

a. Required the person receiving the obscene material to use an authorized access or identification code, as provided by the information provider, before transmission of the obscene material begins, where the defendant has previously issued the code by mailing it to the applicant after taking reasonable measures to ascertain that the applicant was eighteen years of age or older and has established a procedure to immediately cancel the code of any person after receiving notice, in writing or by telephone, that the code has been lost, stolen, or used by persons under the age of eighteen years or that the code is no longer desired.

b. Required payment by credit card before transmission of the obscene material.

3. Any list of applicants or recipients compiled or maintained by an information-access service provider for purposes of compliance with subsection 2 is confidential and shall not be sold or otherwise disseminated except upon order of the court.

Sec. 6. If any provision of this Act or the application thereof to any person is invalid, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Approved May 31, 1989

CHAPTER 264

AUDITS

H.F. 451

AN ACT relating to audits, amending provisions governing audits of governmental subdivisions and revising the powers and duties of the auditor of state with respect to such audits, providing for payment to the auditor of state for certain advisory and consultative services, providing for filing fees, providing properly related matters, and providing for the applicability of the Act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 11.6, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

11.6 EXAMINATION OF GOVERNMENTAL SUBDIVISIONS — CONSULTATIVE SERVICES — ASSOCIATION OF COUNTIES.

1. The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least once every four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of activity funds.

Subject to the exceptions and requirements of subsection 2 and subsection 4, paragraph "c", examinations shall be made as determined by the governmental subdivision either by the auditor of state or by certified public accountants, certified in the state of Iowa, and they shall be paid from the proper public funds of the governmental subdivision.

2. a. A city, merged area school, school district, area education agency, entity organized under chapter 28E, county, county hospital, or memorial hospital desiring to contract with or employ certified public accountants shall utilize procedures which include a request for proposals.

b. The governing body of a city, merged area school, school district, area education agency, entity organized under chapter 28E, county, county hospital, or memorial hospital utilizing the auditor of state instead of a certified public accountant to perform an audit shall notify the auditor of state by June 1 of the year to be audited. If the governing body fails to notify the auditor of state of the decision to use the auditor of state, the auditor of state may perform the audit required in subsection 1 only if provisions are not made by the governing body to contract for the audit.

3. A township or city for which examinations are not required under subsection 1 may contract with or employ the auditor of state or certified public accountants for an examination of its financial transactions and condition of its funds. A financial examination is mandatory on application by one hundred or more taxpayers, or if there are fewer than five hundred taxpayers in the township or city, then by fifteen percent of the taxpayers. Payment for the examination shall be made from the proper public funds of the township or city.

4. In addition to the powers and duties under other provisions of the Code, the auditor of state may at any time cause to be made a complete or partial reaudit of the financial condition and transactions of any city, county, county hospital, memorial hospital, entity organized under chapter 28E, merged area, area education agency, school corporation, township, or other governmental subdivision, or an office of any of these, if one of the following conditions exists:

a. The auditor of state has probable cause to believe such action is necessary in the public interest because of a material deficiency in an audit of the governmental subdivision filed with the auditor of state or because of a substantial failure of the audit to comply with the standards and procedures established and published by the auditor of state.

b. The auditor of state receives from an elected official or employee of the governmental subdivision a written request for a complete or partial reaudit of the governmental subdivision.

c. The auditor of state receives a petition signed by at least fifty eligible electors of the governmental subdivision requesting a complete or partial reaudit of the governmental subdivision. If the governmental subdivision has not contracted with or employed a certified public accountant to perform an audit of the fiscal year in which the petition is received by the auditor of state, the auditor of state may perform an audit required by subsection 1 or 3.

The state audit shall be paid from the proper public funds available in the office of the auditor of state. In the event the audited governmental subdivision recovers damages from a person performing a previous audit due to negligent performance of that audit or breach of the audit contract, the auditor of state shall be entitled to reimbursement on an equitable basis for funds expended from any recovery made by the governmental subdivision.

5. The auditor of state may, within three years of filing, during normal business hours upon reasonable notice of at least twenty-four hours, review the audit work papers prepared by a certified public accountant in the performance of an audit or examination conducted pursuant to this section.

6. An audit required by this section shall be completed within nine months following the end of the fiscal year that is subject to the audit. At the request of the governmental subdivision, the auditor of state may extend the nine-month time limitation upon a finding that the extension is necessary and not contrary to the public interest and that the failure to meet the deadline was not intentional.

7. The auditor of state shall make guidelines available to the public setting forth accounting and auditing standards and procedures and audit and legal compliance programs to be applied in the examination of the governmental subdivisions of the state. The guidelines shall include a requirement that the certified public accountant immediately notify the auditor of state regarding any suspected embezzlement or theft. The auditor shall also provide standard reporting formats for use in reporting the results of an examination of a governmental subdivision.

8. The auditor of state shall provide advice and counsel to public entities and certified public accountants concerning audit and examination matters. The auditor of state shall establish a fee schedule based upon the prevailing rate for the service rendered which shall be approved by the executive council. The auditor of state shall obtain payment from a public entity or certified public accountant for advisory and consultation services rendered pursuant to this subsection. The auditor of state may waive any charge provided in this subsection and may determine to provide certain services without cost.

9. The Iowa state association of counties shall keep accounts as required by the auditor of state. These accounts shall be audited annually by either the auditor of state or a certified public accountant certified in the state of Iowa. The audit shall state all moneys expended for expenses incurred by and salaries paid to legislative representatives and lobbyists of the association.

10. The auditor of state shall establish and collect a filing fee for the filing of each report of examination conducted pursuant to subsections 1 through 3 in an amount approved by the executive council. The funds collected shall be maintained in a segregated account for use by the office of the auditor of state in performing audits conducted pursuant to subsection 4 and for work paper reviews conducted pursuant to subsection 5. Any funds collected by the auditor pursuant to subsection 4 shall be deposited in this account. Notwithstanding section 8.33, the funds in this account shall not revert at the end of any fiscal year.

11. Notwithstanding subsection 10, the filing fee collected for the filing of a report of examination shall not be collected if the audit was performed by the auditor of state.

Sec. 2. Section 11.9, Code 1989, is amended to read as follows:

11.9 COUNTY, MUNICIPAL AND SCHOOL AUDITORS' SALARIES AND EXPENSES.

County Except as otherwise provided in section 11.6, subsection 4, for reaudits, county, municipal and school auditors and their assistants shall, in addition to salary, be reimbursed for their actual and necessary expenses. Salary payments shall include a prorated amount for vacation and sick leave. All payments shall be paid from funds in the state treasury upon certification of the auditor of state, and the general fund shall be reimbursed as provided in sections 11.20 and 11.21.

Sec. 3. Section 11.19, unnumbered paragraph 4, Code 1989, is amended to read as follows:

Failure to file such the report with the auditor of state within thirty days after receiving notification of not receiving the audit report shall bar such the accountant from making any city, or school governmental subdivision audits thereafter under the provisions of section 11.18 11.6 for the following fiscal year.

Sec. 4. Section 123.58, Code 1989, is amended to read as follows:

123.58 AUDITING.

All provisions of sections 11.6, 11.7, 11.10, 11.11, 11.14, ~~11.18~~, 11.21, and 11.23, relating to auditing of financial records of governmental subdivisions which are not inconsistent with this chapter are applicable to the division and its offices, warehouses, and depots.

Sec. 5. Section 125.55, Code 1989, is amended to read as follows:

125.55 AUDITS.

All licensed substance abuse programs are subject to annual audit either by the auditor of state or in lieu of the examination by ~~state accountants~~ the auditor of state the substance abuse program may contract with or employ certified public accountants to conduct the audit, in accordance with sections ~~11.18~~ 11.6 and 11.19. The audit format shall be as prescribed by the auditor of state. The certified public accountant shall submit a copy of the audit to the director. A licensed substance abuse program is also subject to special audits as the director requests. The licensed substance abuse program or the department shall pay all expenses incurred by the auditor of state in conducting an audit under this section.

Sec. 6. Section 230A.16, subsection 3, Code 1989, is amended to read as follows:

3. Arrange for the financial condition and transactions of the community mental health center to be audited once each year by the auditor of state. However, in lieu of an audit by state accountants, the local governing body of a community mental health center organized under this chapter may contract with or employ certified public accountants to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections ~~11.18~~ 11.6 and 11.19 and audit format prescribed by the auditor of state. Copies of each audit shall be furnished by the accountant to the administrator of the division of mental health, mental retardation, and developmental disabilities, and the board of supervisors supporting the audited community mental health center.

Sec. 7. Section 279.38, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Boards of directors of school corporations may pay, out of funds available to them, reasonable annual dues to the Iowa association of school boards. The financial condition and transactions of the Iowa association of school boards shall be audited in the same manner as school corporations as provided in section ~~11.18~~ 11.6. In addition, annually the Iowa association of school boards shall publish a listing of the school districts and the annual dues paid by each and shall publish an accounting of all moneys expended for expenses incurred by and salaries paid to legislative representatives and lobbyists of the association.

Sec. 8. Section 364.5, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The financial condition and the transactions of the league of Iowa municipalities shall be audited in the same manner as cities as provided in section ~~11.18~~ 11.6.

Sec. 9. Section 601K.98, Code 1989, is amended to read as follows:
601K.98 AUDIT.

Each community action agency shall be audited annually but shall ~~in no case not~~ be required to obtain a duplicate audit to meet the requirements of this section. In lieu of an audit by the auditor of state, the community action agency may contract with or employ a certified public accountant to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections ~~11.18~~ 11.6 and 11.19 and an audit format prescribed by the auditor of state. Copies of each audit shall be furnished to the division within three months following the annual audit.

Sec. 10. Section 11.18, Code 1989, is repealed.

Sec. 11. APPLICABILITY. This Act applies to audits of the fiscal year ending June 30, 1989, and subsequent fiscal years.

Approved May 31, 1989

CHAPTER 265

EDUCATIONAL PROGRAMS AND EXAMINERS BOARD

H.F. 794

AN ACT establishing an autonomous board to perform the duties of the present board of educational examiners and professional practices commission.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 260.1, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

260.1 DEFINITIONS.

1. "Administrator" means a person who is licensed to coordinate, supervise, or direct an educational program or the activities of other practitioners.