



TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

April 19, 2011

The Honorable Matthew Schultz
Secretary of State of Iowa
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 536, an Act concerning the duties and responsibilities of the Auditor of State.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink that reads "Terry E. Branstad".

Terry E. Branstad
Governor

cc: Secretary of the Senate
Clerk of the House



House File 536

AN ACT
CONCERNING THE DUTIES AND RESPONSIBILITIES OF THE AUDITOR OF
STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 11.1, Code 2011, is amended to read as follows:

11.1 Definitions.

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

a. ~~The term "department" shall be construed to mean~~ "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.

Sec. 2. Section 11.2, subsection 1, Code 2011, is amended to read as follows:

1. The auditor of state shall annually, and more often if deemed necessary, ~~make a full settlement between~~ audit the state and all state officers and departments and all persons receiving or expending state funds, ~~and shall annually make a complete audit of the books and accounts of every department of the state.~~

~~a. Provided, except that the accounts, records, and documents of the treasurer of state shall be audited daily.~~

~~b. Provided further, that a preliminary audit of the educational institutions and the state fair board shall be made periodically, at least quarterly, to check the monthly reports submitted to the director of the department of administrative services as required by section 8A.502, subsection 10, and that a final audit of such state agencies shall be made at the close of each fiscal year.~~

Sec. 3. Section 11.2, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Departments shall immediately notify the auditor of state regarding any suspected embezzlement, theft, or other significant financial irregularities.

Sec. 4. Section 11.2, subsection 2, paragraphs a, b, and c, Code 2011, are amended to read as follows:

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 ~~an~~ a regents institution governed by the board.

b. All contracts or agreements with an investment entity or investment professional employed by ~~an~~ a regents institution governed by the state board of regents shall require the investment entity or investment professional employed by an a regents institution governed by the state board of regents 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 ~~structure~~, 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 at a regents institution governed by the state board of regents are reviewed by the auditor of state.

Sec. 5. Section 11.4, subsection 1, Code 2011, is amended to read as follows:

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 ~~set out in detail~~ include, if applicable, the following:

a. ~~The actual financial condition of such the state or department found to exist on every examination.~~

b. Whether, in the auditor's opinion,

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

(2) The department so audited ~~and~~ 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. Comparisons of prices paid and terms obtained by the various departments for goods and services of like character and reasons for differences therein, if any.~~

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

Sec. 6. Section 11.4, subsection 2, Code 2011, is amended by striking the subsection.

Sec. 7. Section 11.5A, Code 2011, is amended to read as follows:

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 ~~examinations~~ audits of state executive departments and agencies, and the offices of the judicial branch, and federal financial assistance, as defined in ~~Pub. L. No. 98-502~~ 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.

Sec. 8. Section 11.5B, unnumbered paragraph 1, Code 2011, is amended to read as follows:

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:

Sec. 9. Section 11.5B, subsection 13, Code 2011, is amended to read as follows:

13. Federal financial assistance, as defined in ~~Pub. L. No. 99-502~~ the federal Single Audit Act, 31 U.S.C. § 7501, et seq., received by all other departments.

Sec. 10. Section 11.6, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. (1) ~~The~~ 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 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, government subdivisions shall be examined 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 examination shall cover the fiscal year next preceding the year in which the audit is conducted.~~ The examination audit of school offices 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 ~~examination~~ audit of school offices 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 ~~examination~~ audit of a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 shall include ~~an audit~~ performing tests of the city's compliance with section 388.10. The ~~examination~~ audit of a city that owns or operates a municipal utility providing telecommunications services pursuant to section 388.10 shall include ~~an audit~~ performing tests of the city's compliance with section 388.10.

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

Sec. 11. Section 11.6, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0b.* 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.

Sec. 12. Section 11.6, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. (1) In conjunction with the audit of the governmental subdivision required under this section, the ~~person performing the audit~~ auditor shall also perform tests for compliance with the investment policy of a ~~reasonable number of investment transactions in relation to the total investments and quantity of transactions in the period audited~~ the governmental subdivision. The results of the compliance testing shall be reported in accordance with generally accepted auditing standards. The ~~person performing the audit~~ 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 ~~person~~ performing the audit auditor the audited financial statements and related report on internal control ~~structure~~ 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 ~~person performing the audit~~ auditor.

(3) The review by the ~~person performing the audit~~ 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 ~~person performing the audit~~ 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 ~~person performing the audit~~ auditor or any regulatory authority of the existence of a material weakness in internal control ~~structure~~, 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 ~~structure~~ or a material violation of the internal control ~~structure~~, 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 ~~structure~~ or the material violation of the internal control ~~structure~~.

Sec. 13. Section 11.6, subsection 2, Code 2011, is amended to read as follows:

2. ~~a. A city, community college, school district, area education agency, entity organized under chapter 28E, county, county hospital, or memorial hospital desiring to contract governmental subdivision contracting with or employ certified public accountants shall utilize 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.

~~b. The governing body of a city, community college, 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.~~

Sec. 14. Section 11.6, subsection 3, Code 2011, is amended to read as follows:

3. A township or city for which ~~examinations~~ 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. ~~A financial examination~~ An audit is mandatory on application by one hundred or more taxpayers, or if there are fewer than ~~five hundred~~ 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.

Sec. 15. Section 11.6, subsection 4, Code 2011, is amended to read as follows:

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 ~~city, county, county hospital, memorial hospital, entity organized under chapter 28F, merged area, area education agency, school corporation, township, or other governmental subdivision, or an office of any of these governmental subdivision, if one~~ 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 ~~fifty~~ 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 state audit~~ 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.

~~e. An examination under this subsection shall include a determination of whether investments by the governmental subdivision are authorized by state law.~~

Sec. 16. Section 11.6, subsection 7, Code 2011, is amended to read as follows:

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 audit of the governmental subdivisions of the state, which shall require a review of the internal control ~~structure~~ and specify testing of ~~transactions~~ 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, ~~or~~ theft, or other significant financial irregularities. The auditor of state shall also provide standard reporting formats for use in reporting the results of an examination audit of a governmental subdivision.

Sec. 17. Section 11.6, subsection 9, Code 2011, is amended to read as follows:

9. ~~The Accounts of the Iowa state association of counties shall keep accounts as required by the auditor of state. These accounts, 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.~~

Sec. 18. Section 11.6, subsection 10, Code 2011, is amended to read as follows:

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.

Sec. 19. Section 11.6, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 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.

Sec. 20. Section 11.11, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

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.

Sec. 21. Section 11.14, Code 2011, is amended to read as follows:

11.14 Reports — public inspection.

1. A written report of such examination an audit or examination shall be made in triplicate signed and verified by the officers making the examination, one copy to be provided to the governmental subdivision and filed with the auditor of state, one copy with the officer under investigation, and one copy to the county auditor who shall transmit same to the board of supervisors if a county office is under investigation, or with the president of the school board if a school is under investigation, or with the mayor and the council if a city office is under examination. 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 the ~~foregoing~~ subsection 1, notice that the report has been filed shall be forwarded immediately to each newspaper, radio station, or television station located