House Study Bill 140

SENATE/HOUSE FILE ______
BY (PROPOSED AUDITOR OF
STATE BILL)

Passed Senate, Date ____________ Passed House, Date _____________
Vote: Ayes ______ Nays _______ Vote: Ayes ______ Nays ________
Approved ____________________________

A BILL FOR

An Act relating to the responsibilities and duties of the auditor of state.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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Section 1. Section 11.1, Code 2009, 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 11.6, subsection 3, Code 2009, is amended to read as follows:

3. a. 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 is mandatory~~ Payment for the audit or examination shall be made from the proper public funds of the township or city.

b. The auditor of state shall conduct an audit or examination on application by one hundred or more ~~taxpayers~~ eligible electors residing in the township or city, as applicable, or if ~~there are~~ the population of the township or city is fewer than five hundred ~~taxpayers in the township or city~~, then by fifteen percent of ~~the taxpayers~~ registered voters in the township or city, as applicable. The auditor of state may conduct an audit or examination of a township or city on application by an employee or elected official of such township or city. A copy of the applications shall be filed with the auditor of state. Payment for the audit or examination shall be made from the proper public funds of the township or city.

Sec. 3. Section 11.14, Code 2009, 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 in the ~~county, municipality or school district~~ governmental subdivision which is under investigation or audit~~; except that~~. However, if there is no newspaper, radio station, or television station located ~~therein~~ in the governmental subdivision, such notice shall be sent to the official newspapers of the county.

Sec. 4. Section 11.19, Code 2009, is amended to read as follows:

11.19 AUDITOR'S POWERS AND DUTIES.

1. Where an audit or examination is made under contract with, or employment of, certified ~~or registered~~ 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 ~~and expense~~ of the audit or examination shall be paid by the ~~city, school district, or township~~ governmental subdivision procuring the audit or examination. ~~An itemized sworn~~ A detailed statement of the ~~per diem and expense~~ cost of the ~~auditor~~ audit or examination shall be filed with the ~~clerk of the city, township, or school district, before payment thereof~~ governmental subdivision. Upon completion of such audit or examination, a ~~signed~~ copy ~~thereof~~ of the report and a detailed, itemized statement of cost, including hours spent performing the audit or examination, shall be filed ~~by the accountant employed~~ with the auditor of state in a manner specified by 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.~~

~~In addition to the foregoing, notice that the report has been filed shall be forwarded immediately to each newspaper, radio station or television station located in the city, school district or township which is under investigation or audit; except that if there is no newspaper, radio station or television station located therein, the notice shall be sent to the official newspapers of the county.~~

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 ~~audit~~ 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.

Sec. 5. Section 11.21, Code 2009, is amended to read as follows:

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 ~~county, municipality or school,~~ 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 ~~audit and~~ approval by the ~~board of supervisors, council or school board, the warrant=issuing officer shall draw a warrant for the amount on the county, or on the general fund of the municipality or school in favor of the auditor of state, which warrant shall be placed to the credit of the general fund of the state~~ 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 ~~of said~~ included on the statement ~~by the county, municipality, or school authorities~~, written objections shall

be filed with the auditor of state within thirty days from the filing ~~thereof~~ 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 ~~county board of supervisors, the school board, or the council shall file~~ 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 ~~municipality~~ 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. Any auditor who shall be found guilty of falsifying an expense voucher or engagement report shall be immediately discharged by the auditor of state and shall not be eligible for re=employment. Such auditor 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.

Sec. 6. Section 11.28, Code 2009, is amended to read as follows:

11.28 INDIVIDUAL AUDIT OR EXAMINATION REPORTS ~~== COPIES~~.

~~1. The individual audit~~ Audit or examination reports shall include applicable exhibits ~~and~~, schedules ~~to report data similar to that required by section 11.4~~, findings, and recommendations. The format of the reports shall ~~as nearly as possible correspond and be prepared similar in form to the audit reports rendered by certified public accountants~~ comply with applicable professional standards or procedures established by the auditor of state. ~~The reports shall include information as to the assets and liabilities of the various departments and institutions audited as of the beginning and close of the fiscal year audited, the receipts and expenditures of cash, the disposition of materials and other properties, and the net income and net operating cost. The~~ Where applicable, the reports shall also set forth the average cost per year for the inmates, members, clients, patients, and students served ~~in the various classifications of expenses~~. The reports shall make ~~comparisons of the average costs and classifications, and shall give such other information, suggestions, and~~ recommendations as may be deemed of advantage and to the best interests of the taxpayers of the state.

~~2. The daily audit report of the state treasury shall be submitted to the director of the department of administrative services and the director of the department of management. Copies of all individual audit reports of all state departments and establishments shall be transmitted to the directors' offices after the completion of each audit, and copies of all local government audits shall, until otherwise provided, be also supplied to the directors' offices. Copies of the local government audit reports shall also be supplied to the officers of the counties, schools, and cities, as provided by law. Summaries of the findings, recommendations, and comparisons, together with any other information deemed essential, shall be printed and distributed to members of the general assembly.~~

Sec. 7. NEW SECTION. 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. As necessary to explain a decision by the auditor not to conduct an audit or reaudit.

c. 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.

EXPLANATION

This bill makes changes relative to the responsibilities and duties of the auditor of state.

Code section 11.1 is amended to define examination as a procedure less in scope than an audit but which is directed at reviewing financial activities and compliance with legal requirements. Governmental subdivision is also defined to mean cities, administrative agencies of cities, city hospitals, counties, county hospitals, memorial hospitals, chapter 28E entities, community colleges, area education agencies, and school districts.

Code section 11.6(3), concerning requests for an audit of a township or city, is amended. The bill modifies how the public can request an audit. The bill provides that an audit can be requested by application of 100 or more eligible electors, rather than taxpayers, of the township or city if the population of the township or city is 500 or more people. If less than 500 people, then the bill provides that 15 percent of registered voters can make application for an audit.

Code section 11.14, concerning reports and public inspection, is amended to provide that written audit or examination reports shall be provided to the governmental subdivision and filed with the auditor of state. Current requirements to produce reports in triplicate and to deliver copies to certain designated individuals is eliminated.

Code section 11.17, concerning prohibited disclosures, is repealed, but the substance of the Code section is transferred to new Code section 11.42.

Code section 11.19, concerning the auditor's powers and duties, is amended to eliminate the requirement that reports be open to public inspection and eliminates the criminal penalty for failing to permit inspection of reports that have been filed with the auditor of state. Provisions concerning the forwarding of notice that a report has been filed to the local media are also stricken from this Code section. Code section 11.14 still provides that the report is available for public inspection and submitted to local media.

Code section 11.21, concerning repayment of auditors, is amended to provide that the provisions of this Code section apply to governmental subdivisions.

Code section 11.28, concerning individual audit reports, is amended by striking requirements relative to the submission of the daily audit report and required copies of certain audit reports. The bill also provides that the format of the reports shall comply with applicable professional standards or procedures established by the auditor.

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