

# Chapter 297

(Partial)

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## Audits of Public Funds and Financial Records

	<b>AUDITING ACCOUNTS OF STATE AND STATE-AIDED INSTITUTIONS AND AGENCIES</b>		
297.210	Regular auditing of accounts of state agencies and state-aided institutions and agencies; subpoena; auditing on retirement of executive head of institution or department; terms and compensation of auditors	297.435	Exemption from audit; financial statement and bonding required
297.230	Estimate and payment of cost and expense of audit; legislative report; crediting moneys to Division of Audits Account	297.445	Petition to audit municipal corporation exempt under ORS 297.435; notice to corporation; audit
	<b>MUNICIPAL AUDIT LAW</b>	297.455	Audits by federal government; review and approval by Secretary of State
297.405	Definitions for ORS 297.020, 297.230, 297.405 to 297.740 and 297.990	297.459	Furnishing county audit reports to Department of Revenue
297.415	Periodic financial reports required	297.465	Standards for audits; form; filing
297.425	Annual audits required; contracts related to audits and accounting systems; compensation; expenses; subjects of audit	297.466	Auditor statement required; procedure for determining and correcting deficiencies; withholding of state funds
		297.475	Cancellation of request for Secretary of State assistance
		297.485	Filing fees



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

**297.210 Regular auditing of accounts of state agencies and state-aided institutions and agencies; subpoena; auditing on retirement of executive head of institution or department; terms and compensation of auditors.** (1) 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. 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. The Secretary of State shall report, in writing, to the Governor. The report shall include a copy of the report on each audit.

(2) An audit or review shall be made of 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.

(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. [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]

**297.230 Estimate and payment of cost and expense of audit; 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 ORS 297.210 and 297.230 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]

**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) 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

(e) 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]

**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]

**297.425 Annual audits required; contracts related to audits and accounting systems; compensation; expenses; subjects of audit.** (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, a copy of which shall be furnished to the Secretary of State.

(2) Municipal corporations may enter into contracts, or by ordinance or resolution request the Secretary of State, to develop or revise and install accounting systems.

(3) All contracts for conducting audits and reviews or for developing or revising and installing accounting systems shall be in a form prescribed or approved by the Secretary of State. A copy of each completed contract shall be furnished the Secretary of State.

(4)(a) 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.

(b) The compensation for installation of accounting systems performed by parties under subsection (2) of this section, other than the Secretary of State, shall be as agreed upon between the governing body, or managing or executive officer of the municipal corporation, and the other party, and shall be paid in the same manner as other claims against the municipal corporation are paid.

(5) All expenses and costs incurred by the Secretary of State in conducting audits and reviews, and installing accounting systems for municipal corporations shall be borne by the municipal corporation for which a particular audit, review or installation is

made. The expenses and costs shall be paid to the Secretary of State in the same manner as other claims against the municipal corporation are paid.

(6) 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]

**297.435 Exemption from audit; financial statement and bonding required.** (1) Subject to ORS 297.445, the provisions of ORS 297.425 shall 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 receipts from all sources and expenditures for all purposes, including money obtained from borrowing and money 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 money received by the municipal corporation during the year.

(3)(a) Total receipts from all sources and expenditures for all purposes, including money obtained from borrowing and money 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]

**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]

**297.455 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.

**297.465 Standards for audits; form; filing.** (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 of State 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, except that the Sec-

retary of State, for good cause shown, may grant to the accountant a reasonable extension of time.

(3) The municipal corporation shall file one copy of its audit report with the Secretary of State. The report shall be subject to review by the Secretary of State, who may also require submission of the working papers and audit programs of the accountant. If an audit, audit report or expression of opinion is found by the Secretary of State not to be in accordance with the prescribed standards, the Secretary of State shall request compliance. If the accountant fails to comply with the request, the Secretary of State shall so report to the Oregon Board of Accountancy, which thereupon 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]

**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 governmental 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 county or city shall determine the measures it considers necessary to correct any deficiencies disclosed in the report. The governing body shall adopt a resolution setting forth the corrective measures it proposes and the period of time estimated to complete them.

(3) Within 30 days after a county or city files a copy of its audit report with the Sec-

retary of State under ORS 297.465 a copy of the resolution prepared under subsection (2) of this section shall also be filed. Upon receipt of the audit report and the resolution, the Secretary of State shall either acknowledge the city or county's plans to correct deficiencies cited in the audit report or notify the county or city of those deficiencies which, if not corrected, could result in withholding of funds under this section. At the request of the governing body of the city or county the Secretary of State shall make suggestions for correcting those deficiencies. If the governing body of the county or city does not agree with the notification by the Secretary of State, it shall be granted an opportunity for a conference regarding the notification, audit determinations or corrective measures to be taken.

(4) 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 correct the deficiencies cited in the notifications given under subsection (3) of this section, the Secretary of State may certify these facts 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 of State shall only be issued 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.

(5) Upon receipt of a certificate from the Secretary of State under subsection (4) 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 of State that the governing body of the county or city has taken action to follow generally accepted governmental 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.

(6) The Secretary of State shall not issue a certificate under subsection (4) of this section for failure to follow generally accepted governmental accounting principles if a county or city has followed accounting practices authorized by state law.

(7) As used in this section, "generally accepted governmental accounting principles" means those accounting principles sanctioned by recognized authoritative bodies such as the National Council on Governmental Accounting, 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]

**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, or for the installation of accounting systems, or both, 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]

**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]

