

CHAPTER 11

AUDITOR OF STATE

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AUDIT OF STATE DEPARTMENTS

11.1 Definitions.

1. For purposes of this chapter, unless the context otherwise requires:

a. “*Department*” means any authority charged by law with official responsibility for the expenditure of public money of the state and any agency receiving money from the general revenues of the state.

b. “*Examination*” means procedures that are less in scope than an audit but which are directed toward reviewing financial activities and compliance with legal requirements.

c. “*Governmental subdivision*” means cities and administrative agencies established by cities, hospitals or health care facilities established by a city, counties, county hospitals

organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E, community colleges, area education agencies, and school districts.

d. “*Regents institutions*” means the institutions governed by the board of regents under section 262.7.

2. As used in this chapter, unless the context otherwise requires, “*book*”, “*list*”, “*record*”, or “*schedule*” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

[C24, 27, 31, §339; C35, §101-a1; C39, §101.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.1]

2000 Acts, ch 1148, §1; 2011 Acts, ch 75, §1

[T] Section amended

11.2 Annual settlements.

1. The auditor of state shall annually, and more often if deemed necessary, audit the state and all state officers and departments receiving or expending state funds, except that the accounts, records, and documents of the treasurer of state shall be audited daily.

2. Departments shall immediately notify the auditor of state regarding any suspected embezzlement, theft, or other significant financial irregularities.

3. In conjunction with the audit of the state board of regents required under this section, the auditor of state, in accordance with generally accepted auditing standards, shall perform audit testing on the state board of regents’ investments. The auditor shall report to the state board of regents concerning compliance with state law and state board of regents’ investment policies. The state board of regents is responsible for remedying any reported noncompliance with its own policy or practices.

a. The state board of regents shall make available to the auditor of state and treasurer of state the most recent annual report of any investment entity or investment professional employed by a regents institution.

b. All contracts or agreements with an investment entity or investment professional employed by a regents institution shall require the investment entity or investment professional employed by a regents institution to notify in writing the state board of regents within thirty days of receipt of all communication from an independent auditor or the auditor of state or any regulatory authority of the existence of a material weakness in internal control, or regulatory orders or sanctions against the investment entity or investment professional, with regard to the type of services being performed under the contracts or agreements. This provision shall not be limited or avoided by another contractual provision.

c. The audit under this section shall not be certified until the most recent annual reports of any investment entity or investment professional employed by a regents institution are reviewed by the auditor of state.

d. The review of the most recent annual report to shareholders of an open-end management investment company or an unincorporated investment company or investment trust registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, pursuant to 17 C.F.R. § 270.30d-1 or the review, by the person performing the audit, of the most recent annual report to shareholders, call reports, or the findings pursuant to a regular examination under state or federal law, to the extent the findings are not confidential, of a bank, savings and loan association, or credit union shall satisfy the review requirements of this paragraph.

e. As used in this subsection, “*investment entity*” and “*investment professional*” exclude a bank, savings and loan association, or credit union when acting as an approved depository pursuant to chapter 12C.

[C97, §161; S13, §161-a; C24, 27, 31, §340; C35, §101-a2; C39, §101.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.2]

92 Acts, ch 1156, §1; 2003 Acts, ch 145, §131; 2007 Acts, ch 126, §4; 2008 Acts, ch 1032, §201; 2011 Acts, ch 75, §2 – 4

[T] Subsection 1 amended

[T] NEW subsection 2 and former subsection 2 renumbered as 3

[T] Subsection 3, paragraphs a, b, and c amended

11.3 Repealed by 75 Acts, ch 70, § 1.

11.4 Report of audits.

1. The auditor of state shall make or cause to be made and filed and kept in the auditor's office written reports of all audits and examinations, which reports shall include, if applicable, the following:

a. The financial condition of the state or department.

b. Whether, in the auditor's opinion,

(1) Funds have been expended for the purpose for which appropriated.

(2) The department so audited or examined is efficiently conducted, and if the maximum results for the money expended are obtained.

(3) The work of the departments so audited or examined needlessly conflicts with or duplicates the work done by any other department.

c. All illegal or unbusinesslike practices.

d. Any recommendations for greater simplicity, accuracy, efficiency, or economy in the operation of the business of the several departments and institutions.

e. Any other information which, in the auditor's judgment, may be of value.

2. The state auditor is hereby authorized to obtain, maintain, and operate, under the auditor's exclusive control such machinery as may be necessary to print confidential reports and documents originating in the auditor's office.

[S13, §161-a; C24, 27, 31, §342; C35, §101-a4; C39, §101.4; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.4]

92 Acts, ch 1242, §14; 2008 Acts, ch 1032, §117; 2011 Acts, ch 75, §5, 6

[T] Subsection 1 amended

[T] Subsection 2 stricken and former subsection 3 renumbered as 2

11.5 Method of keeping accounts.

Each department and institution of the state shall keep its records and accounts in such form and by such methods as to be able to exhibit in its reports the matters required by the auditor of state, unless otherwise specifically prescribed by law. Each department and institution of the state shall keep its records and accounts in a current condition. The failure of the head of any department of the state to comply with this provision shall be ground for the department head's suspension from office.

[S13, §161-a; C24, 27, 31, §343; C35, §101-a5; C39, §101.5; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.5]

[P] Suspension of state officers, chapter 67

11.5A Audit costs.

When requested by the auditor of state, the department of management shall transfer from any unappropriated funds in the state treasury an amount not exceeding the expenses and prorated salary costs already paid to perform audits of state departments and agencies, the offices of the judicial branch, and federal financial assistance as defined in the federal Single Audit Act, 31 U.S.C. § 7501, et seq., received by all other departments, as listed in section 11.5B, for which payments by agencies have not been made. Upon payment by the departments, the auditor of state shall credit the payments to the state treasury.

87 Acts, ch 234, §422; 98 Acts, ch 1047, §9; 2011 Acts, ch 75, §7

[T] Section amended

11.5B Repayment of audit expenses by state departments and agencies.

The auditor of state shall be reimbursed by a department or agency for performing audits or examinations of the following state departments or agencies, or funds received by a department or agency:

1. Department of commerce.

2. Department of human services.

3. State department of transportation.

4. Iowa department of public health.

5. State board of regents.

- 6. Department of agriculture and land stewardship.
 - 7. Iowa veterans home.
 - 8. Department of education.
 - 9. Department of workforce development.
 - 10. Department of natural resources.
 - 11. Offices of the clerks of the district court of the judicial branch.
 - 12. The Iowa public employees' retirement system.
 - 13. Federal financial assistance, as defined in the federal Single Audit Act, 31 U.S.C. § 7501, et seq., received by all other departments.
 - 14. Department of administrative services.
- 90 Acts, ch 1247, §3; 90 Acts, ch 1261, §24; 94 Acts, ch 1187, §16; 96 Acts, ch 1186, §23; 98 Acts, ch 1047, §10; 2000 Acts, ch 1141, §13, 19; 2003 Acts, ch 145, §286; 2008 Acts, ch 1144, §1, 13; 2011 Acts, ch 75, §8, 9; 2011 Acts, ch 118, §37, 89

[T] Unnumbered paragraph 1 amended

[T] Subsection 13 amended

[T] Subsection 15 stricken

AUDIT OF GOVERNMENTAL
SUBDIVISIONS AND RELATED
ORGANIZATIONS

11.6 Audits of governmental subdivisions and related organizations — consultative services.

1. *a.* (1) Except for entities organized under chapter 28E having gross receipts of one hundred thousand dollars or less in a fiscal year, the financial condition and transactions of all government subdivisions shall be audited 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 audit of school districts shall include an audit of all school funds including categorical funding provided by the state, the certified annual financial report, the certified enrollment as provided in section 257.6, supplementary weighting as provided in section 257.11, and the revenues and expenditures of any nonprofit school organization established pursuant to section 279.62. Differences in certified enrollment shall be reported to the department of management. The audit of school districts shall include at a minimum a determination that the laws of the state are being followed, that categorical funding is not used to supplant other funding except as otherwise provided, that supplementary weighting is pursuant to an eligible sharing condition, and that postsecondary courses provided in accordance with section 257.11 and chapter 261E supplement, rather than supplant, school district courses. The audit of a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 shall include performing tests of the city's compliance with section 388.10. The audit of a city that owns or operates a municipal utility providing telecommunications services pursuant to section 388.10 shall include performing tests of the city's compliance with section 388.10.

(2) Subject to the exceptions and requirements of subsections 2 and 3, and subsection 4, paragraph "a", subparagraph (3), audits 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.

b. The financial condition and transactions of community mental health centers organized under chapter 230A, substance abuse programs organized under chapter 125, and community action agencies organized under chapter 216A, shall be audited at least once each year.

c. (1) In conjunction with the audit of the governmental subdivision required under this section, the auditor shall also perform tests for compliance with the investment policy of the governmental subdivision. The results of the compliance testing shall be reported in accordance with generally accepted auditing standards. The auditor may also

make recommendations for changes to investment policy or practices. The governmental subdivision is responsible for the remedy of reported noncompliance with its policy or practices.

(2) (a) As part of its audit, the governmental subdivision is responsible for obtaining and providing to the auditor the audited financial statements and related report on internal control of outside persons, performing any of the following during the period under audit for the governmental subdivision:

- (i) Investing public funds.
- (ii) Advising on the investment of public funds.
- (iii) Directing the deposit or investment of public funds.
- (iv) Acting in a fiduciary capacity for the governmental subdivision.

(b) The audit under this section shall not be certified until all material information required by this subparagraph is reviewed by the auditor.

(3) The review by the auditor of the most recent annual report to shareholders of an open-end management investment company or an unincorporated investment company or investment trust registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, pursuant to 17 C.F.R. § 270.30d-1 or the review, by the auditor, of the most recent annual report to shareholders, call reports, or the findings pursuant to a regular examination under state or federal law, to the extent the findings are not confidential, of a bank, savings and loan association, or credit union shall satisfy the review requirements of this paragraph.

(4) All contracts or agreements with outside persons performing any of the functions listed in subparagraph (2) shall require the outside person to notify in writing the governmental subdivision within thirty days of receipt of all communication from the auditor or any regulatory authority of the existence of a material weakness in internal control, or regulatory orders or sanctions against the outside person, with regard to the type of services being performed under the contracts or agreements. This provision shall not be limited or avoided by another contractual provision.

(5) As used in this subsection, “*outside person*” excludes a bank, savings and loan association, or credit union when acting as an approved depository pursuant to chapter 12C.

(6) A joint investment trust organized pursuant to chapter 28E shall file the audit reports required by this chapter with the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce within ten days of receipt from the auditor. The auditor of a joint investment trust shall provide written notice to the administrator of the time of delivery of the reports to the joint investment trust.

(7) If during the course of an audit of a joint investment trust organized pursuant to chapter 28E, the auditor determines the existence of a material weakness in the internal control or a material violation of the internal control, the auditor shall report the determination to the joint investment trust which shall notify the administrator in writing within twenty-four hours, and provide a copy of the notification to the auditor. The auditor shall provide, within twenty-four hours of the receipt of the copy of the notice, written acknowledgment of the receipt to the administrator. If the joint investment trust does not make the notification within twenty-four hours, or the auditor does not receive a copy of the notification within twenty-four hours, the auditor shall immediately notify the administrator in writing of the material weakness in the internal control or the material violation of the internal control.

2. A governmental subdivision contracting with certified public accountants shall do so in a reasonable manner on the basis of competence and qualification for the services required and for a fair and reasonable price utilizing procedures which include a written request for proposals.

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

4. *a.* 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 governmental subdivision, or an office of any governmental subdivision, if any of the following conditions exists:

(1) 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.

(2) 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.

(3) The auditor of state receives a petition signed by at least one hundred 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.

b. The reaudit 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 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 audit of the governmental subdivisions of the state, which shall require a review of internal control and specify testing for compliance. The guidelines shall include a requirement that the certified public accountant and governmental subdivision immediately notify the auditor of state regarding any suspected embezzlement, theft, or other significant financial irregularities. The auditor of state shall also provide standard reporting formats for use in reporting the results of an audit 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 adopt rules in accordance with chapter 17A to establish a fee schedule based upon the prevailing rate for the service rendered. 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. Accounts of the Iowa state association of counties, the Iowa league of cities, and the Iowa association of school boards 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 audited.

10. The auditor of state shall adopt rules in accordance with chapter 17A to establish and collect a filing fee for the filing of each report of audit or examination conducted pursuant to subsections 1 through 3. 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. Each governmental subdivision shall keep its records and accounts in such form and by such methods as to be able to exhibit in its reports the matters required by the auditor of state, unless a form or method is otherwise specifically prescribed by law. Each governmental subdivision shall keep its records and accounts in current condition.

[S13, §100-d, 1056-a11, -a13; C24, 27, 31, 35, 39, §113; C46, 50, 54, 58, 62, 66, 71, §11.6; C73, 75, 77, 79, 81, §11.6, 332.3(27); S81, §11.6; 81 Acts, ch 117, §1000]

84 Acts, ch 1123, §1; 84 Acts, ch 1128, §1; 89 Acts, ch 264, §1; 90 Acts, ch 1013, §1; 91 Acts, ch 267, §222; 92 Acts, ch 1156, §2 – 4; 92 Acts, ch 1187, §1; 92 Acts, ch 1232, §301; 92 Acts, ch 1242, §16, 17; 96 Acts, ch 1215, §20; 2004 Acts, ch 1022, §1; 2004 Acts, ch 1048, §1; 2005 Acts, ch 179, §90; 2006 Acts, ch 1117, §1; 2008 Acts, ch 1032, §118 – 120; 2008 Acts, ch 1181, §42; 2011 Acts, ch 75, §10 – 19

[T] Subsection 1, paragraph a amended

[T] Subsection 1, NEW paragraph b and former paragraph b redesignated as c

[T] Subsection 1, paragraph c amended

[T] Subsection 2 – 4, 7, 9, and 10 amended

[T] NEW subsection 11

11.7 through 11.10 Repealed by 2011 Acts, ch 75, § 41. See § 11.31 and 11.41(2).

11.11 Scope of audits.

The written report of the audit of a governmental subdivision shall include the auditor's opinion as to whether a governmental subdivision's financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles or with an other comprehensive basis of accounting. As a part of conducting an audit of a governmental subdivision, an evaluation of internal control and tests for compliance with laws and regulations shall be performed.

[S13, §100-d, 1056-a11; C24, 27, 31, 35, 39, §117; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.11]

2011 Acts, ch 75, §20

[T] Section stricken and rewritten

11.12 and 11.13 Repealed by 2011 Acts, ch 75, § 41. See § 11.51 and 11.52.

11.14 Reports — public inspection.

1. A written report of an audit or examination shall be provided to the governmental subdivision and filed with the auditor of state. All reports shall be open to public inspection, including copies on file in the office of the state auditor, and refusal on the part of any public official to permit such inspection when such reports have been filed with the state auditor shall constitute a simple misdemeanor.

2. In addition to subsection 1, notice that the report has been filed shall be forwarded immediately to each newspaper, radio station, or television station located in the governmental subdivision that was audited or examined. However, if there is no newspaper, radio station, or television station located in the governmental subdivision, such notice shall be sent to the official newspapers of the county.

[S13, §100-d, 1056-a11; C24, 27, 31, 35, 39, §120; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.14]

2011 Acts, ch 75, §21

[T] Section amended

11.15 through 11.17 Repealed by 2011 Acts, ch 75, § 41. See § 11.42, 11.53, and 11.54.

11.18 Repealed by 89 Acts, ch 264, § 10.

11.19 Auditor's powers and duties.

1. Where an audit or examination is made under contract with, or employment of, certified public accountants, the auditor shall, in all matters pertaining to an authorized audit or examination, have all of the powers and be vested with all the authority of state auditors employed by the auditor of state, and the cost of the audit or examination shall be paid by

the governmental subdivision procuring the audit or examination. A detailed statement of the cost of the audit or examination shall be filed with the governmental subdivision. Upon completion of such audit or examination, a copy of the report and a detailed, itemized statement of cost, including hours spent performing the audit or examination, shall be filed with the auditor of state in a manner specified by the auditor of state.

2. Failure to file the report and the statement of cost with the auditor of state within thirty days after receiving notification of not receiving the report and the statement of cost shall bar the accountant from making any governmental subdivision audits or examinations under section 11.6 for the following fiscal year.

[C39, §124.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.19]

89 Acts, ch 264, §3; 2011 Acts, ch 75, §22

[T] Section amended

11.20 Bills — audit and payment.

If the audit or examination is made by the auditor of state under this chapter, each auditor shall file with the auditor of state an itemized, certified and sworn voucher of time and expense that the auditor is actually engaged in the audit or examination. The salaries shall be included in a two-week payroll period. Upon approval of the auditor of state the director of the department of administrative services may issue warrants for the payment of the vouchers and salary payments from any unappropriated funds in the state treasury. Repayment to the state shall be made as provided by section 11.21.

[S13, §100-a, -e, 1056-a11; C24, 27, 31, 35, 39, §125; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.20]

84 Acts, ch 1118, §1; 85 Acts, ch 67, §4; 2003 Acts, ch 145, §286; 2011 Acts, ch 75, §23

[T] Section amended

11.21 Repayment — objections.

1. Upon payment by the state of the salary and expenses, the auditor of state shall file with the warrant-issuing officer of the governmental subdivision whose offices were audited or examined a sworn statement consisting of the itemized expenses paid and prorated salary costs paid under section 11.20. Upon approval by the governing body of the governmental subdivision, payment shall be made from the proper public funds of the governmental subdivision. In the event of the disapproval by the governing body of the governmental subdivision of any items included on the statement, written objections shall be filed with the auditor of state within thirty days from the filing of the sworn statement with the warrant-issuing officer of the governmental subdivision. Disapproved items of the statement shall be paid the auditor of state upon receiving final decisions emanating from public hearing established by the auditor of state.

2. Whenever the governing body of the governmental subdivision files written objections on the question of compensation and expenses with the auditor of state, the auditor or the auditor's representative shall hold a public hearing in the governmental subdivision where the audit or examination was made and shall give the complaining board notice of the time and place of hearing. After such hearing the auditor shall have the power to reduce the compensation and expenses of the auditor whose bills have been questioned.

[S13, §100-a, -e, 1056-a11; C24, 27, 31, 35, 39, §126; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.21]

83 Acts, ch 123, §28, 209; 2011 Acts, ch 75, §24

[T] Section amended

11.22 Repealed by 83 Acts, ch 123, § 206, 209.

11.23 Duty to install. Repealed by 2011 Acts, ch 75, § 41.

REVIEW OF
PUBLICLY FUNDED ENTITIES

11.24 Review of entities receiving public moneys.

1. The auditor of state may, at the request of a department, review, during normal business hours upon reasonable notice of at least twenty-four hours, the audit working papers prepared by a certified public accountant covering the receipt and expenditure of state or federal funds provided by the department to any other entity to determine if the receipt and expenditure of those funds by the entity is consistent with the laws, rules, regulations, and contractual agreements governing those funds. Upon completion of the review, the auditor of state shall report whether, in the auditor of state's judgment, the auditor of state believes the certified public accountant's working papers adequately demonstrate that the laws, rules, regulations, and contractual agreements governing the funds have been substantially complied with. If the auditor of state does not believe the certified public accountant's working papers adequately demonstrate that the laws, rules, regulations, and contractual agreements have been substantially complied with or believes a complete or partial reaudit is necessary based on the provisions of section 11.6, subsection 4, paragraph "a", subparagraph (1) or (2), the auditor of state shall notify the certified public accountant and the department of the actions the auditor of state believes are necessary to determine whether the entity is in substantial compliance with those laws, rules, regulations, and contractual agreements. The auditor of state may assist departments with actions to determine whether the entity is in substantial compliance. Departments requesting the review shall reimburse the auditor of state for the cost of the review and any subsequent assistance provided by the auditor of state.

2. The auditor of state may, at the request of a department, review the records covering the receipt and expenditure of state or federal funds provided by the department to any other entity which has not been audited by a certified public accountant to determine if the receipt and expenditure of those funds by the entity is consistent with the laws, rules, regulations, and contractual agreements governing those funds. Upon completion of the review, the auditor of state shall report whether, in the auditor of state's judgment, the auditor of state believes the entity adequately demonstrated that the laws, rules, regulations, and contractual agreements governing the funds have been substantially complied with. If the auditor of state does not believe the entity adequately demonstrated that the laws, rules, regulations, and contractual agreements have been substantially complied with, the auditor of state shall notify the department of the actions the auditor of state believes are necessary to determine whether the entity is in substantial compliance with those laws, rules, regulations, and contractual agreements. The auditor of state may assist a department with actions to determine whether the entity is in substantial compliance. Departments requesting the review shall reimburse the auditor of state for the cost of the review and any subsequent assistance provided by the auditor of state.

3. When, in the auditor of state's judgment, the auditor of state finds that sufficient information is available to demonstrate that an entity receiving state or federal funds from a department may not have substantially complied with the laws, rules, regulations, and contractual agreements governing those funds, the auditor of state shall notify the department providing those funds to the entity of the auditor of state's finding. The department shall cooperate with the auditor of state to establish actions to be taken to determine whether substantial compliance with those laws, rules, regulations, and contractual agreements has been achieved by the entity receiving the state or federal funds from the department. Departments providing the state or federal funds shall reimburse the auditor of state for any actions taken by the auditor of state to determine whether the entity has substantially complied with the laws, rules, regulations, and contractual agreements governing the funds provided by the department for costs expended after the date the auditor of state notifies the department of an issue involving substantial compliance pursuant to the requirements of this subsection.

[C81, §7A.8]

C87, §11.36

2006 Acts, ch 1153, §10; 2007 Acts, ch 22, §4; 2008 Acts, ch 1032, §193

CS2011, §11.24

[P] Audits of community action agencies, §216A.98

[T] Transferred from §11.36 in Code Supplement 2011

11.25 Reports required. Repealed by 2011 Acts, ch 75, § 41.

REVIEW OF TARGETED SMALL BUSINESS PROCUREMENT ACTIVITIES

11.26 Targeted small business.

After the conclusion of each fiscal year, the auditor of state shall annually conduct a review of whether state agencies are meeting their goal for procurement activities conducted pursuant to sections 73.15 through 73.21, and compliance with the forty-eight hour notice provision in section 73.16, subsection 2. By December 31 of each year, the auditor of state shall file a written report with the governor and the general assembly which shall include the findings of the review. The auditor of state may charge a fee to cover the costs of conducting activities under this section. The first report filed pursuant to this section shall be for the fiscal year beginning July 1, 2007. However, the auditor of state shall file a report pursuant to this section by March 1, 2008, for the time period beginning July 1, 2007, and ending September 30, 2007.

2007 Acts, ch 207, §2, 18

CS2007, §11.46

CS2011, §11.26

[T] Transferred from §11.46 in Code Supplement 2011

11.27 Biennial report. Repealed by 2011 Acts, ch 75, § 41.

REPORTS

11.28 Individual audit or examination reports.

Audit or examination reports shall include applicable exhibits, schedules, findings, and recommendations. The format of the reports shall comply with applicable professional accounting and auditing standards or procedures established by the auditor of state. Where applicable, the reports shall also set forth the average cost per year for the inmates, members, clients, patients, and students served. The reports shall make recommendations as may be deemed of advantage and to the best interests of the taxpayers of the state.

[C35, §130-e5; C39, §130.7; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.28]

86 Acts, ch 1245, §1973; 2003 Acts, ch 145, §286; 2005 Acts, ch 121, §1; 2011 Acts, ch 75, §25

[T] Section amended

11.29 Repealed by 87 Acts, ch 115, § 83.

APPOINTMENT AND COMPENSATION

11.30 Salary.

The salary of the auditor of state shall be as fixed by the general assembly.

[C31, 35, §130-c1; C39, §130.9; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §11.30]

11.31 State auditors.

1. The auditor of state shall appoint such number of state auditors as may be necessary to make audits and examinations as required in this chapter. The auditors shall be of

recognized skill and integrity and familiar with the system of accounting used in departments or governmental subdivisions and with the laws relating to the affairs of departments or governmental subdivisions. Such auditors shall be subject at all times to the direction of the auditor of state.

2. The auditor of state shall appoint such additional assistants to the auditors as may be necessary, who shall be subject to discharge at any time by the auditor of state.

3. Any auditor or assistant who is found guilty of falsifying a time and expense voucher or engagement report shall be immediately discharged by the auditor of state and shall not be eligible for reemployment. Such auditor or assistant must thereupon reimburse the auditor of state for all such compensation and expenses so found to have been overpaid and in the event of failure to do so, the auditor of state may collect the same amount from the auditor's surety by suit, if necessary.

2011 Acts, ch 75, §33

[T] NEW section

OUTSIDE ACCOUNTANTS

11.32 Certified accountants employed.

Nothing in this chapter shall prohibit the auditor of state, with the prior written permission of the state executive council, from employing certified public accountants for specific assignments. The auditor of state may employ such accountants for any assignment expressly reserved to the auditor of state. Payments, after approval by the executive council, shall be made to the accountants so employed from funds from which the auditor of state would have been paid had the auditor of state performed the assignment, or if such specific funds are not available, then authorization of the expense by the executive council shall be requested, and if authorized shall be paid from the appropriations addressed in section 7D.29.

[C66, 71, 73, 75, 77, 79, 81, §11.32]

2011 Acts, ch 75, §26; 2011 Acts, ch 131, §18, 158

[T] Section amended

11.33 through 11.35 Reserved.

11.36 Review of entities receiving public moneys. Transferred to § 11.24.

11.37 through 11.40 Reserved.

ACCESS TO INFORMATION

11.41 Access to information — confidentiality.

1. The auditor of state, when conducting any audit or review required or permitted by this chapter, shall at all times have access to all information, records, instrumentalities, and properties used in the performance of the audited or reviewed entities' statutory duties or contractual responsibilities. All audited or reviewed entities shall cooperate with the auditor of state in the performance of the audit or review and make available the information, records, instrumentalities, and properties upon the request of the auditor of state.

2. Auditors shall have the right while conducting audits or examinations to have full access to all papers, books, records, and documents of any officers or employees and shall have the right, in the presence of the custodian or the custodian's designee, to have full access to the cash drawers and cash in the official custody of the officer or employee and, during business hours, to examine the public accounts of the department or governmental subdivision in any depository which has public funds in its custody pursuant to the law.

3. If the information, records, instrumentalities, and properties sought by the auditor of state are required by law to be kept confidential, the auditor of state shall have access to the information, records, instrumentalities, and properties, but shall maintain the confidentiality

of all such information and is subject to the same penalties as the lawful custodian of the information for dissemination of the information. However, the auditor of state shall not have access to the income tax returns of individuals.

2006 Acts, ch 1153, §11; 2011 Acts, ch 75, §27

[T] NEW subsection 2 and former subsection 2 renumbered as 3

11.42 Disclosures prohibited.

1. Notwithstanding chapter 22, information received during the course of any audit or examination, including allegations of misconduct or noncompliance, and all audit or examination work papers shall be maintained as confidential.

2. Information maintained as confidential as provided by this section may be disclosed for any of the following reasons:

- a. As necessary to complete the audit or examination.
 - b. To the extent the auditor is required by law to report the same or to testify in court.
3. Upon completion of an audit or examination, a report shall be prepared as required by section 11.28 and all information included in the report shall be public information.

4. Any violation of this section shall be grounds for termination of employment with the auditor of state.

2011 Acts, ch 75, §28

[T] NEW section

11.43 through 11.45 Reserved.

11.46 Targeted small business. Transferred to § 11.26.

11.47 through 11.50 Reserved.

ENFORCEMENT

11.51 Subpoenas.

The auditor of state shall, in all matters pertaining to an authorized audit or examination, have power to issue subpoenas of all kinds, administer oaths and examine witnesses, either orally or in writing, and the expense attending the same, including the expense of taking oral examinations, shall be paid as other expenses of the auditor.

2011 Acts, ch 75, §29

[P] Expenses, §11.21

[T] NEW section

11.52 Refusal to testify.

In case any witness duly subpoenaed refuses to attend, or refuses to produce documents, books, and papers, or attends and refuses to make oath or affirmation, or, being sworn or affirmed, refuses to testify, the auditor of state or the auditor’s designee may apply to the district court, or any judge of said district having jurisdiction thereof, for the enforcement of attendance and answers to questions as provided by law in the matter of taking depositions.

2011 Acts, ch 75, §30

[P] Procedure for contempt, §622.76, 622.77, 622.84, 622.102, chapter 665

[T] NEW section

11.53 Report filed with county attorney.

If an audit or examination discloses any irregularity in the collection or disbursement of public funds, in the abatement of taxes, or other findings the auditor believes represent significant noncompliance, a copy of the report shall be filed with the county attorney, and it shall be the county attorney’s duty to cooperate with the state auditor, and, in proper cases, with the attorney general, to secure the correction of the irregularity.

2011 Acts, ch 75, §31

[T] NEW section

11.54 Duty of attorney general.

In the event an audit or examination discloses any grounds which would be grounds for removal from office, a copy of the report shall be provided and filed by the auditor of state in the office of the attorney general of the state, who shall thereupon take such action as, in the attorney general's judgment, the facts and circumstances warrant.

2011 Acts, ch 75, §32

[T] NEW section