

Chapter 297

1977 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 198.345, 198.360, 261.470, 262.065, 294.565, 297.210, 297.230, 297.405 to 297.555, 297.990, 308.290, 462.300, 545.070 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]

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 Secre-

tary 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; 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 all state departments, boards, com-

missions, 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 subpoena 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 Division of Audits 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 and 297.230 shall be credited to the Division of Audits Account.

[Amended by 1977 c.774 §20]

297.240 [Repealed by 1977 c.774 §27]

MUNICIPAL AUDIT LAW

297.405 Definitions for ORS 297.020, 297.230, 297.405 to 297.740 and 297.990. As used in ORS 198.345, 198.360, 261.470, 262.065, 294.565, 297.020, 297.230, 297.405 to 297.740, 297.990, 308.290, 462.300 and 545.070:

(1) "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.

(2) "Accounts" means and includes 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 State 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 county, city, district or other municipal corporation or public corporation organized for a public purpose, including a cooperative body formed between municipal corporations, 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 ORS 198.345, 198.360, 261.470, 262.065, 294.565, 297.020, 297.230, 297.405 to 297.555, 297.990, 308.290, 462.300 and 545.070.

[1977 c.774 §2]

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 him by municipal corporations in such form and at such times as he 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; contracts for audits; 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 examined 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 examinations 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 contract with accountants, or by ordinance or resolu-

tion request the Secretary of State, to develop or revise and install accounting systems.

(3) All contracts for conducting audits and examinations 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) The compensation for audits and examinations, and installation of accounting systems 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.

(5) All expenses and costs incurred by the Secretary of State in conducting audits and examinations, and installing accounting systems for municipal corporations shall be borne by the municipal corporation for which a particular audit, examination 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 examinations 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 employes 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]

297.430 [Repealed by 1977 c 774 §27]

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 school district, whenever the following conditions exist concurrently with respect to any one calendar year 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 \$50,000 for the year;

(b) 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 90 days following the end of the year; and

(c) The financial statements are accompanied by a certificate 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 aggregate amount of money received by the municipal corporation 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 297.485.

[1977 c.774 §5]

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 shall not apply to a municipal corporation for any calendar or fiscal year if a petition requesting an audit, signed by 10 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. 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 examination to be made of the accounts and fiscal affairs of the municipal corporation designated in the petition.

(2) The costs incurred by the Secretary of State in making the audit and examination 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]

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 examined 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 examinations 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]

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

297.465 Standards for audits; form; filing. (1) The Secretary of State, in cooperation with the State 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 198.345, 198.360, 261.470, 262.065, 294.565, 297.020, 297.230, 297.405 to 297.555, 297.990, 308.290, 462.300 and 545.070, 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. Other copies shall be furnished the municipal corporation as are requested by the chairman 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 Secretary 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, he shall request compliance. If the accountant fails to comply with the request, the Secretary of State shall so report to the State 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 198.345, 198.360, 261.470, 262.065, 294.565, 297.020, 297.230, 297.405 to 297.555, 297.990, 308.290, 462.300 and 545.070 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]

297.470 [Repealed by 1977 c.774 §27]

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]

297.480 [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
	\$ 20,000	\$10
\$ 20,000	50,000	30
50,000	100,000	40
100,000	200,000	50
200,000	350,000	70
350,000	500,000	90
500,000	1,000,000	120
1,000,000	5,000,000	160
5,000,000		200

(3) Audit reports filed by the administrative office of the county, under subsection (2) of ORS 328.465, 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]

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 198.345, 198.360, 261.470, 262.065, 294.565, 297.020, 297.230, 297.405 to 297.555, 297.990, 308.290, 462.300 and 545.070.

[1977 c.774 §12]

297.515 County audits include judicial and law enforcement agencies and officers. The audits of counties required under ORS 297.425 shall include circuit,

district and justice courts, their officers and employes, district attorneys and their employes, 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]

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]

297.535 Disposition of receipts; 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 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 198.345, 198.360, 261.470, 262.065, 294.565, 297.020, 297.210 to 297.740, 297.990, 308.290, 462.300 and 545.070. Any moneys received in reimbursement of these cash advances shall be deposited in the Division of Audits Account.

[Formerly 297.460]

297.545 Division of Audits Municipal Account. (1) All filing fees received by the Secretary of State under ORS 198.345, 198.360, 261.470, 262.065, 294.565, 297.020, 297.230, 297.405 to 297.555, 297.990, 308.290, 462.300 and 545.070 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 198.345, 198.360, 261.470,

262.065, 294.565, 297.020, 297.230, 297.405 to 297.740, 297.990, 308.290, 462.300 and 545.070.

[Formerly 297 660]

297.555 Short title. ORS 198.345, 198.360, 261.470, 262.065, 294.565, 297.020, 297.230, 297.405 to 297.555, 297.990, 308.290, 462.300 and 545.070 may be cited as the Municipal Audit Law.

[1977 c 774 §1]

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

Note: Section 21, chapter 842, Oregon Laws 1977, which is operative July 1, 1984, provides

Sec. 21. ORS 297 670, 297.680, 297 690, 297 701, 297.710, 297.720, 297 730, 297 740, 673 605, 673 610, 673.615, 673 625, 673 630, 673.635, 673 637, 673 640, 673.643, 673 645, 673 651, 673.655, 673.660, 673 667, 673 685, 673.690, 673.695, 673.700, 673 705, 673 710, 673.725, 673.730, 673 735 and 673.990 relating to tax services are repealed

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 (1975 Replacement Part).

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) The board shall adopt by rule the circumstances under which an applicant who has failed to complete successfully all or any portion of the examination may be reexamined. An applicant who has successfully completed a portion of the examination determined by the board to entitle him to credit may be reexamined only as to that portion of the examination not successfully completed.

(3) The board shall charge each applicant a fee of not to exceed \$50, as determined by the board and approved by the Executive Department, for each examination or reexamination. However, if the applicant for reexamination is being reexamined as to only one subject the board shall charge a fee of not to exceed \$25, as determined by the board and approved by the Executive Department, for his reexamination. Fees are payable at the time of making application for an examination or reexamination.

[Amended by 1965 c.332 §4; 1973 c 832 §2]

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 297.660 (1975 Replacement Part) and 297.670 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 297.660 (1975 Replacement Part) and 297.670 to 297.740.

297.750 [Repealed by 1977 c.774 §27]

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 198.345, 198.360, 261.470, 262.065, 294.565, 297.020, 297.230, 297.405 to 297.555, 308.290, 462.300, 545.070 and this section 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]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,
October 1, 1977.

Thomas G Clifford
Legislative Counsel

CHAPTERS 298 TO 304

[Reserved for expansion]

