

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 935

Introduced by Schilz, 47.

Read first time January 12, 2016

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Auditor of Public Accounts; to amend
2 section 84-321, Reissue Revised Statutes of Nebraska, section
3 13-513, Revised Statutes Cumulative Supplement, 2014, and section
4 84-304, Revised Statutes Supplement, 2015; to require assessment of
5 remedial fees for delinquent information; to authorize the
6 appointment of additional assistant deputies; to provide for the
7 assessment of interest rates on delinquent payments of fees; to
8 change provisions relating to the Auditor of Public Accounts Cash
9 Fund; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-513, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 13-513 (1) The auditor shall, on or before December 1 each year,
4 request information from each governing body in a form prescribed by the
5 auditor regarding (1) trade names, corporate names, or other business
6 names under which the governing body operates and (2) agreements to which
7 the governing body is a party under the Interlocal Cooperation Act and
8 the Joint Public Agency Act. Each governing body shall provide such
9 information to the auditor on or before December 31.

10 (2) Information requested pursuant to this section that is not
11 received by the auditor on or before December 31 shall be considered
12 delinquent. The auditor shall notify the political subdivision of the
13 delinquency and, if the delinquent information is not received by the
14 auditor within thirty calendar days after the initial December 31
15 deadline, five hundred dollars shall be withheld from the next state aid
16 payment to such political subdivision. For each additional thirty days
17 that the delinquent information is not received, another five hundred
18 dollars shall be withheld from the political subdivision's next state aid
19 payment. For purposes of this section, state aid payment means any money
20 appropriated from the General Fund for payment to a political
21 subdivision.

22 (3) At the end of each thirty-day delinquency period, the auditor
23 shall notify the political subdivision that the requested information is
24 still delinquent. After making such notification, the auditor shall
25 inform the State Treasurer of the continued delinquency. Of the five
26 hundred dollars withheld for each thirty-day delinquency period, the
27 State Treasurer shall credit a remedial fee of one hundred dollars to the
28 Auditor of Public Accounts Cash Fund and distribute the remaining funds
29 in accordance with Article VII, section 5, of the Constitution of
30 Nebraska.

31 (4) If a political subdivision fails to provide the information

1 requested under this section on or before December 31, the auditor may,
2 at his or her discretion, audit such political subdivision. The expense
3 of such audit shall be paid by the political subdivision.

4 Sec. 2. Section 84-304, Revised Statutes Supplement, 2015, is
5 amended to read:

6 84-304 It shall be the duty of the Auditor of Public Accounts:

7 (1) To give information electronically to the Legislature, whenever
8 required, upon any subject relating to the fiscal affairs of the state or
9 with regard to any duty of his or her office;

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

13 (3) To examine or cause to be examined, at such time as he or she
14 shall determine, books, accounts, vouchers, records, and expenditures of
15 all state officers, state bureaus, state boards, state commissioners, the
16 state library, societies and associations supported by the state, state
17 institutions, state colleges, and the University of Nebraska, except when
18 required to be performed by other officers or persons. Such examinations
19 shall be done in accordance with generally accepted government auditing
20 standards for financial audits and attestation engagements set forth in
21 Government Auditing Standards (2011 Revision), published by the
22 Comptroller General of the United States, Government Accountability
23 Office, and except as provided in subdivision (11) of this section,
24 subdivision (16) of section 50-1205, and section 84-322, shall not
25 include performance audits, whether conducted pursuant to attestation
26 engagements or performance audit standards as set forth in Government
27 Auditing Standards (2011 Revision), published by the Comptroller General
28 of the United States, Government Accountability Office;

29 (4)(a) To examine or cause to be examined, at the expense of the
30 political subdivision, when the Auditor of Public Accounts determines
31 such examination necessary or when requested by the political

1 subdivision, the books, accounts, vouchers, records, and expenditures of
2 any agricultural association formed under Chapter 2, article 20, any
3 county agricultural society, any joint airport authority formed under the
4 Joint Airport Authorities Act, any city or county airport authority, any
5 bridge commission created pursuant to section 39-868, any cemetery
6 district, any community redevelopment authority or limited community
7 redevelopment authority established under the Community Development Law,
8 any development district, any drainage district, any health district, any
9 local public health department as defined in section 71-1626, any
10 historical society, any hospital authority or district, any county
11 hospital, any housing agency as defined in section 71-1575, any
12 irrigation district, any county or municipal library, any community
13 mental health center, any railroad transportation safety district, any
14 rural water district, any township, Wyuka Cemetery, the Educational
15 Service Unit Coordinating Council, any entity created pursuant to the
16 Interlocal Cooperation Act, any educational service unit, any village,
17 any service contractor or subrecipient of state or federal funds, any
18 political subdivision with the authority to levy a property tax or a
19 toll, or any entity created pursuant to the Joint Public Agency Act.

20 For purposes of this subdivision, service contractor or subrecipient
21 means any nonprofit entity that expends state or federal funds to carry
22 out a state or federal program or function, but it does not include an
23 individual who is a direct beneficiary of such a program or function or a
24 licensed health care provider or facility receiving direct payment for
25 medical services provided for a specific individual.

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

31 (c) The Auditor of Public Accounts may conduct audits under this

1 subdivision for purposes of sections 2-3228, 12-101, 13-2402, 14-567,
2 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,
3 23-3526, and 71-1631.02;

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

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

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

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

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

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

28 (8) To conduct audits and related activities for state agencies,
29 political subdivisions of this state, or grantees of federal funds
30 disbursed by a receiving agency on a contractual or other basis for
31 reimbursement to assure proper accounting by all such agencies, political

1 subdivisions, and grantees for funds appropriated by the Legislature and
2 federal funds disbursed by any receiving agency. The auditor may contract
3 with any political subdivision to perform the audit of such political
4 subdivision required by or provided for in section 23-1608 or 79-1229 or
5 this section and charge the political subdivision for conducting the
6 audit. The fees charged by the auditor for conducting audits on a
7 contractual basis shall be in an amount sufficient to pay the cost of the
8 audit. The fees remitted to the auditor for such audits and services
9 shall be deposited in the Auditor of Public Accounts Cash Fund;

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

14 (10) To develop and maintain an annual budget and actual financial
15 information reporting system for political subdivisions that is
16 accessible online by the public;~~and~~

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

19 (12) Unless otherwise specifically provided, to assess the interest
20 rate on delinquent payments of any fees for audits and services owing to
21 the Auditor of Public Accounts at a rate of fourteen percent per annum
22 from the date of billing unless paid within thirty days from the date of
23 billing. For an entity created pursuant to the Interlocal Cooperation Act
24 or the Joint Public Agency Act, any participating public agencies shall
25 be jointly and severally liable for the fees and interest owed if such
26 entity is defunct or unable to pay.

27 Sec. 3. Section 84-321, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 84-321 There is hereby created in the office of the Auditor of
30 Public Accounts a cash fund to be known as the Auditor of Public Accounts
31 Cash Fund. The fund shall be used for payment for services performed by

1 the Auditor of Public Accounts for state agencies, political
2 subdivisions, and grantees of federal funds disbursed by a receiving
3 agency for which he or she is entitled to reimbursement on a contractual
4 or other basis for such reimbursement. Any remedial fees withheld by the
5 State Treasurer pursuant to section 13-513 shall be credited to the fund.

6 Sec. 4. Original section 84-321, Reissue Revised Statutes of
7 Nebraska, section 13-513, Revised Statutes Cumulative Supplement, 2014,
8 and section 84-304, Revised Statutes Supplement, 2015, are repealed.