

LEGISLATIVE BILL 692

Approved by the Governor March 16, 2000

Introduced by Vrtiska, 1

AN ACT relating to government; to amend sections 2-3328, 2-3331, 14-2145, 14-2146, 23-905, 23-1608, 23-1609, 29-752, 72-417, and 84-304.03, Reissue Revised Statutes of Nebraska, and section 49-617, Revised Statutes Supplement, 1999; to change and eliminate powers and duties of the Auditor of Public Accounts; to provide, change, and eliminate powers and duties relating to audits and audit reports; to change provisions relating to distribution of statute books and standards for auditors; to harmonize provisions; to repeal the original sections; and to outright repeal sections 2-3329, 23-1610, 23-1613, 23-1614, and 84-301, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 2-3328, Reissue Revised Statutes of Nebraska, is amended to read:

2-3328. (1) If a private nonprofit corporation as described in section 2-3326 (a) is formed, (b) submits to the Director of Agriculture on or before August 1, 1995, copies of its articles of incorporation and bylaws which the director determines comply with subsection (1) of section 2-3327, (c) provides to the director written documentation showing that the corporation has been certified by the United Soybean Board as a qualified state soybean board, and (d) provides to the Director of Administrative Services a contractual guarantee that the corporation accepts and agrees to pay out of any funds available to it all existing and future liabilities of the Soybean Development, Utilization, and Marketing Board which have not been extinguished prior to October 1, 1995, including unpaid bills and claims for goods and services, claims for refunds of fees and assessments, accrued salaries and benefits, unemployment compensation claims, and claims relating to wrongful action, and upon compliance with sections 2-3326 to 2-3328, the transfer of Nebraska's soybean industry development program from the Soybean Development, Utilization, and Marketing Board to the private nonprofit corporation shall be arranged.

(2) The Director of Agriculture shall complete the review of the articles and bylaws not later than September 1, 1995. Upon determining that the articles and bylaws contain the items required by section 2-3327, the director shall so notify the corporation in writing, and shall send a copy of the articles and bylaws to the Soybean Development, Utilization, and Marketing Board. ~~and shall notify the Auditor of Public Accounts to conduct the audit described in section 2-3329.~~

Sec. 2. Section 2-3331, Reissue Revised Statutes of Nebraska, is amended to read:

2-3331. The State Treasurer shall transfer any funds remaining in or accruing to the Soybean Development, Utilization, and Marketing Fund on or after October 1, 1995, to the private nonprofit corporation. Such transfers shall be in payment of any contract between the Soybean Development, Utilization, and Marketing Board and the corporation which provides for the corporation to carry out the responsibilities and programs of the board under the Nebraska Soybean Resources Act. The State Treasurer shall make such transfers only if sections 2-3326 to ~~2-3329~~ 2-3328 have been complied with.

Sec. 3. Section 14-2145, Reissue Revised Statutes of Nebraska, is amended to read:

14-2145. In each metropolitan utilities district in the State of Nebraska, ~~the Auditor of Public Accounts shall cause the books of account kept by the board of directors and general manager of~~ shall cause the accounts of the district to be examined and audited annually. Such examination shall show (1) the gross income from all sources of the district for the previous year, (2) the gross amount of water and gas supplied in the district, (3) the amount expended during the previous year for repairs, (4) the amount expended during the previous year for new machinery, (5) the amount expended in the previous year for property purchased, (6) the amount of depreciation of the plant during the previous year, (7) the cost per thousand gallons of supplying water and per thousand cubic feet for supplying natural gas, (8) the amount collected from the sale and rent of meters, (9) the total assessment made against property for the extension of mains, (10) a detailed statement of all items of expense, (11) the number of employees, (12) the salaries paid employees, (13) the total amount of direct taxes levied by such metropolitan

utilities district upon the property within the district, and (14) all other facts necessary to give an accurate and comprehensive view of the cost of maintaining and operating the plant. The audit report shall be filed with the Auditor of Public Accounts within six months after the end of the district's fiscal year.

Sec. 4. Section 14-2146, Reissue Revised Statutes of Nebraska, is amended to read:

14-2146. ~~The audit and report mentioned in section 14-2145 shall be made by the Auditor of Public Accounts or his or her employees in the month of January in each year.~~ The Auditor of Public Accounts and the person making the examination and audit pursuant to section 14-2145 shall have access to all books, records, vouchers, papers, contracts, or other data containing information on the subject in the office of the board of such metropolitan utilities district, in the office of the general manager of the district, or in the possession or under the control of any of the agents or employees of the district. It is hereby made the duty of all officers, agents, and employees of the district to furnish to the auditor and his or her agents and employees such information regarding the auditing of the metropolitan utilities district as may be demanded.

Sec. 5. Section 23-905, Reissue Revised Statutes of Nebraska, is amended to read:

23-905. The form of the county budget and the form of the budget document, as required by the County Budget Act of 1937, shall be formulated by the Auditor of Public Accounts and the Attorney General. The Auditor of Public Accounts shall draft the forms and act in an advisory capacity in the preparation of the budget and may authorize the use of computer equipment and processing in the preparation of the budget. He or she shall transmit copies of the forms to the county clerk of each county in the state on or before ~~June~~ July 15 of each year. Any hospital established pursuant to section 23-3501 may file its budget on an accrual basis. The budget document form shall include such estimate blanks for the various offices and departments of the county and such other additional forms as the Auditor of Public Accounts or the Attorney General deems necessary in the computation and preparation of the county budget. The expense of printing and transmitting the required copies to the counties by the Auditor of Public Accounts shall be borne by the state and included in the proper appropriation.

Sec. 6. Section 23-1608, Reissue Revised Statutes of Nebraska, is amended to read:

23-1608. (1) Each county board shall cause an examination and a complete and comprehensive annual audit to be made of the books, accounts, records, and affairs of all county officers in the county. The audits shall be conducted annually, except that the Auditor of Public Accounts may determine an audit of less frequency to be appropriate but not less than once in any three-year period. Each county board may contract with the Auditor of Public Accounts or select a licensed public accountant or certified public accountant or firm of such accountants to conduct the examination and audit and shall be responsible for the cost of the audit pursuant to the contract. ~~The An~~ An original copy of the audit report shall be filed in the office of the county clerk and in the office of the Auditor of Public Accounts within twelve months after the end of each fiscal year.

(2) The county board shall cause to be published in the same manner as the proceedings of the county board a brief statement disclosing the conclusion of the examination and audit and that such audit report is on file with the county clerk.

(3) At the same time a copy of the audit report is filed in the office of the county clerk, the auditor conducting the examination shall send written notice to the county board and the county attorney of the county concerned, the Auditor of Public Accounts, and the Attorney General of any irregularity or violation of any law disclosed by the audit report. It shall be the duty of the county attorney, within thirty days of the receipt of such notice, to institute appropriate proceedings against the offending officer or officers.

(4) If the county attorney fails to comply with the provisions of this section, it shall be the duty of the Attorney General to institute such proceedings against the offending officer or officers and he or she shall also institute proceedings for the removal of the county attorney from office. When notice is received of any irregularity or violation of any law in the office of the county attorney, it shall be the duty of the Attorney General to institute appropriate proceedings against the county attorney within thirty days after the giving of such notice if the county attorney has failed to institute such proceedings.

Sec. 7. Section 23-1609, Reissue Revised Statutes of Nebraska, is

amended to read:

23-1609. Such examination and audit shall be conducted in conformity with generally accepted auditing standards applied on a consistent basis and shall develop the county's financial condition, the condition of each county fund, and the disposition of all money collected or received. Such ~~audits~~ examination and audit shall be a full and complete ~~audits~~ audit of the cash receipts and disbursements, ~~shall include a checking of claims paid as against the record of claims kept by the county clerk, and against the record of the county board with respect to such claims, shall include a checking of claims paid as against the levy, and shall reflect in supplementary schedules the state of the each county fund from which the respective claims are payable. The audit shall also include a report as to the regularity of each such claim examined but shall contain no conclusion or opinion as to its validity or legality.~~

Sec. 8. Section 29-752, Reissue Revised Statutes of Nebraska, is amended to read:

29-752. When the punishment of the crime ~~shall be~~ is the confinement of the criminal in a Department of Correctional Services adult correctional facility, the expenses shall be paid out of the state treasury, on the certificate of the Governor and warrant of the ~~Auditor of Public Accounts~~ State Treasurer and Director of Administrative Services. In all other cases the expenses shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose Governor the requisition is made and shall be equal to the mileage rate authorized in section 81-1176 for each mile which is necessary to travel in returning such prisoner.

Sec. 9. Section 49-617, Revised Statutes Supplement, 1999, is amended to read:

49-617. The Revisor of Statutes shall cause the statutes to be printed. The printer shall deliver all completed copies to the Supreme Court. These copies shall be held and disposed of by the court as follows: Sixty copies to the State Library to exchange for statutes of other states; five copies to the State Library to keep for daily use; not to exceed twenty-five copies to the Legislative Council for bill drafting and related services to the Legislature and executive state officers; as many copies to the Attorney General as he or she has attorneys on his or her staff; up to sixteen copies to the State Court Administrator; twelve copies to the Tax Commissioner; eight copies to the Nebraska Publications Clearinghouse; six copies to the Public Service Commission; four copies to the Secretary of State; four copies to the Clerk of the Legislature for use in his or her office and three copies to be maintained in the legislative chamber, one copy on each side of the chamber and one copy at the desk of the Clerk of the Legislature, under control of the sergeant at arms; three copies to the Auditor of Public Accounts; two copies each to the Governor of the state, the Chief Justice and each judge of the Supreme Court, each judge of the Court of Appeals, the Clerk of the Supreme Court, the Reporter of the Supreme Court and Court of Appeals, ~~the Auditor of Public Accounts~~, the Commissioner of Labor, and the Revisor of Statutes; one copy each to the Secretary of State of the United States, each Indian tribal court located in the State of Nebraska, the library of the Supreme Court of the United States, the Adjutant General, the Air National Guard, the Commissioner of Education, the State Treasurer, the Board of Educational Lands and Funds, the Director of Agriculture, the Director of Administrative Services, the Director of Aeronautics, the Director of Economic Development, the director of the Public Employees Retirement Board, the Director-State Engineer, the Director of Banking and Finance, the Director of Insurance, the Director of Motor Vehicles, the Property Tax Administrator, the Director of Veterans' Affairs, the Director of Water Resources, the Director of Correctional Services, the Nebraska Emergency Operating Center, each judge of the Nebraska Workers' Compensation Court, each judge of the Commission of Industrial Relations, the Nebraska Liquor Control Commission, the Nebraska Natural Resources Commission, the State Real Estate Commission, the Tax Equalization and Review Commission, the secretary of the Game and Parks Commission, the Board of Pardons, the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services Finance and Support, each state institution under the Department of Health and Human Services, each state institution under the State Department of Education, the State Surveyor, the Nebraska State Patrol, the materiel division of the Department of Administrative Services, the personnel division of the Department of Administrative Services, the Nebraska Motor Vehicle Industry Licensing Board, the Board of Trustees of the Nebraska State Colleges, each of the Nebraska

state colleges, each district judge of the State of Nebraska, each judge of the county court, each judge of a separate juvenile court, the Lieutenant Governor, each United States Senator from Nebraska, each United States Representative from Nebraska, each clerk of the district court for the use of the district court, the clerk of the Nebraska Workers' Compensation Court, each clerk of the county court, each county attorney, each county public defender, each county law library, and the inmate library at all state penal and correctional institutions, and each member of the Legislature shall be entitled to two complete sets, and two complete sets of such volumes as are necessary to update previously issued volumes, but each member of the Legislature and each judge of any court referred to in this section shall be entitled, on request, to an additional complete set. Copies of the statutes distributed without charge, as listed in this section, shall be the property of the state or governmental subdivision of the state and not the personal property of the particular person receiving a copy. Distribution of statutes to the library of the College of Law of the University of Nebraska shall be as provided in sections 85-176 and 85-177.

Sec. 10. Section 72-417, Reissue Revised Statutes of Nebraska, is amended to read:

72-417. The board shall ~~cause to be kept~~ keep full and complete minutes of all transactions occurring at its meetings, ~~the same such minutes~~ to be kept in a well-bound book, which shall be open to the inspection of the public at all reasonable times, and ~~it the board~~ shall also ~~cause to be kept~~ keep a well-bound book or books in which shall be recorded all instruments, documents, resolutions, bylaws, or other writings under which title to money or property is given, granted, taken, or held for the use of the board, and the same shall be a public record. The board shall also ~~cause to be kept~~ keep books of account that show all receipts and disbursements and the true condition of the funds and trusts committed to its charge. Such ~~and such~~ books of account shall be audited by the Auditor of Public Accounts person conducting the audit pursuant to section 23-1608 and by the county clerk whenever, and as often as, an audit is made of all accounts of the county. An ~~PROVIDED,~~ an audit of the board's books of account may be ordered by the county board at any time it deems that such an audit is advisable.

Sec. 11. Section 84-304.03, Reissue Revised Statutes of Nebraska, is amended to read:

84-304.03. The Auditor of Public Accounts shall establish minimum standards for all persons identified as auditors or who conduct audits of any agency of state government or of any political subdivision. ~~except a village.~~ Such standards shall be established to achieve the goal of assuring a proper level of competency in auditing and shall be distributed to all agencies of state government and all political subdivisions. ~~except villages.~~ No agency of state government or political subdivision, ~~except a village,~~ shall employ any person as an auditor who fails to meet such minimum standards.

Sec. 12. Original sections 2-3328, 2-3331, 14-2145, 14-2146, 23-905, 23-1608, 23-1609, 29-752, 72-417, and 84-304.03, Reissue Revised Statutes of Nebraska, and section 49-617, Revised Statutes Supplement, 1999, are repealed.

Sec. 13. The following sections are outright repealed: Sections 2-3329, 23-1610, 23-1613, 23-1614, and 84-301, Reissue Revised Statutes of Nebraska.