

LEGISLATIVE BILL 822

Approved by the Governor March 31, 2008

Introduced by Legislative Performance Audit Committee: Schimek, 27, Chairperson; Heidemann, 1; McDonald, 41; Preister, 5; Stuthman, 22.

FOR AN ACT relating to government; to amend sections 50-1204, 50-1205.01, and 50-1206, Revised Statutes Cumulative Supplement, 2006, and section 84-304, Revised Statutes Supplement, 2007; to change references to auditing standards and a federal office; to change a provision relating to requests for performance audits; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 50-1204, Revised Statutes Cumulative Supplement, 2006, is amended to read:

50-1204 (1) The Legislative Performance Audit Committee is hereby established as a special legislative committee to exercise the authority and perform the duties provided for in the Legislative Performance Audit Act. The committee shall be composed of the Speaker of the Legislature, the chairperson of the Executive Board of the Legislative Council, the chairperson of the Appropriations Committee of the Legislature, and four other members of the Legislature to be chosen by the Executive Board of the Legislative Council. The executive board shall ensure that the Legislative Performance Audit Committee includes adequate geographic representation. The chairperson and vice-chairperson of the Legislative Performance Audit Committee shall be elected by majority vote. The committee shall be subject to all rules prescribed by the Legislature. The committee shall be reconstituted at the beginning of each Legislature and shall meet as needed.

(2) The Legislative Performance Audit Section is established. The section shall be administered by the Legislative Auditor, who shall ensure that performance audit work conducted by the section conforms with performance audit standards contained in the Government Auditing Standards ~~(2003~~ (2007 revision) as required in section 50-1205.01. The section shall be composed of the Legislative Auditor and other employees of the Legislature employed to conduct performance audits. The section shall be the custodian of all records generated by the committee or section except as provided by section 50-1213, subsection (11) of section 77-2711, or subdivision (10)(a) of section 77-27,119. The section shall inform the Legislative Fiscal Analyst of its activities and consult with him or her as needed. The section shall operate under the general direction of the committee.

Sec. 2. Section 50-1205.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

50-1205.01 Performance audits done under the terms of the Legislative Performance Audit Act shall be conducted in accordance with the generally accepted government auditing standards for performance audits contained in the Government Auditing Standards ~~(2003~~ (2007 Revision), published by the Comptroller General of the United States, ~~General Accounting~~ Government Accountability Office.

Sec. 3. Section 50-1206, Revised Statutes Cumulative Supplement, 2006, is amended to read:

50-1206 (1) Requests for performance audits may be made by the Governor, any other constitutional officer of the State of Nebraska, a legislator, the Legislative Auditor, the Legislative Fiscal Analyst, or the Director of Research of the Legislature.

(2) Performance audit requests shall be submitted to the committee chairperson or Legislative Auditor by letter or on a form developed by the Legislative Auditor.

(3) When considering a performance audit request, if the committee determines that the request has potential merit but insufficient information is available, it may, by majority vote, instruct the Legislative Auditor to conduct a preaudit inquiry.

(4) Upon completion of the preaudit inquiry, the committee chairperson shall place the request on the agenda for the committee's next meeting and shall notify the request sponsor of that action.

Sec. 4. Section 84-304, Revised Statutes Supplement, 2007, is amended to read:

84-304 It shall be the duty of the Auditor of Public Accounts:

(1) To give information in writing to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or with

regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3) To examine or cause to be examined, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons. Such examinations shall be done in accordance with generally accepted government auditing standards for financial audits and attestation engagements set forth in Government Auditing Standards ~~(2003~~ (2007 Revision), published by the Comptroller General of the United States, ~~General Accounting~~ Government Accountability Office, and except as provided in subdivision ~~(12)~~ (11) of this section, subdivision (16) of section 50-1205, and section 84-322, shall not include performance audits, whether conducted pursuant to attestation engagements or performance audit standards as set forth in Government Auditing Standards ~~(2003~~ (2007 Revision), published by the Comptroller General of the United States, ~~General Accounting~~ Government Accountability Office;

(4) (a) To examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of any agricultural association formed under Chapter 2, article 20, any county agricultural society, any joint airport authority formed under the Joint Airport Authorities Act, any city or county airport authority, any bridge commission created pursuant to section 39-868, any cemetery district, any development district, any drainage district, any health district, any local public health department as defined in section 71-1626, any historical society, any hospital authority or district, any county hospital, any housing agency as defined in section 71-1575, any irrigation district, any county or municipal library, any community mental health center, any railroad transportation safety district, any rural water district, any township, Wyuka Cemetery, the Educational Service Unit Coordinating Council, any entity created pursuant to the Interlocal Cooperation Act which includes either the participation of the Educational Service Unit Coordinating Council or any educational service unit, any village, any political subdivision with the authority to levy a property tax or a toll, or any entity created pursuant to the Joint Public Agency Act which has separately levied a property tax based on legal authority for a joint public agency to levy such a tax independent of the public agencies forming such joint public agency.

(b) The Auditor of Public Accounts may waive the audit requirement of subdivision (4) (a) of this section upon the submission by the political subdivision of a written request in a form prescribed by the auditor. The auditor shall notify the political subdivision in writing of the approval or denial of the request for a waiver;

(5) To report promptly to the Governor and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations conducted by the auditor, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. In addition, if, in the normal course of conducting an audit in accordance with subdivision (3) of this section, the auditor discovers any potential problems related to the effectiveness, efficiency, or performance of state programs, he or she shall immediately report them in writing to the Legislative Performance Audit Committee which may investigate the issue further, report it to the appropriate standing committee of the Legislature, or both;

(6) (a) To examine or cause to be examined the books, accounts, vouchers, records, and expenditures of a fire protection district. The expense of the examination shall be paid by the political subdivision.

(b) Whenever the expenditures of a fire protection district are one hundred fifty thousand dollars or less per fiscal year, the fire protection district shall be audited no more than once every five years except as directed by the board of directors of the fire protection district or unless the auditor receives a verifiable report from a third party indicating any irregularities or misconduct of officers or employees of the fire protection district, any misappropriation or misuse of public funds or property, or any improper system or method of bookkeeping or condition of accounts of the fire protection district. In the absence of such a report, the auditor may waive the five-year audit requirement upon the submission of a written request by

the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver of the five-year audit requirement. Upon approval of the request for waiver of the five-year audit requirement, a new five-year audit period shall begin.

(c) Whenever the expenditures of a fire protection district exceed one hundred fifty thousand dollars in a fiscal year, the auditor may waive the audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver. Upon approval of the request for waiver, a new five-year audit period shall begin for the fire protection district if its expenditures are one hundred fifty thousand dollars or less per fiscal year in subsequent years;

(7) To appoint two assistant deputies (a) whose entire time shall be devoted to the service of the state as directed by the auditor, (b) who shall be certified public accountants with at least five years' experience, (c) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, (d) who shall promptly report in duplicate to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (e) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State;

(8) To conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-1229 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund;

(9) To conduct all audits and examinations in a timely manner and in accordance with the standards for audits of governmental organizations, programs, activities, and functions published by the Comptroller General of the United States;

~~(10) To develop a plan for implementing on-line filing of budgeted and actual financial information by political subdivisions. Such plan shall describe the technology and staff resources necessary to implement on-line filing of such information and the costs of these resources. Such plan shall be presented to the Clerk of the Legislature on or before January 15, 2003;~~

~~(11) (10) To develop and maintain an annual budget and actual financial information reporting system for political subdivisions that is accessible on-line by the public; and~~

~~(12) (11) When authorized, to conduct joint audits with the Legislative Performance Audit Committee as described in section 50-1205.~~

Sec. 5. Original sections 50-1204, 50-1205.01, and 50-1206, Revised Statutes Cumulative Supplement, 2006, and section 84-304, Revised Statutes Supplement, 2007, are repealed.