Chapter 297

1971 REPLACEMENT PART

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; supervisor 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 his office. The Secretary of State shall assign or appoint a supervisor of the division and such other assistants, accountants, auditors and clerks, upon such terms and for such compensation, as he deems advantageous and necessary to carry out the duties and functions of the division.

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 to 297.240 and the provisions of ORS 297.410 to 297.500.

(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.

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

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, examinations, investigations and system installations to municipal corporations and the various state departments, boards and commissions.

297.050 Copy of audit reports to be supplied Legislative Fiscal Officer. The Division of Audits of the office of the Secretary of State shall supply the Legislative Fiscal Officer with a copy of each audit report made by or for the Division of Audits.
[1959 c.70 §10]

INVESTIGATING LOSSES OF PUBLIC FUNDS OR PROPERTY

297.110 Definition for ORS 297.120. As used in ORS 297.120, "public officer" means any elected or appointed state officer, including members of boards and commissions.
[1963 c.617 §1]

297.120 Investigating loss of public funds or property by state agency when public officer involved; Governor to review report and determine action. (1) When a state agency sustains a loss of public funds or property under circumstances involving a public officer 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 Division of Audits shall investigate the loss and prepare a report respecting the accountability of the public officer for the loss. The report shall be presented to the Governor.

(2) The Governor shall review the report presented pursuant to subsection (1) of this section, and if he concurs with a determination of accountability contained in the report, he shall direct the appropriate state agency to, and the agency shall, seek to recover the loss from the public officer, his surety and other responsible parties; provided, however, that the Governor may direct that no action be taken to recover the loss from the public officer and his surety if he determines that the officer is free from personal fault and that the loss was not caused by the dishonest act, wrongful conduct, negligence or carelessness of the public officer.
[1963 c.617 §2; 1969 c.199 §48]

AUDITING ACCOUNTS OF STATE AND STATE-AIDED INSTITUTIONS AND AGENCIES

297.210 Auditing accounts of state agencies and state-aided institutions and agencies; subpena; 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 all state departments, boards, commissions, institutions and state-aided institutions and agencies of the state examined and audited not less often than once for each three-year

period. The Secretary of State may subpena witnesses, require the production of books and papers and rendering of reports in such manner and form as he requires and may do all things necessary to secure a full and thorough investigation. He shall submit his report, in writing, to the Governor, which shall include a copy of the report on each audit.

(2) An audit or examination shall be made of any institution or department of the state government at any time the executive head of such institution or department shall for any reason retire from his office or position.

(3) The Secretary of State shall employ auditors upon such terms and for such compensation as he may deem advantageous and advisable.

[Amended by 1969 c.135 §1; 1971 c.748 §3]

297.220 [Repealed by 1969 c.135 §3]

297.230 Payment of cost and expense of audit; crediting moneys to Departmental Auditing Division Account. (1) The cost and expense of each and every audit authorized by ORS 297.210 shall be paid pro rata from the appropriation for, or funds under the control of, the office, department, board, commission or institution audited.

(2) 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 examinations under ORS 297.210 to 297.240 shall be credited to the Departmental Auditing Division Account.

297.240 Departmental Auditing Division Account; return of initial appropriation to General Fund. (1) There is established the Departmental Auditing Division Account. This account shall be used as a revolving fund for the payment of salaries and current expenses in conducting the examinations and audits required by ORS 297.210 to 297.240, pending completion of the work and subsequent reimbursement, and shall be available for use by the Division of Audits.

(2) If at any time there is an accumulation in the Departmental Auditing Division Account from the operations under ORS 297.210 to 297.240 which permits the return of the initial appropriation of $5,000, made by section 1, chapter 320, Oregon Laws 1931, and deposited in the Departmental Auditing Division Account, the amount of that appropriation or any portion thereof shall be returned to the General Fund to be available for general government expenses.

AUDITING ACCOUNTS OF MUNICIPAL CORPORATIONS GENERALLY; INSTALLATION OF ACCOUNTING SYSTEMS

297.410 Definitions for ORS 297.410 to 297.500. As used in ORS 297.410 to 297.500:

(1) "Municipal corporation" means and includes an incorporated city or town, county, school district, port district, irrigation district, drainage district and other municipal corporation, body politic or tax levying body or any subdivision thereof within the state.

(2) "Accounts" means and includes all minute books, other books, papers, files, cards, letters and records, used in conducting the affairs of the municipal corporation or in recording the transactions thereof.

297.420 Periodic reports; audits and examination of accounts; installation of accounting systems. (1) The Secretary of State shall require that periodic reports be prepared and submitted to him in such form and at such times as he deems necessary by municipal corporations on forms prepared and furnished by him. The periodic reports deemed necessary by the Secretary of State may be required of all municipal corporations.

(2) Subject to subsection (4) of this section, the Secretary of State as State Auditor shall have the accounts and financial affairs of each and every municipal corporation within the state audited and examined in such manner and at such times as provided in ORS 297.430.

(3) Subject to subsection (4) of this section, the Secretary of State shall prepare, prescribe and install systems of accounting for use by municipal corporations at such times and in such manner as will, in his judgment, be most effective in securing uniformity of classification of accounts and accounting practices for municipal corporations. Each municipal corporation, its officers and employes, shall cooperate with and assist the Secretary of State in every way possible in expediting the installation and maintenance of such accounting systems.

(4) Audits and installations of accounting systems shall not be made of or for any

municipal corporations except as provided in ORS 297.480 and 297.490.

(5) The Secretary of State may subpena witnesses, require the production of books, papers, accounts and records and may do all things necessary to secure full and complete audits, examinations and investigations as authorized in this section.

297.430 Frequency of audit and examination; scope of inquiry. (1) The Secretary of State shall cause an audit and examination to be made of the accounts and financial affairs of every municipal corporation, except municipal corporations which have not elected to come under the provisions of ORS 297.410 to 297.500 applicable to all other municipal corporations, at least once each year, or more often if requested so to do by the proper governing officials of a particular municipal corporation. Audits and examinations may be made at such other times as the Secretary of State deems necessary.

(2) At the time of such audits and examinations inquiry shall be made into:

(a) The methods, accuracy and legality of the transactions, accounts, records, files and reports of the office or officer, or both.

(b) Whether the laws, ordinances and orders pertaining to the office or officer, or both, have been observed.

(c) Whether the requirements and regulations of the Secretary of State have been observed.

297.440 Report of audit; distribution of copies. Upon completion of each audit as authorized by ORS 297.420, a report shall be made in such form as the Secretary of State may prescribe. Two copies of the report shall be supplied to the proper official or officials of the particular municipal corporation and a copy of the report shall be furnished to the Governor.

297.450 Payment of costs of municipal audit and accounting system installation. All expenses and costs pertaining to the auditing, examining and installing of accounting systems of or for municipal corporations as authorized under ORS 297.420 shall be borne by the municipal corporation of or for which a particular audit, examination or installation is made. The expenses and costs shall be paid to the Secretary of State from the general fund of the municipal corporation.

297.460 Disposition of receipts; Division of Audits Account. (1) All moneys received by the Secretary of State under ORS 297.410 to 297.500 shall be by him 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 in the Division of Audits Account hereby are appropriated for use in payment of salaries and other expenses or costs of the Division of Audits.

(3) The Secretary of State may use the moneys to the credit of the Division of Audits Account, or any part thereof, for cash advances for travel expenses necessary in carrying out the provisions of ORS 297.410 to 297.500. Any moneys received in reimbursement of these cash advances shall be deposited in the Division of Audits Account.

297.470 Revolving fund for salaries and expenses. (1) The $25,000, appropriated by section 11, chapter 405, Oregon Laws 1935, and the $50,000 appropriated by section 1, chapter 144, Oregon Laws 1949, shall be used as a revolving fund in order to provide funds for necessary cash advances for current salaries and expenses incurred by the Secretary of State in carrying out the provisions of ORS 297.410 to 297.500 and to pay salaries and expenses necessarily incurred preliminary to the actual installation of accounting systems for or the making of audits of municipal corporations, or both.

(2) The Secretary of State in making his charges for the audits of or system installations for municipal corporations, or both, shall augment such charges to the extent that all preliminary costs and expenses shall have been reimbursed within the next five years or as soon thereafter as possible.

(3) As soon as the funds to the credit of the Division of Audits Account are sufficient, the $75,000 referred to in subsection (1) of this section shall be repaid to the General Fund from the Division of Audits Account.

297.480 Election by municipalities to come under ORS 297.410 to 297.500; requesting Secretary of State to audit municipal accounts and financial affairs or to install an accounting system or both. (1) Any municipal corporation may elect to come under the provisions of ORS 297.410 to 297.500 and request the Secretary of State to make the audits as provided in ORS 297.420 of its accounts and financial affairs and may, at its

election, also request the installation of such an accounting system as the Secretary of State may prescribe.

(2) The request shall be in writing and duly authorized by a majority of the members of the governing body of the particular municipal corporation and shall be supported by a duly enacted ordinance or resolution, a certified copy of which shall be supplied to the Secretary of State at the time and as a part of the request.

(3) The Secretary of State shall, as soon as possible after receiving the request, cause the audit and installation to be made.

297.490 Effect of request; rejection after acceptance of benefits of ORS 297.410 to 297.500. (1) Whenever any municipal corporation has made a request to the Secretary of State pursuant to ORS 297.480 for the audit of its accounts and financial affairs or for the installation of the accounting system, or both, the municipal corporation, from and after the date of the request, is deemed to have agreed to abide by the provisions of ORS 297.410 to 297.500 and the regulations of the Secretary of State issued under the authority provided in those sections.

(2) A municipal corporation may reject the benefits of ORS 297.410 to 297.500 after having accepted them, upon six months' written notice of the rejection by ordinance or resolution, given to the Secretary of State.

297.500 Public officers and employes required to keep accounts and make reports. No public officer or employe shall refuse or neglect to keep the accounts of his office in the manner or form prescribed, or to make the reports required by the Secretary of State.

297.520 County audit to include cost 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.
[1969 c.518 §3]

MUNICIPAL AUDIT LAW

297.610 Definitions for ORS 297.610 to 297.740. As used in ORS 297.610 to 297.740:

(1) "Municipal corporation" means a county, city, district or other municipal corporation or public corporation organized for a public purpose, except in a city which by charter establishes a board or commission with responsibility for operating a water and electric utility of the city, which is governed by a board elected by the people, both the city and the board or commission shall be separate municipal corporations within the meaning of the Municipal Audit Law.

(2) "Board" means the State Board of Accountancy.

(3) "Accountants" means and indicates all accountants whose names are included in the roster prepared and maintained by the board, as required by ORS 297.670.

(4) "Municipal Audit Law" means the provisions of ORS 297.610 to 297.740.
[Amended by 1959 c.238 §1; 1963 c.518 §1; 1965 c.332 §1]

297.620 Audit and examination required; frequency; contracts for system installations and revisions; compensation of accountants. (1) Except as provided in ORS 297.622, the accounts and fiscal affairs of every municipal corporation, which has not elected to have its audits made by the Secretary of State, as provided for in ORS 297.410 to 297.500, shall be officially audited and examined at least once each calendar or fiscal year, and oftener if deemed advisable by the county court, or managing or executive officers of the municipal corporation. The audits and examinations shall be made pursuant to contracts entered into by the county courts or boards of county commissioners of any counties having no county court, or the managing or executive officers of other municipal corporations, and accountants.

(2) Municipal corporations may contract with accountants to make system installations or revisions deemed necessary by the municipal corporations. Accounting system installations or revisions shall be in conformity with the uniform systems prescribed by the Secretary of State under ORS 297.420.

(3) All contracts shall be in a form prescribed by the Secretary of State.

(4) The compensation for audits and examinations shall be agreed upon between the county courts, or other managing officers, and the accountants, and shall be paid in the same manner as other claims against the municipal corporations are paid.
[Amended by 1961 c.555 §1; 1963 c.301 §1]

297.622 Annual audit not required of certain municipal corporations submitting statements of financial condition and transactions. (1) Subject to ORS 297.624 the provisions of ORS 297.620 requiring an annual audit are modified with respect to all municipal corporations except school districts to require no annual audit whenever the following conditions exist concurrently in respect to any one calendar or fiscal year as adopted by a municipal corporation:

(a) Aggregate receipts and expenditures of the municipal corporation including money derived from borrowing and money expended for debt retirement, did not exceed $20,000 for the year.

(b) That the municipal corporation has submitted a statement of financial condition and a statement of financial transactions for the year to the Secretary of State within 60 days following the end of the year. These financial statements shall be accompanied by a certificate stating that the responsible official was covered during the entire year by a fidelity or faithful performance bond in an amount at least equal to the aggregate amount of the money received during the year.

(2) The financial statements required by this section shall be considered audit reports for the purpose of the filing fee required by ORS 297.640.

[1963 c.301 §3]

297.624 Petition to require audit; Secretary of State to make audit if municipal corporation takes no action. The modification of ORS 297.620 provided by ORS 297.622 shall not apply to a municipal corporation for any calendar or fiscal year if a petition requesting an audit signed by 10 or more interested citizens who are subject to taxes, fees, assessments or other charges levied by the municipal corporation is filed with the Secretary of State within two years of the end of the fiscal year for which the audit is requested. 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, the governing body of the municipal corporation shall forthwith comply with the provisions of ORS 297.620. If a copy of the signed contract between the governing body and the accountant is not received within 30 days of the dispatch of notice of the petition. the Secretary of State shall use the facilities of the Division of Audits of his office in making an audit of the municipal corporation designated by the petition. The costs of the Division of Audits incurred in making that audit shall be borne by the municipal corporation and shall be paid to the Secretary of State from the general fund of the municipal corporation.

[1963 c.301 §4]

297.626 Acceptance by Secretary of State of federal audit reports of housing and urban renewal funds; filing fee required. If a municipal corporation organized under ORS chapter 456 or 457 has control of funds that are regularly audited by auditors provided by the Federal Government, the Secretary of State may accept for review and filing the audit reports of such federal auditors. Any such audit report filed with the Secretary of State shall be subject to the filing fee required by ORS 297.640. If such audit report is satisfactory to the Secretary of State, it may be accepted as satisfying the requirements of ORS 297.610 to 297.740 and such municipal corporation shall be subject to the provisions of ORS 297.610 to 297.740 only with respect to any funds under its control that are not subject to audit by auditors provided by the Federal Government.

[1965 c.332 §9]

297.630 Audit reports, certificates and procedures; removal or suspension of auditor or accountant from roster for failing to comply with prescribed standards. The Secretary of State, in cooperation with the State Board of Accountancy, shall prescribe the minimum standards of audit reports, certificates and audit procedures. The audit reports and certificates shall be signed in each case by the accountant signing the contract, who shall personally conduct the audit to an extent satisfactory to the Secretary of State. The accountant shall render to the municipal corporation a signed and written audit report in quadruplicate in the form prescribed by the Secretary of State. The accountant shall render the report to the municipal corporation within six months after the close of the calendar or fiscal year under audit, except that the Secretary of State, for good cause shown, may grant to the accountant a reasonable extension of time. One copy of all such audits shall be filed with and reviewed by the Secretary of State, who also may require submission of the working papers and audit program of the auditor or accountant. If an audit, audit report or certificate is found by the Secretary of State

not to be in accordance with the prescribed standards, he shall demand compliance therewith; and if the auditor fails to make such compliance, the Secretary of State shall so report to the board, which thereupon may remove or suspend the name of the auditor or accountant from the roster required by ORS 297.670.
[Amended by 1965 c.332 §2]

297.635 Names of officers, members or agents as part of audit report. There shall be included as part of the audit report or financial statement the names, addresses and titles of the officers, and the 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.
[1971 c.267 §2]

297.640 Filing fee. (1) At the time of filing the copy of the audit report with the Secretary of State, as required by ORS 297.630, the municipal corporation shall pay to the Secretary of State a filing fee, the amount of which shall be determined upon the basis of the total expenditures made by the municipal corporation for any and all purposes during the period covered by the audit, except that expenditures for principal of bonded debt, principal of short term loans, principal of warrants issued during prior 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
	$ 10,000	$ 5
$ 10,000	30,000	10
30,000	50,000	15
50,000	100,000	20
100,000	200,000	30
200,000	350,000	40
350,000	500,000	50
500,000	1,000,000	65
1,000,000		80

(3) The audit report filed by the administrative office of the county for school districts with less than 1,000 children according to the latest school census in the county shall be considered as one report for purposes of subsection (2) of this section.
[Amended by 1961 c.555 §3; 1967 c.67 §2]

297.650 Payment to Secretary of State for extraordinary work. Any extraordinary work required to be performed by the Secretary of State in connection with any of the audits or the reports thereon shall be compensated by such additional payment therefor as may be agreed upon by the Secretary of State and the municipal corporation for which such audit is made or to be made.

297.660 Division of Audits Municipal Account. (1) All filing fees received by the Secretary of State under ORS 297.610 to 297.740 shall be by him 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 Municipal Account.

(2) The moneys in the Division of Audits Municipal Account hereby are appropriated 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 297.610 to 297.740.

297.670 Board of Accountancy to prepare and maintain roster of authorized accountants. The State Board of Accountancy shall prepare and maintain a roster of accountants authorized to conduct the municipal audits required by ORS 297.620.

297.680 Qualifications required of authorized accountants. Any person residing or having an office for the regular transaction of the business of auditing or accounting in Oregon and holding a permit issued under ORS 673.150 shall be eligible to make application to take the examination required by ORS 297.690.
[Amended by 1959 c.238 §2; 1965 c.332 §3]

297.690 Examination and reexamination for admission to roster; fee. (1) Admission to the roster of authorized accountants referred to in ORS 297.670 shall be by passing an examination conducted by the board. Such examinations shall be offered not less often than annually. The time and place of holding examinations shall be advertised for not less than three consecutive days, not less than 30 days prior to the date of the examination, in at least two representative daily papers published in the state.

(2) An applicant who successfully completes that portion of the examination relating to accounting and finance or any two other subjects shall have the right to be reexamined at the next three successive examinations held by the board only as to those subjects not successfully completed; provided such applicant, unless excused for good cause by the board, takes each such successive examination until the successful completion of all subjects. The board shall charge each applicant a fee of $24 for each examination and a fee of $8 for each subject for any reexamination, but not to exceed a total fee of $24 for any reexamination taken at any one time. Fees shall be payable at the time of making application for an examination or reexamination.
[Amended by 1965 c.332 §4]

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 board, 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 Annual 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 $15 to the board annually as a fee for continuance thereon.
[Amended by 1971 c.217 §1]

297.730 Disposition of fees of board. The fees collected by the board 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 State Board of Accountancy for its use in carrying out the provisions of ORS 297.610 to 297.740.

297.740 Rules and regulations of board. The State Board of Accountancy may promulgate rules and regulations necessary to exercise its powers and duties provided in ORS 297.610 to 297.740.

AUDITING BOOKS OF JUSTICES AND CONSTABLES

297.750 Audit of books of justice and constable. (1) Every county court or board of county commissioners, as the case may be, shall cause an official audit to be made, in the manner provided by law, by an experienced and competent accountant, at and as of the end of each fiscal year, or at such other time as may be designated therefor by such court or board, of the books, records, files and accounts of every justice of the peace and every constable in the county.

(2) Each such justice and constable shall present, at the time and place designated by such county court or board, all his books, records, files and accounts, for the purpose of having them audited.

(3) Each such county court or board shall cause a certified copy of each such justice of the peace audit immediately to be delivered to the Secretary of State and to the State Treasurer.

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. (1) Any person who violates ORS 297.500 is guilty of malfeasance in office and shall be removed from office on hearing before the proper authorities.

(2) Any county court, board of county commissioners or managing or executive officers of any municipal corporation, who violate any of the provisions of ORS 297.610 to 297.740 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.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1971.

Robert W. Lundy
Legislative Counsel

CHAPTERS 298 TO 304

[Reserved for expansion]