

# Chapter 297

2015 EDITION

## Audits of Public Funds and Financial Records

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**DIVISION OF AUDITS OF THE SECRETARY OF STATE'S OFFICE**

**297.010 Division of Audits; director and staff.** There is established the Division of Audits to be maintained under the supervision and control of the Secretary of State and operated as one of the divisions of the secretary's office. The Secretary of State shall assign or appoint a director of the division and such other assistants, accountants, auditors and clerks, upon such terms and for such compensation, as the secretary deems advantageous and necessary to carry out the duties and functions of the division. [1985 c.509 §1]

**297.020 Functions and duties of Division of Audits; moneys available for use by division.** (1) The Division of Audits shall have the function and duty of carrying out the provisions of ORS 297.210, 297.230, 297.405 to 297.555, 297.990 and this section.

(2) All moneys received under authority of the sections listed in subsection (1) of this section and moneys appropriated for use by the Secretary of State in carrying out the provisions of those sections hereby are made available for use by the Division of Audits. [Amended by 1977 c.774 §19; 1979 c.286 §6]

**297.030 Audits, reviews and investigations authorized to be made by the Secretary of State may be assigned to Division of Audits.** The audits, reviews or investigations authorized to be made by the Secretary of State may be assigned to the Division of Audits as a part of its functions and duties. [Amended by 1955 c.287 §18; 1987 c.143 §1]

**297.040 Payment of costs and expenses of audits authorized by ORS 297.030.** The costs and expenses of conducting audits authorized by ORS 297.030 shall be paid from whatever funds are appropriated by law for use in carrying out the provisions of the respective laws relating thereto. The costs and expenses shall be charged and billed to such funds or activities in the same manner as are costs and expenses charged and billed for audits, reviews, investigations and system installations to municipal corporations and the various state departments, boards and commissions. [Amended by 1987 c.143 §2]

**297.050 Supply of audit reports to Joint Legislative Audit Committee, Committee on Performance Excellence and Legislative Fiscal Officer.** The Division of Audits of the office of the Secretary of State shall supply the Joint Legislative Audit Committee, the Committee on Performance Excellence established in ORS 182.562 and the Legislative Fiscal Officer with a copy of each audit report made by or for the Division of Audits. [1959 c.70 §10; 1997 c.847 §5; 2008 c.7 §7]

**297.060 Confidentiality of tax records; penalty for disclosure.** Information furnished to the Secretary of State by the Department of Revenue and made confidential by ORS 314.835 shall be used by the Secretary of State and the officers and employees of the Secretary of State solely for the purposes of performing the functions of the office of Auditor of Public Accounts as required by section 2, Article VI of the Oregon Constitution, and shall not be used or disclosed for any other purpose. Any person who violates this prohibition against disclosure, upon conviction, is punishable as provided by ORS 314.991 (2). [1979 c.690 §17]

**LEGISLATIVE OVERSIGHT OF AUDITS**

**297.065 Oversight of performance and program audits and evaluation by Joint Legislative Audit Committee.** (1) It is the policy of this state that state government services be delivered with the highest level of desired effectiveness at the lowest possible cost.

(2) The Joint Legislative Audit Committee shall provide oversight of the conduct of performance and program audits and program evaluations, that are outside the authority of the Secretary of State under section 2, Article VI of the Oregon Constitution, of state departments, boards, commissions, institutions and state-aided institutions and agencies. The joint committee shall review the efforts of state departments, boards, commissions, institutions and state-aided institutions and agencies to comply with the recommendations of the audit or evaluation reports. [1997 c.847 §2]

**297.070 Criteria for performance and program audits; rules; contracts with private auditors; audit expenses.** (1) Performance and program audits of all state departments, boards, commissions, institutions and state-aided institutions and agencies shall be conducted on the basis of risk assessment and on standards established by national recognized entities including, but not limited to, the United States Government Accountability Office and the National Association of State Auditors. The Secretary of State shall adopt and the Joint Legislative Audit Committee shall approve rules specifying all criteria to be considered for conducting a performance or program audit under this section. The Secretary of State shall schedule the performance and program audits as directed by the Joint Legislative Audit Committee.

(2) The Secretary of State may subpoena witnesses, may require the production of books and papers and rendering of reports in the manner and form that the Secretary of State requires and may do all things neces-

sary to secure a full and thorough audit. The Secretary of State shall report, in writing, to the Legislative Assembly as provided in ORS 192.245 and to the Committee on Performance Excellence established in ORS 182.562. The report shall include a copy of the report on each performance and program audit.

(3) The Secretary of State, as State Auditor, shall contract with qualified private sector auditors to conduct audits required by this section, unless the Secretary of State determines that it is not practical or in the public interest to do so. If the Secretary of State determines that it is not practical or in the public interest to contract with qualified private sector auditors, after notifying the Joint Legislative Audit Committee, the Secretary of State shall employ auditors for that purpose and shall include in the written audit report the circumstances that rendered it impractical or not in the public interest to contract with qualified private sector auditors. All contracts for conducting performance and program audits under this section shall be in a form prescribed or approved by the Secretary of State. A copy of each completed contract shall be furnished to the Secretary of State and the Joint Legislative Audit Committee. The Secretary of State shall employ or contract with auditors upon terms and for compensation as the Secretary of State determines are advantageous and advisable.

(4) An audit conducted under contract as provided in subsection (3) of this section shall be considered to be conducted by the Division of Audits for purposes of ORS 297.020, 297.050 and 297.535.

(5) If a person fails to comply with any subpoena issued under subsection (2) of this section, a judge of the circuit court of any county, on application of the Secretary of State, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court.

(6) The Secretary of State may enter into an agreement with the department, board, commission, institution, state-aided institution or agency that is the subject of a performance or program audit for payment of the expenses incurred by the Secretary of State in conducting the audit. The Emergency Board may also make funds available to the Division of Audits to reimburse it for expenses incurred under this section.

(7) As used in this section:

(a) "Performance audit" includes determining:

(A) Whether an entity described in subsection (1) of this section that is the subject of the audit is acquiring, protecting and us-

ing its resources economically and efficiently;

(B) The causes of inefficiencies or unecological practices; and

(C) Whether the entity has complied with laws and regulations concerning matters of economy and efficiency.

(b) "Program audit" includes determining:

(A) The extent to which the desired results or benefits of a program established by the Legislative Assembly or other authorizing body are being achieved;

(B) The extent to which the need for or objectives of an ongoing program are necessary or relevant;

(C) Whether the program complements, duplicates, overlaps or conflicts with other related programs;

(D) The effectiveness of organizations, programs, activities or functions; and

(E) Whether the entity described in subsection (1) of this section that is the subject of the audit has complied with laws and regulations applicable to the program. [1997 c.847 §4; 2008 c.7 §8; 2009 c.11 §39]

**297.075** [2011 c.247 §1; repealed by 2013 c.722 §88]

### INVESTIGATION OF LOSS OF PUBLIC FUNDS OR PROPERTY

**297.110 Definitions for ORS 291.226 and 297.120.** As used in this section and ORS 291.226 and 297.120:

(1) "Public official" means any person who is serving a state agency as an officer, employee, member, agent or otherwise, regardless of whether the person is compensated for the person's services.

(2) "State agency" means any state department, division, bureau or other agency or body headed by an elected or appointed state officer or member of a board or commission. [1963 c.617 §1; 1993 c.718 §1; 2007 c.219 §1]

**297.120 Division of Audits investigation of state agency loss of public funds or property; report to Governor.** (1) When a state agency sustains a loss of \$100 or more of public funds or property under circumstances involving a public official who is entrusted with the custody of the funds or property or who is charged with the duty to account for the funds or property, the agency shall, within 30 days after discovery of the loss, report the loss in writing to the Division of Audits.

(2) Within 30 days after receiving the report under subsection (1) of this section, the division shall determine whether to investigate the loss.

(3) If the division investigates a loss, the division shall prepare a report regarding the accountability of the public official for the loss. The report shall be presented to the Governor. [1963 c.617 §2; 1969 c.199 §48; 1991 c.219 §2; 1993 c.718 §2; 2007 c.219 §2]

**AUDITS OF ACCOUNTS OF STATE  
AND STATE-AIDED INSTITUTIONS  
AND AGENCIES**

**297.210 Audits of accounts of state agencies and state-aided institutions and agencies; performance audits of school and education service districts; audits of state-to-county fund transfers; subpoena; audits on retirement of certain personnel; reporting of criminal activity; rules.**

(1)(a) The Secretary of State, as State Auditor, shall have the accounts and financial affairs of state departments, boards, commissions, institutions and state-aided institutions and agencies of the state reviewed or audited as the Secretary of State considers advisable or necessary.

(b) The Secretary of State, as State Auditor, may conduct performance audits of school districts and education service districts. For audits conducted under this paragraph:

(A) The Secretary of State shall identify by rule factors and standards by which the secretary will determine whether to initiate an audit as authorized under this paragraph or to enter into a contract with the Department of Education to conduct an audit as provided by ORS 327.141.

(B) Prior to initiating an audit, the Secretary of State shall:

(i) Give notice to the school district or the education service district of the secretary's intent to initiate the audit; and

(ii) Provide the school district or the education service district with the opportunity to provide to the secretary any information related to the subject of the audit.

(C) Following the review of any information provided under subparagraph (B) of this paragraph, the Secretary of State may:

(i) Decline to proceed with the audit; or

(ii) Cause the audit to be conducted.

(D) The Secretary of State may charge a school district or an education service district for a portion of the costs incurred for an audit authorized by this paragraph. Amounts charged as provided by this subparagraph shall be in lieu of any amounts that may be charged as provided by ORS 297.230.

(c) The Secretary of State, as State Auditor, may conduct audits of the use of fund transfers from the state to counties, includ-

ing but not limited to transfers of video lottery revenues, state highway funds, cigarette tax revenues and Oregon Liquor Control Commission funds.

(d) The Secretary of State may subpoena witnesses, require the production of books and papers and rendering of reports in such manner and form as the Secretary of State requires and may do all things necessary to secure a full and thorough investigation.

(e) The Secretary of State shall report, in writing, to the Governor. The report shall include a copy of the report on each audit.

(f) In addition to the report described in paragraph (e) of this subsection, the Secretary of State shall provide a report to a school district board or the board of directors of an education service district following an audit conducted as provided by paragraph (b) of this subsection.

(2) The Secretary of State may audit or review any institution or department of the state government at any time the executive head of the institution or department, for any reason, retires from the head's office or position. The secretary need not conduct an audit or review under this subsection if:

(a) The institution or department has been the subject of an audit or review of financial controls within the six months immediately preceding the retirement of the executive head of the institution or department; or

(b) The secretary has not received a report within the 12 months immediately preceding the retirement of the executive head of the institution or department indicating that the executive head of the institution or department was unable or unwilling to follow state law, rules, policies or procedures.

(3) The Secretary of State shall employ auditors upon such terms and for such compensation as the Secretary of State determines are advantageous and advisable.

(4) If a person fails to comply with any subpoena issued under subsection (1) of this section, a judge of the circuit court of any county, on application of the Secretary of State, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court.

(5) If the Secretary of State determines during the conduct of any activity authorized under this chapter that fraud or other criminal activity may be occurring or may have occurred, the secretary shall notify the appropriate federal, state or local law enforcement agency of the potential fraud or other criminal activity. This subsection applies regardless of the source of any moneys that are involved or may be involved in the fraud or

other criminal activity. [Amended by 1969 c.135 §1; 1971 c.748 §3; 1983 c.154 §1; 1987 c.143 §3; 1993 c.718 §4; 1997 c.157 §1; 2007 c.218 §3; 2007 c.839 §14; 2011 c.153 §1; 2011 c.647 §2; 2012 c.91 §1; 2015 c.66 §1]

**297.220** [Repealed by 1969 c.135 §3]

**297.230 Estimate and payment of costs and expenses of audits; legislative report; crediting moneys to Division of Audits Account.** (1) The Division of Audits shall estimate in advance the expenses that it will incur during the biennium in carrying out the provisions of ORS 297.030, 297.120 and 297.210, and shall charge officers, departments, boards and commissions of state government and other public bodies for their share of such expenses for periods within the biennium and in sufficient amounts to provide reasonable cash operating requirements for the Division of Audits within the biennial period. Each officer, department, board or commission or other public body shall pay to the credit of the Division of Audits Account such charge as an administrative expense from funds or appropriations available to it in the same manner as other claims against the state or public body are paid.

(2) Payments authorized under this section shall be consistent with ORS 171.580 and 171.585. The Division of Audits shall report to the Joint Legislative Audit Committee established under ORS 171.580 when estimated expenses for an audit authorized under subsection (1) of this section exceed the estimated expenses for a biennium.

(3) All moneys received from the various state departments, boards, commissions, institutions and state-aided institutions and agencies of the state in the payment of the costs of audits and reviews under this section and ORS 297.210 shall be credited to the Division of Audits Account. [Amended by 1977 c.774 §20; 1987 c.143 §4; 1993 c.724 §24; 1999 c.324 §1]

**297.240** [Repealed by 1977 c.774 §27]

**297.250 Filing of risk assessment or audit by state agency with Division of Audits.** (1) An agency of the executive department that completes a risk assessment or internal audit under ORS 184.360, or that prepares an independent audit under ORS 352.124 or 353.160, shall file the completed risk assessment or internal audit with the Division of Audits of the Office of the Secretary of State.

(2) Nothing in this section affects the constitutional duties and authority of the Secretary of State to audit public accounts. [2009 c.578 §2; 2013 c.768 §50]

## AUDITS OF NONGOVERNMENTAL ENTITIES

**297.300 Audit of records related to public purpose charges paid to nongovernmental entity.** The records related to any funds collected through public purpose charges and paid to a nongovernmental entity as described in ORS 757.612 shall be subject to audit by the Secretary of State. [2009 c.813 §2]

## MUNICIPAL AUDIT LAW

**297.405 Definitions for ORS 297.020, 297.230, 297.405 to 297.740 and 297.990.** As used in ORS 297.020, 297.230, 297.405 to 297.740 and 297.990:

(1) “Accountants” means all accountants whose names are included in the roster prepared and maintained by the Oregon Board of Accountancy as required by ORS 297.670.

(2) “Accounts” means all books, papers, files, letters and records of any nature or in any form used in conducting the affairs of the municipal corporation or in recording the transactions thereof.

(3) “Board” means the Oregon Board of Accountancy.

(4) “Fiscal affairs” means and includes all activities of any nature giving rise to or resulting from financial transactions, including compliance with legal requirements applicable to the operation of a municipal corporation.

(5) “Municipal corporation” means a:

(a) City;

(b) County;

(c) Special district;

(d) School district or an education service district;

(e) Corporation, except a municipal corporation established pursuant to ORS 441.525 to 441.595, upon which is conferred powers of the state for the purpose of local government; or

(f) Public corporation, including a cooperative body formed between municipal corporations.

(6) “Public corporation” means a corporation the operation of which is subject to control by local government or its officers and which, at least in part, is organized to serve a public purpose of, and receives public funds or other support having monetary value from, such government. [1977 c.774 §2; 1979 c.286 §7; 1987 c.423 §1; 2005 c.443 §15; 2011 c.647 §3]

**297.410** [Repealed by 1977 c.774 §27]

**297.415 Periodic financial reports required.** The Secretary of State shall require that periodic reports of financial condition and financial operations be prepared and

submitted to the Secretary of State by municipal corporations in such form and at such times as the Secretary of State considers necessary. The periodic reports may be required of all municipal corporations. [1977 c.774 §3]

**297.420** [Repealed by 1977 c.774 §27]

**297.425 Annual audits required; compensation; expenses; subjects of audits.**

(1) Except as provided in ORS 297.435, the accounts and fiscal affairs of every municipal corporation shall be audited and reviewed at least once each calendar or fiscal year, and more often if considered advisable by the governing body or managing or executive officer of the municipal corporation. The audits and reviews shall be made by accountants pursuant to contracts entered into by the governing body, or managing or executive officer, and accountants, or by the Secretary of State pursuant to a duly adopted ordinance or resolution. Upon request of the secretary, the governing body, or managing or executive officer, shall provide the secretary with a copy of the contract entered into or an ordinance or resolution adopted under this section.

(2) The compensation for audits and reviews performed by accountants shall be as agreed upon between the governing body, or managing or executive officer of the municipal corporation, and the accountant, and shall be paid in the same manner as other claims against the municipal corporation are paid.

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

(4) Audits and reviews required by this section shall inquire into:

(a) The principles of accounting and methods followed by the municipal corporation in recording, summarizing and reporting its financial transactions and financial condition;

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

(c) Compliance with requirements, orders and regulations of other public officials which pertain to the financial condition or financial operations of the municipal corporation. [1977 c.774 §4; 1987 c.143 §5; 2001 c.26 §1; 2007 c.184 §1; 2015 c.29 §1]

**297.430** [Repealed by 1977 c.774 §27]

**297.435 Exemption from audit; financial statement and bonding required.**

(1) Subject to ORS 297.445, ORS 297.425 does not apply to any municipal corporation, except a county or a school district, if, with respect to any one calendar year or fiscal year, the municipal corporation meets all the conditions in either subsection (2) or (3) of this section.

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

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

(c) A certificate has been submitted with the financial statements stating that the principal responsible official of the municipal corporation was covered during the entire year by a fidelity or faithful performance bond in an amount at least equal to the total amount of moneys received by the municipal corporation during the year.

(3)(a) Total expenditures for all purposes, including moneys expended for debt retirement, exceeded \$150,000 but did not exceed \$500,000 for the year;

(b) The municipal corporation has submitted financial statements for the year to the Secretary of State within 180 days following the end of the year, and the financial statements have been reviewed by an accountant or the Secretary of State in accordance with standards prescribed by the Secretary of State; and

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

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

(5) The provisions of ORS 297.466 apply to financial statements for cities reviewed under subsection (3) of this section. [1977 c.774 §5; 1981 c.245 §1; 1997 c.401 §1; 2007 c.709 §1]

**297.440** [Repealed by 1977 c.774 §27]

**297.445 Petition to audit municipal corporation exempt under ORS 297.435; notice to corporation; audit.**

(1) ORS 297.435 does not apply to a municipal corporation for any calendar or fiscal year if a

petition requesting an audit, signed by residents of the municipal corporation who are subject to taxes, fees, assessments or other charges levied by the municipal corporation, is filed with the Secretary of State within six months of the end of the fiscal year for which the audit is requested. In a municipal corporation with a population of 150 or less, the petition must be signed by at least 10 residents. In a municipal corporation with a population of more than 150, the petition must be signed by at least 30 residents.

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

(3) The costs incurred by the Secretary of State in making the audit and review shall be borne by the municipal corporation, and shall be paid to the Secretary of State in the same manner as other claims against the municipal corporation. [1977 c.774 §6; 1987 c.143 §6; 2003 c.326 §1]

**297.450** [Repealed by 1977 c.774 §27]

**297.455 Audits by federal government; review and approval by Secretary of State.** If the accounts and fiscal affairs of a municipal corporation are audited and reviewed for a calendar or fiscal year, in accordance with the requirements of ORS 297.465, by auditors provided by the federal government, the Secretary of State may accept for review and filing the audit reports of such federal auditors if the reports also comply with the requirements set forth in ORS 297.465. Any such audit reports filed with the Secretary of State shall be subject to the filing fee required by ORS 297.485. If the audits and reviews and resulting audit reports are found by the Secretary of State to comply with ORS 297.465, the municipal corporation will be considered in compliance with ORS 297.425. [1977 c.774 §7; 1987 c.143 §7]

**297.459 Furnishing county audit reports to Department of Revenue.** An accountant who furnishes an audit report to a county pursuant to ORS 297.465 shall, at the

same time, furnish a copy of the audit report to the Department of Revenue. [1989 c.796 §9]

**Note:** 297.459 was added to and made a part of 297.405 to 297.740 by legislative action but was not added to any other series in ORS chapter 297. See Preface to Oregon Revised Statutes for further explanation.

**297.460** [Amended by 1977 c.774 §21; renumbered 297.535]

**297.465 Standards for audits; form; filing; extensions of time.** (1) The Secretary of State, in cooperation with the Oregon Board of Accountancy, and in consultation with the Oregon Society of Certified Public Accountants, shall prescribe the minimum standards for conducting audits of municipal corporations, preparing the resulting audit reports and expressing opinions upon the financial condition and results of operation for the period under audit. The expression of opinion shall be signed by the accountant signing the contract, or in the case of a partnership or professional corporation, by a partner or stockholder who is an accountant as defined in ORS 297.405, who has personally conducted the audit to an extent satisfactory to the secretary and to the municipal corporation.

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

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



(b) The report is subject to review by the secretary, who may also require submission of the supporting documentation and audit programs of the accountant.

(c) If an audit, audit report or expression of opinion is found by the secretary not to be in accordance with the prescribed standards, the secretary shall request compliance. If the accountant fails to comply with the request, the secretary shall report the failure to comply to the Oregon Board of Accountancy, which may remove or suspend the name of the accountant from the roster required by ORS 297.670.

(4) Audit reports or financial statements filed with the Secretary of State as required by ORS 297.405 to 297.555 shall include the names, mailing addresses and titles of the officers and members of the governing board of the municipal corporation. The report or statement of a special district shall include the name of its registered agent and the address of its registered office as provided by ORS 198.335 to 198.365. [1977 c.774 §8; 1979 c.646 §3; 2007 c.184 §2; 2015 c.29 §2]

**297.466 Auditor statement required; procedure for determining and correcting deficiencies; withholding of state funds.**

(1) In performing an audit and review required under ORS 297.425, the accountant under contract with the municipal corporation or the Secretary of State, whoever performs the audit and review, shall determine if the municipal corporation has, or has not, followed generally accepted accounting principles in reporting its financial condition and operations, established appropriate accounting systems and internal controls and substantially complied with legal requirements in conducting its financial affairs. The determination shall either be included in the signed expression of opinion or otherwise disclosed in the audit report required under ORS 297.465.

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

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

(b) At the request of the governing body of the municipal corporation, the secretary shall make suggestions for addressing the deficiencies cited in the audit report.

(c) For counties and cities, upon receipt by the secretary of the audit report and the plan of action adopted under subsection (2) of this section, the secretary shall either acknowledge the county or city's plan of action to address the deficiencies cited in the audit report or notify the county or city of deficiencies that, if not addressed, could result in withholding of funds under this section. If the governing body of the county or city does not agree with the notification by the secretary, the secretary shall provide the governing body with an opportunity for a conference regarding the notification, audit determinations or corrective measures to be taken.

(4) If the Secretary of State determines that a county or city has not filed an audit report with the secretary as required under ORS 297.465, the secretary may certify the determination to the State Treasurer, the Director of the Department of Revenue, the Director of Transportation and the Director of the Oregon Department of Administrative Services.

(5) If the Secretary of State concurs with determinations made under subsection (1) of this section in two successive audits and reviews of the same county or city, and determines that the governing body of the county or city has not taken adequate action to address the deficiencies cited in the notifications given under subsection (3) of this section, the secretary may certify the determination to the State Treasurer, the Director of the Department of Revenue, the Director of Transportation and the Director of the Oregon Department of Administrative Services. The certificate of the secretary under this subsection may be issued only after notice, opportunity to be heard and hearing pursuant to the provisions of ORS chapter 183, governing contested cases. The hearing shall be held within the jurisdiction of the county or city.

(6) Upon receipt of a certificate from the Secretary of State under subsection (4) or (5) of this section, the State Treasurer, the Director of the Department of Revenue, the Director of Transportation and the Director of the Oregon Department of Administrative Services shall withhold from distribution to the county or city 10 percent of the moneys otherwise to be distributed to it under ORS 221.770, 323.455, 366.762 to 366.768, 366.785 to 366.820, 471.805 and 471.810. The moneys withheld shall be disbursed to the county or city only after the officer responsible for disbursement has received notice from the secretary that:

(a) The county or city has filed the audit report required under ORS 297.465 with the secretary; or

(b) The governing body of the county or city has taken action to follow generally accepted accounting principles in reporting financial condition and operations and establish appropriate accounting systems and internal controls and will substantially comply with legal requirements in conducting its financial affairs.

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

(8) As used in this section, "generally accepted accounting principles" means those accounting principles sanctioned by recognized authoritative bodies such as the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, the Financial Accounting Standards Board or their successors. [1979 c.646 §2; 1981 c.245 §3; 1987 c.143 §8; 2007 c.184 §3; 2015 c.29 §3]

**297.470** [Repealed by 1977 c.774 §27]

**297.471 Secretary of State to prepare summary report.** (1) For each calendar or fiscal year under audit, the Secretary of State shall prepare and maintain a summary report that includes, at a minimum:

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

(b) A list of the municipal corporations that filed audit reports with the secretary within six months after the close of the calendar or fiscal year under audit;

(c) A list of the municipal corporations that did not request a filing extension and did not file audit reports with the secretary within six months after the close of the calendar or fiscal year under audit;

(d) A list of the municipal corporations that requested and were granted filing extensions and either filed or did not file audit reports with the secretary in accordance with the approved extension;

(e) A list of the number and type of deficiencies cited in the audit report by the accountants for each municipal corporation for the calendar or fiscal year under audit; and

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

(2) Not later than March 1 of each odd-numbered year, the Secretary of State shall submit to the appropriate legislative committee with authority over audits copies of the

two most recent summary reports prepared under subsection (1) of this section. The secretary shall make the summary reports available for public inspection in accordance with the secretary's established procedures. [2015 c.29 §5]

**297.475 Cancellation of request for Secretary of State assistance.** Whenever any municipal corporation has made a request to the Secretary of State, pursuant to ORS 297.425, for the audit of its accounts and fiscal affairs, the municipal corporation may cancel that request by ordinance or resolution adopted and furnished to the Secretary of State at least 90 days prior to the end of a calendar or fiscal year. [1977 c.774 §9; 2007 c.184 §4]

**297.480** [Repealed by 1977 c.774 §27]

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

(2) The filing fee to be paid shall be as indicated for those municipal corporations whose total expenditures fall within the classifications as follows:

	Over	Not Over	Fee
		\$ 50,000	\$ 20
\$	50,000	150,000	40
	150,000	500,000	150
	500,000	1,000,000	200
	1,000,000	5,000,000	250
	5,000,000	10,000,000	300
	10,000,000	50,000,000	350
	50,000,000		400

(3) Audit reports filed by the administrative office of the county, under ORS 328.465 (2), for school districts with less than 1,000 children according to the latest school census in the county, shall be considered one report for purposes of the filing fee required by this section. The filing fee shall be paid by the county administrative office and deducted pro rata from moneys due to the several school districts. [1977 c.774 §10; 1999 c.345 §1]

**297.490** [Repealed by 1977 c.774 §27]

**297.495 Extraordinary costs.** Any extraordinary work required to be performed by the Secretary of State in connection with any of the audits or the reports thereon filed pursuant to ORS 297.465 shall be compensated by an additional payment to be agreed upon by the Secretary of State and the municipal corporation for which the audit is made or to be made. [1977 c.774 §11]

**297.500** [Repealed by 1977 c.774 §27]

**297.505 Rules.** The Secretary of State, subject to ORS chapter 183, may adopt, amend and repeal rules necessary to carry out the provisions of ORS 297.020, 297.230, 297.405 to 297.555 and 297.990. [1977 c.774 §12; 1979 c.286 §9]

**297.515 County audits include justice courts and law enforcement agencies and officers.** The audits of counties required under ORS 297.425 shall include justice courts, their officers and employees, district attorneys and their employees, sheriffs, constables and all other officers and officials elected by the residents of a county or appointed by an official elected by the residents of a county and transacting public business. [1977 c.774 §13; 2013 c.52 §1]

**297.520** [1969 c.518 §3; repealed by 1977 c.774 §27]

**297.525 Annual audit of county road work.** The annual audit required to be made of the accounts and fiscal affairs of a county shall include a cost audit of the cost account for county road work. [1977 c.774 §13a]

**297.527 City utilities separate municipal corporations.** When a city, by charter, establishes a board or commission that is elected by the people to operate a water utility or an electric utility of the city, the city and the water utility or the electric utility are separate municipal corporations for the purposes of ORS 297.405 to 297.555 and 297.990. [2005 c.443 §17]

**Note:** 297.527 was added to and made a part of 297.405 to 297.740 by legislative action but was not added to any other series in ORS chapter 297. See Preface to Oregon Revised Statutes for further explanation.

**297.530 Subpoena authority of Secretary of State; enforcement; costs.** (1) The Secretary of State may subpoena witnesses, require the production of accounts and do all things necessary to assure that the accounts and fiscal affairs of a municipal corporation are subject to a complete audit. If an accountant is denied access to any of the accounts or other information pertaining to the fiscal affairs of a municipal corporation, the accountant may request the Secretary of State to subpoena the accounts, or witnesses who may be able to furnish the necessary information. The accountant shall furnish to the Secretary of State such information as the Secretary of State determines necessary

to carry out the provisions of subsections (1) and (2) of this section.

(2) If a person fails to comply with any subpoena issued under subsection (1) of this section, a judge of the circuit court of any county, on application of the Secretary of State, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court.

(3) All costs necessarily incurred by the Secretary of State or an accountant in carrying out subsections (1) and (2) of this section shall be paid by the municipal corporation. [1983 c.794 §§2,3]

**297.535 Division of Audits Account.** (1) All moneys received by the Secretary of State under ORS 297.210, 297.230, 297.425 and 297.445 shall be immediately turned over to the State Treasurer, who shall deposit the moneys in the General Fund to the credit of an account to be known as the Division of Audits Account.

(2) The moneys received under subsection (1) of this section and deposited in the Division of Audits Account are continuously appropriated to the Secretary of State for use in payment of salaries and other expenses or costs of the Division of Audits.

(3) The moneys received under ORS 297.545 and deposited in the Division of Audits Account are continuously appropriated to the Secretary of State for use in payment of salaries and other expenses or costs incurred by the Division of Audits of the Office of the Secretary of State in connection with the carrying out of the provisions of ORS 297.020, 297.230, 297.405 to 297.740 and 297.990.

(4) The Secretary of State may use moneys in the Division of Audits Account for cash advances for travel expenses necessary in carrying out the provisions of ORS 297.020 to 297.555 and 297.990. Any moneys received in reimbursement of these cash advances shall be deposited in the Division of Audits Account.

(5) The Secretary of State shall keep a record of all moneys deposited in the Division of Audits Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged. [Formerly 297.460; 1979 c.286 §10; 1995 c.144 §3; 2001 c.796 §20; 2005 c.755 §14]

**297.545 Disposition of Municipal Audit Law filing fees.** All filing fees received by the Secretary of State under ORS 297.405 to 297.555 shall be immediately turned over to the State Treasurer who shall deposit the moneys in the Division of Audits Account

created under ORS 297.535. [Formerly 297.660; 1979 c.286 §11; 1995 c.144 §5]

**297.555 Short title.** ORS 297.405 to 297.555 and 297.990 may be cited as the Municipal Audit Law. [1977 c.774 §1; 1979 c.286 §12]

**297.610** [Amended by 1959 c.238 §1; 1963 c.518 §1; 1965 c.332 §1; repealed by 1977 c.774 §27]

**297.620** [Amended by 1961 c.555 §1; 1963 c.301 §1; repealed by 1977 c.774 §27]

**297.622** [1963 c.301 §3; 1975 c.450 §1; repealed by 1977 c.774 §27]

**297.624** [1963 c.301 §4; repealed by 1977 c.774 §27]

**297.626** [1965 c.332 §9; repealed by 1977 c.774 §27]

**297.630** [Amended by 1965 c.332 §2; repealed by 1977 c.774 §27]

**297.635** [1971 c.267 §2; repealed by 1977 c.774 §27]

**297.640** [Amended by 1961 c.555 §3; 1967 c.67 §2; repealed by 1977 c.774 §27]

**297.650** [Repealed by 1977 c.774 §27]

**297.660** [Amended by 1977 c.774 §22; renumbered 297.545]

## ROSTER OF AUTHORIZED ACCOUNTANTS

**297.670 Board of Accountancy to prepare and maintain roster.** The Oregon Board of Accountancy shall prepare and maintain a roster of accountants authorized to conduct the municipal audits required by ORS 297.425. [Amended by 1981 c.83 §1]

**297.680 Rules for establishing and maintaining roster.** The Oregon Board of Accountancy shall adopt by rule:

(1) Procedures and qualifications for admitting applicants to the roster of authorized accountants referred to in ORS 297.670;

(2) Procedures for reviewing the qualifications of accountants admitted to the roster for continuance on the roster;

(3) Fees payable upon application for admission to the roster; and

(4) Procedures for making the roster available to municipal corporations described in ORS 297.405 (5) which are subject to the Municipal Audit Law. [Amended by 1959 c.238 §2; 1965 c.332 §3; 1987 c.455 §1; 1999 c.309 §1; 1999 c.322 §34]

**297.690** [Amended by 1965 c.332 §4; 1973 c.832 §2; repealed by 1987 c.455 §5]

**297.700** [Repealed by 1959 c.238 §4]

**297.701 Persons on roster on August 5, 1959; removal.** Notwithstanding the repeal of ORS 297.700, any person who is on the roster referred to in ORS 297.670 on August 5, 1959, shall remain thereon subject only to removal under ORS 297.710. [1959 c.238 §5]

**297.710 Removal of accountant from roster; reinstatement.** (1) The Oregon Board of Accountancy, for cause, may remove from the roster the name of any person

appearing thereon and may provide for the reinstatement thereof.

(2) The board shall remove from the roster the name of any person appearing thereon if the person ceases to possess the qualifications described in ORS 297.680. If after such removal the board determines that such person later possesses such qualifications, the board may provide for the reinstatement of that person's name on the roster without an examination. [Amended by 1965 c.332 §5]

**297.720 Biennial fee of accountants included on roster.** Every auditor or accountant whose name is included on the roster of authorized accountants referred to in ORS 297.670 shall pay to the Oregon Board of Accountancy biennially a fee for continuance thereon. The fee shall be in an amount not to exceed \$100 as determined by the board by rule. [Amended by 1971 c.217 §1; 1981 c.89 §13; 1987 c.455 §2]

**297.730 Disposition of fees of board.** The fees collected by the Oregon Board of Accountancy under ORS 297.670 to 297.740 shall be turned over to the State Treasurer who shall deposit the moneys in the General Fund to be credited to the Oregon Board of Accountancy for its use in carrying out the provisions of ORS 297.405 to 297.555 and 297.670 to 297.740. [Amended by 1981 c.83 §2]

**297.740 Rules of board.** The Oregon Board of Accountancy may adopt rules necessary to exercise its powers and duties provided in ORS 297.405 to 297.555 and 297.670 to 297.740. [Amended by 1981 c.83 §3; 1999 c.322 §35]

**297.750** [Repealed by 1977 c.774 §27]

## LOCAL GOVERNMENT WASTE HOTLINES

**297.760 Establishment of local government waste hotline.** (1) A local government body or local service district may establish a telephone line that is available to public employees and members of the public for the purpose of reporting waste, inefficiency or abuse by the local government body or local service district, employees of the local government body or local service district, or contractors of the local government body or local service district.

(2) If a local government body or local service district chooses to establish a local government waste hotline under subsection (1) of this section:

(a) The local government body or local service district shall also accept reports of waste, inefficiency or abuse by the local government body or local service district, employees of the local government body or local service district, or contractors of the

local government body or local service district by any other method; and

(b) The local government body or local service district shall prepare written or electronic notices that explain the purpose of the local government waste hotline and that prominently display the telephone number for the hotline. The notice shall be posted in local government body or local service district offices.

(3) As used in this section and ORS 297.765, “local government body” and “local service district” have the meanings given those terms in ORS 174.116. [2011 c.221 §2]

**Note:** 297.760 and 297.765 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 297 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**297.765 Policies and procedures for local government waste hotline; confidentiality; required reporting.** (1) If a local government body or local service district chooses to establish a local government waste hotline under ORS 297.760, the local government body or local service district shall establish written policies and procedures for logging all reports of waste, inefficiency or abuse received through the hotline or received through any other method.

(2) Except as provided in subsection (5) or (6) of this section, the identity of any person calling the hotline or otherwise making a report under ORS 297.760 is confidential. A person making a report under ORS 297.760 may waive the confidentiality otherwise granted under this subsection.

(3) The local government body or local service district shall conduct an initial investigation of each report of waste, inefficiency or abuse made under ORS 297.760, following the written policies and procedures established under subsection (1) of this section. The local government body or local service district may audit any agency of the local government body or local service district if it appears that officers or employees of the agency, or persons under contract with the agency, are engaging in activities that constitute waste, inefficiency or abuse.

(4) An investigation of a report of waste, inefficiency or abuse received under ORS 297.760 is confidential unless the local government body or local service district finds that waste, inefficiency or abuse has occurred and reports these determinations as provided under subsection (5) or (6) of this section. If the local government body or local service district finds that waste, inefficiency or abuse has occurred, the investigation and any determinations made are confidential until the investigation described in subsection (3) of this section is complete.

(5) Notwithstanding subsections (2) and (4) of this section:

(a) If the local government body or local service district determines during the investigation that a violation of any provision of ORS chapter 244 may be occurring or may have occurred, the local government body or local service district shall notify the Oregon Government Ethics Commission of the potential violation; and

(b) If the local government body or local service district determines during the investigation that fraud or other criminal activity may be occurring or may have occurred, the local government body or local service district shall notify the appropriate law enforcement agency of the potential fraud or other criminal activity.

(6) Subject to the confidentiality requirements of subsections (2) and (4) of this section, upon completion of an investigation under this section:

(a) The local government body or local service district shall determine in writing whether officers or employees of the local government body or local service district, or persons under contract with the local government body or local service district, are engaging in activities that constitute waste, inefficiency or abuse. The written determination may include other information about the nature of the investigation or the local government body’s or local service district’s determination.

(b) If the local government body or local service district finds that waste, inefficiency or abuse has occurred, upon request of the person who made the report under ORS 297.760, the local government body or local service district shall provide the person with a copy of the determination and any other information included by the local government body or local service district.

(c) If the local government body or local service district determines that officers or employees of the local government body or local service district, or persons under contract with the local government body or local service district, are involved in activities that constitute waste, inefficiency or abuse, the local government body or local service district shall notify the governing body of the local government body or local service district of the determination and deliver a copy of the local government body’s or local service district’s findings to the governing body.

(7) A written determination prepared under this section is a public record. Following the completion of an investigation, all documents, information or other records relating to the investigation are disclosable public records under ORS 192.410 to 192.505 unless

an exemption from disclosure set forth in a provision of law other than this section applies to the records, except that the identity of the person making the report under ORS 297.760 shall remain confidential. [2011 c.221 §3]

**Note:** See note under 297.760.

**297.810** [Repealed by 1967 c.359 §704]

**297.820** [Repealed by 1967 c.359 §704]

**297.830** [Repealed by 1967 c.359 §704]

**297.910** [Formerly 190.120; repealed by 1965 c.351 §4]

**297.920** [1961 c.108 §§6,7; renumbered 190.260]

### PENALTIES

**297.990 Penalties.** In addition to all other penalties, any county court, board of county commissioners or managing or executive officers of any municipal corporation, who violate any of the provisions of ORS

297.405 to 297.555 or fail to have the audits and examinations required by those sections made, upon such violation or failure shall forfeit to the county or other municipality their salaries and fees due them from the county or other municipality; and it shall be unlawful for any officer of such county or municipality to draw any warrant in favor of the members of such court, or such commissioners, or managing or executive officers of such corporation, in payment of such salaries or fees, or to pay the same in any manner. [Amended by 1977 c.774 §23; 1979 c.286 §13]

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### CHAPTERS 298 TO 304

[Reserved for expansion]