiscal year under audit, unless  
12 the secretary has granted the municipal corporation an extension under  
13 subsection (3) of this section.

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

24 “(b) The report is subject to review by the secretary, who may also re-  
25 quire submission of the supporting documentation and audit programs of the  
26 accountant.

27 “(c) If an audit, audit report or expression of opinion is found by the  
28 secretary not to be in accordance with the prescribed standards, the secre-  
29 tary shall request compliance. [*If the accountant fails to comply with the re-*  
30 *quest,*] The secretary [*shall*] **may** report the [*failure*] **request** to comply to

1 the Oregon Board of Accountancy, which may **investigate the accountant’s**  
2 **work or** remove or suspend the name of the accountant from the roster re-  
3 quired by ORS 297.670.

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

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

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

21 “(2) The filing fee to be paid shall be as indicated for those municipal  
22 corporations whose total expenditures fall within the classifications as fol-  
23 lows:

24 “[ \_\_\_\_\_ ]

	<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



1	5,000,000	10,000,000	300
2	10,000,000	50,000,000	350
3	50,000,000		400

4 “[ \_\_\_\_\_ ]

5 “ \_\_\_\_\_

6	Over	Not Over	Fee
7		\$ 50,000	\$ 40
8	\$ 50,000	150,000	80
9	150,000	250,000	150
10	250,000	500,000	250
11	500,000	1,000,000	300
12	1,000,000	5,000,000	350
13	5,000,000	10,000,000	400
14	10,000,000	50,000,000	450
15	50,000,000		500

16 “ \_\_\_\_\_

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

23 **“SECTION 8.** ORS 297.525 is amended to read:

24 “297.525. The annual audit required to be made of the accounts and fiscal  
25 affairs of a county shall include a cost audit, **in accordance with rules of**  
26 **the Secretary of State**, of the cost account for county road work.

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

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

29 “297.720. Every auditor or accountant whose name is included on the  
30 roster of authorized accountants referred to in ORS 297.670 shall pay to the

1 Oregon Board of Accountancy biennially a fee for continuance thereon. The  
2 fee shall be in an amount [*not to exceed \$100 as*] determined by the board by  
3 rule.

4 **“SECTION 11.** ORS 297.445 is amended to read:

5 “297.445. (1) ORS 297.435 does not apply to a municipal corporation for  
6 any [*calendar or*] fiscal year if a petition requesting an audit, signed by  
7 residents of the municipal corporation who are subject to taxes, fees, as-  
8 sessments or other charges levied by the municipal corporation, is filed with  
9 the Secretary of State within six months of the end of the fiscal year for  
10 which the audit is requested. In a municipal corporation with a population  
11 of 150 or less, the petition must be signed by at least 10 residents. In a mu-  
12 nicipal corporation with a population of more than 150, the petition must  
13 be signed by at least 30 residents.

14 “(2) The Secretary of State shall give notice of the petition to the gov-  
15 erning body of the municipal corporation within 10 days of its receipt. Upon  
16 receipt of notice of the petition from the Secretary of State, the governing  
17 body or managing or executive officer of the municipal corporation shall  
18 immediately comply with the provisions of ORS 297.425. If a copy of a signed  
19 contract between the governing body or managing or executive officer and  
20 an accountant, or a duly authorized ordinance or resolution requesting an  
21 audit by the Secretary of State, is not received within 30 days of the dispatch  
22 of notice of petition, the Secretary of State shall cause an audit and review  
23 to be made of the accounts and fiscal affairs of the municipal corporation  
24 designated in the petition.

25 “(3) The costs incurred by the Secretary of State in making the audit and  
26 review shall be borne by the municipal corporation, and shall be paid to the  
27 Secretary of State in the same manner as other claims against the municipal  
28 corporation.

29 **“SECTION 12.** ORS 297.471 is amended to read:

30 “297.471. (1) For each [*calendar or*] fiscal year under audit, the Secretary

1 of State shall prepare and maintain a summary report that includes, at a  
2 minimum:

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

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

9 “(c) A list of the municipal corporations that did not request a filing ex-  
10 tension and did not file audit reports with the secretary within six months  
11 after the close of the [*calendar or*] fiscal year under audit;

12 “(d) A list of the municipal corporations that requested and were granted  
13 filing extensions and either filed or did not file audit reports with the sec-  
14 retary in accordance with the approved extension;

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

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

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

27 **“SECTION 13.** ORS 297.475 is amended to read:

28 “297.475. Whenever any municipal corporation has made a request to the  
29 Secretary of State, pursuant to ORS 297.425, for the audit of its accounts and  
30 fiscal affairs, the municipal corporation may cancel that request by ordi-

1 nance or resolution adopted and furnished to the Secretary of State at least  
2 90 days prior to the end of a [*calendar or*] fiscal year.”.

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