

EHB 1670

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THE STATE SENATE  
Wednesday, April 6, 2005

ENGROSSED  
House Bill No. 1670  
As Amended

ENGROSSED HOUSE BILL NO. 1670 - By: NATIONS of the House and RABON of the Senate.

An Act relating to cities and towns; amending 11 O.S. 2001, Sections 17-105, 17-105.1, 17-106.1 and 17-107, which relate to municipal finances; modifying municipal qualification for imposing certain requirement; adding financial disclosure procedures for certain municipalities; providing exception to certain disclosures; modifying certain terms; modifying reference to certain audit guide; amending 60 O.S. 2001, Sections 180.1, 180.2 and 180.3, which relate to public trusts; adding a population requirement for certain public trusts for audit applicability; adding financial disclosure requirements for certain public trusts; providing an exception; deleting certain certification requirement; modifying time requirement for the Oklahoma Accountancy Board to provide updates and changes to the State Auditor and Inspector; adding reference to certain annual audit; amending 74 O.S. 2001, Section 212A, which relates to audits of public entities; clarifying governmental entities subject to audit requirements; deleting certain filing requirement; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 17-105, is amended to read as follows:

Section 17-105. A. The governing body of each municipality with an income of Twenty-five Thousand Dollars (\$25,000.00) or more ~~to its general fund during a fiscal year~~ a population as of the most recent Federal Decennial Census of two thousand five hundred (2,500)

1 or more shall cause to be prepared, by an independent licensed  
2 public accountant or a certified public accountant, an annual  
3 financial audit to be conducted in accordance with ~~the generally~~  
4 ~~accepted~~ auditing standards generally accepted in the United States  
5 of America and ~~the~~ "Government Auditing Standards" as issued by the  
6 Comptroller General of the United States. Such audit shall be  
7 ordered within thirty (30) days of the close of each fiscal year.  
8 Copies shall be filed with the State Auditor and Inspector within  
9 six (6) months after the close of the fiscal year in accordance with  
10 the provisions of Sections ~~24102~~ 3022 and ~~24103~~ 3023 of Title 68 of  
11 the Oklahoma Statutes and with the governing body of the  
12 municipality.

13 B. The governing body of a municipality with a population as of  
14 the most recent Federal Decennial Census of less than two thousand  
15 five hundred (2,500), and for whom an annual financial statement  
16 audit is not required by another law, regulation or contract, shall  
17 cause to be conducted, by an independent licensed public accountant  
18 or a certified public accountant, an agreed-upon-procedures  
19 engagement over certain financial information and compliance  
20 requirements to be performed in accordance with the applicable  
21 attestation standards of The American Institute of Certified Public  
22 Accountants, and the fieldwork and reporting standards in

1 "Government Auditing Standards". The specific procedures to be  
2 performed are as follows for the fiscal year:

3 1. Prepare a schedule of changes in fund balances for each fund  
4 and determine compliance with the statutory prohibition of creating  
5 fund balance deficits;

6 2. Prepare a budget and actual financial schedule for the  
7 General Fund and any other significant funds **listing separately each**  
8 **federal fund** and determine compliance with the legal level of  
9 appropriations by comparing expenditures and encumbrances to  
10 authorized appropriations;

11 3. Agree material bank account balances to bank statements and  
12 trace significant reconciling items to subsequent clearance;

13 4. Compare uninsured deposits to fair value of pledged  
14 collateral;

15 5. Compare use of material-restricted revenues and resources to  
16 their restrictions;

17 6. Determine compliance with requirements for separate funds;

18 7. Determine compliance with reserve account and debt service  
19 coverage requirements of bond indentures; and

20 8. Perform any additional procedures the State Auditor and  
21 Inspector deems necessary.

22 Such engagement shall be ordered within thirty (30) days of the  
23 close of each fiscal year. Copies of the agreed-upon-procedures

1 report shall be filed with the State Auditor and Inspector within  
2 six (6) months after the close of the fiscal year and with the  
3 governing body of the municipality.

4 C. Municipalities with a population under two thousand five  
5 hundred (2,500) as of the most recent Federal Decennial Census and  
6 less than Fifty Thousand Dollars (\$50,000.00) of both total assets  
7 and total revenue from all funds may request that the State Auditor  
8 and Inspector waive the requirements of subsections A and B of this  
9 section.

10 SECTION 2. AMENDATORY 11 O.S. 2001, Section 17-105.1, is  
11 amended to read as follows:

12 Section 17-105.1 An auditor shall file with the State Auditor  
13 and Inspector, at the same time a certified copy of an audit is  
14 filed as required in Section 17-105 of ~~Title 11 of the Oklahoma~~  
15 ~~Statutes~~ this title, two ~~(2)~~ copies of a ~~report~~ prescribed form  
16 setting forth for the fiscal year audited the funds available to the  
17 municipality and the use of those funds. The ~~report~~ form shall also  
18 include information relating to the duly constituted authorities of  
19 the municipality and shall be on a form approved by the State  
20 Auditor and Inspector. Copies of said audit and the ~~report~~ form  
21 shall be made available for public inspection by the municipality  
22 and the State Auditor and Inspector. The State Auditor and

1 Inspector may contract for the compilation and reporting of the  
2 information submitted on the ~~report~~ form.

3 SECTION 3. AMENDATORY 11 O.S. 2001, Section 17-106.1, is  
4 amended to read as follows:

5 Section 17-106.1 Independent audit reports relating to federal  
6 financial assistance - Form required.

7 Independent auditor's reports relating to federal ~~financial~~  
8 ~~assistance~~ awards compliance will be in a form consistent with the  
9 auditors' reports in "~~Audits of State and Local Governmental Units,~~"  
10 ~~which is~~ the most recent audit guide for state and local governments  
11 prepared by The American Institute of Certified Public Accountants  
12 ~~and recognized by "Government Auditing Standards" of the Comptroller~~  
13 ~~General of the United States.~~ State agencies or other pass-through  
14 grantors of ~~Federal Financial Assistance~~ federal awards will not  
15 place auditing requirements on a municipality, in addition to the  
16 required reports and schedules of ~~Federal Financial Assistance~~  
17 federal awards expended, without approval of the State Auditor and  
18 Inspector.

19 SECTION 4. AMENDATORY 11 O.S. 2001, Section 17-107, is  
20 amended to read as follows:

21 Section 17-107. If a municipality does not file a copy of its  
22 audit report or agreed-upon procedures as provided in Section 17-105  
23 of this title, the State Auditor and Inspector shall notify the

1 Oklahoma Tax Commission which shall withhold from the municipality  
2 its monthly allocations of gasoline taxes until the audit report is  
3 filed. If a report is not filed within two (2) years after the  
4 close of the fiscal year, the funds being withheld shall be remitted  
5 by the Oklahoma Tax Commission to the county in which the  
6 incorporated city or town is located and deposited to the county  
7 highway fund of that county to be used as otherwise provided by law.

8 SECTION 5. AMENDATORY 60 O.S. 2001, Section 180.1, is  
9 amended to read as follows:

10 Section 180.1 A. The trustees of every trust created for the  
11 benefit and furtherance of any public function with the State of  
12 Oklahoma or any county or municipality with a population of two  
13 thousand five hundred (2,500) or more as of the most recent Federal  
14 Decennial Census as the beneficiary or beneficiaries thereof must  
15 cause an audit to be made of, ~~including, but not limited to, the~~  
16 ~~funds, accounts, and fiscal affairs of such trust~~ financial  
17 statements of the trust, such audit to be ordered within thirty (30)  
18 days of the close of each fiscal year of the trust. The audit shall  
19 be filed in accordance with the requirements set forth for financial  
20 statement audits in Section 212A of Title 74 of the Oklahoma  
21 Statutes.

22 B. The trustees of a trust whose beneficiary or beneficiaries  
23 are municipalities with a population as of the most recent Federal

1 Decennial Census of less than two thousand five hundred (2,500), and  
2 for whom an annual financial statement audit is not required by  
3 another law, regulation or contract, shall cause to be conducted, by  
4 an independent licensed public accountant or a certified public  
5 accountant, an agreed-upon-procedures engagement over certain  
6 financial information and compliance requirements to be performed in  
7 accordance with the applicable attestation standards of The American  
8 Institute of Certified Public Accountants. The specific procedures  
9 to be performed are:

10 1. Prepare a schedule of revenues, expenditures/expenses and  
11 changes in fund balances/net assets for each fund and determine  
12 compliance with any applicable trust or other prohibitions for  
13 creating fund balance deficits;

14 2. Agree material bank account balances to bank statements and  
15 trace significant reconciling items to subsequent clearance;

16 3. Compare uninsured deposits to fair value of pledged  
17 collateral;

18 4. Compare use of material-restricted revenues and resources to  
19 their restrictions;

20 5. Determine compliance with requirements for separate funds;

21 6. Determine compliance with reserve account and debt service  
22 coverage requirements of bond indentures; and

1        7. Perform any additional procedures the State Auditor and  
2 Inspector deems necessary.

3        Such engagement shall be ordered within thirty (30) days of the  
4 close of each fiscal year of the trust. Copies of the agreed-upon-  
5 procedures report shall be filed with the State Auditor and  
6 Inspector within six (6) months after the close of the fiscal year  
7 and with the trustees and governing body of the beneficiaries.

8        C. Public trusts created for the benefit and furtherance of any  
9 public function for a municipality with a population under two  
10 thousand five hundred (2,500) as of the most recent Federal  
11 Decennial Census and less than Fifty Thousand Dollars (\$50,000.00)  
12 of both total assets and total revenue from all funds and public  
13 trusts of which it is a beneficiary are not subject to the  
14 requirements of subsections A and B of this section.

15        SECTION 6.        AMENDATORY        60 O.S. 2001, Section 180.2, is  
16 amended to read as follows:

17        Section 180.2 (a) The audits herein required shall ~~be~~  
18 ~~certified with~~ include the opinion of a certified public accountant  
19 or a licensed public accountant notwithstanding any lesser  
20 requirement by any instrument under which the trust may have  
21 covenanted for an audit to be made or furnished. ~~The required audit~~  
22 ~~shall adhere to standards set by the State Auditor and Inspector.~~  
23 One copy of the annual audit shall be filed with the State Auditor

1 and Inspector, and, in the case of a trust wherein the state is the  
2 beneficiary, one copy with the Governor of the State of Oklahoma ~~and~~  
3 ~~one copy with the legislative committee provided for in Section~~  
4 ~~178.1 of this title~~ and one copy with each beneficiary of the trust,  
5 not later than six (6) months following the close of each fiscal  
6 year of the trust.

7 (b) Within thirty (30) days after the effective date hereof,  
8 each trust mentioned in Section 180.1 of this title shall certify to  
9 the State Auditor and Inspector the date of the close of its fiscal  
10 year.

11 (c) In the event that copy of such audit as herein required  
12 shall not be filed with the State Auditor and Inspector within the  
13 time herein provided, the State Auditor and Inspector hereby is  
14 authorized to employ, at the cost and expense of the trust, a  
15 certified public accountant or licensed public accountant to make  
16 the audit herein required.

17 (d) Prior to the delivery of and payment for any bonds, notes  
18 or other evidences of indebtedness by a public trust, there shall be  
19 filed with the Secretary of State an executed original or certified  
20 copy of the written instrument or will creating such public trust  
21 and a notice of said filing with the Secretary of State shall be  
22 delivered to the State Auditor and Inspector and, in the case of a  
23 trust wherein the state is the beneficiary, to the Attorney General.

1 SECTION 7. AMENDATORY 60 O.S. 2001, Section 180.3, is  
2 amended to read as follows:

3 Section 180.3 The necessary expense of ~~said~~ the audits and  
4 agreed-upon-procedures engagements, including the cost of typing,  
5 printing, and binding, shall be paid from funds of the trust.

6 SECTION 8. AMENDATORY 74 O.S. 2001, Section 212A, is  
7 amended to read as follows:

8 Section 212A. A. 1. ~~All~~ Except as otherwise provided by law,  
9 all government entities, as defined by the Governmental Accounting  
10 Standards Board, shall have an audit conducted in accordance with  
11 ~~generally accepted~~ auditing standards generally accepted in the  
12 United States of America and Government Auditing Standards. Copies  
13 of any audit, performance audit, agreed upon procedures report, or  
14 other attestation engagement performed by a person other than the  
15 State Auditor shall be filed with the State Auditor and Inspector by  
16 ~~that person~~ the government entity. The expense of the audit shall  
17 be paid by the government entity. For fiscal years ending after  
18 December 31, 1995, all government entities receiving public funds  
19 that are included in the reporting entity of the State of Oklahoma  
20 shall file a copy of the audit required by this paragraph with the  
21 Director of State Finance no later than four (4) months after the  
22 end of the fiscal year of the government entity. For purposes of  
23 this paragraph, the reporting entity of the State of Oklahoma

1 includes all government entities included in the State of Oklahoma  
2 Comprehensive Annual Financial Report. The government entities  
3 included in the State of Oklahoma reporting entity shall be  
4 determined by the Director of State Finance using criteria set by  
5 the Governmental Accounting Standards Board.

6 2. Any ~~public accountant or certified public accountant~~  
7 government entity filing a report with the State Auditor and  
8 Inspector pursuant to this section shall be required to pay a filing  
9 fee of Forty Dollars (\$40.00) for the purposes of processing such  
10 reports and ensuring compliance with the provisions of this section.  
11 Such payments shall be deposited in the State Auditor and Inspector  
12 Revolving Fund, created pursuant to Section 227.9 of this title.

13 B. All registrants, as defined in the Oklahoma Accountancy Act,  
14 before entering into audit contracts required under this section,  
15 shall satisfy the Oklahoma Accountancy Board and the State Auditor  
16 and Inspector that such registrant meets Government Auditing  
17 Standards and has a current permit to practice issued by the  
18 Oklahoma Accountancy Board.

19 The State Auditor and Inspector shall receive annual reports  
20 from the Oklahoma Accountancy Board of all registrants meeting the  
21 requirements of this subsection. The Oklahoma Accountancy Board  
22 shall provide changes and updates to the annual report to the State  
23 Auditor and Inspector ~~at least quarterly~~ upon request.

1 C. Schedules of federal ~~financial assistance~~ awards expended  
2 will be in a form consistent with the guidance in "~~Audits of State~~  
3 ~~and Local Governmental Units~~", ~~which is~~ the most recent audit guide  
4 prepared by "The American Institute of Certified Public Accountants"  
5 ~~and recognized by Government Auditing Standards issued by the~~  
6 ~~Comptroller General of the United States.~~ State agencies or other  
7 pass-through grantors of ~~Federal Financial Assistance~~ federal awards  
8 expended will not place reporting requirements on a grantee or ~~sub-~~  
9 ~~recipients~~ subrecipients in addition to the required federal  
10 compliance reports and schedules of ~~Federal Financial Assistance~~  
11 federal awards expended, without approval of the State Auditor and  
12 Inspector.

13 D. All governmental entities shall report grant funds received,  
14 administered or used by the entity and all grant funds under the  
15 direct or indirect control of the governmental entity or any of its  
16 employees in their employment capacity. ~~A copy of the report shall~~  
17 ~~be filed with the State Auditor and Inspector and the Director of~~  
18 ~~the Office of State Finance within four (4) months after the end of~~  
19 ~~the fiscal year of the governmental entity. The report shall follow~~  
20 ~~standards established by the State Auditor and Inspector.~~ The State  
21 Auditor and Inspector may audit any funds reported. The cost of the  
22 audit shall be paid by the governmental entity unless the grant  
23 provides for the cost of audits from grant funds.

1 SECTION 9. This act shall become effective November 1, 2005.  
2 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 4-4-05 -  
3 DO PASS, As Amended.