

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1670

By: Nations

AS INTRODUCED

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) or more shall cause to be prepared, by an independent licensed public accountant or a certified public accountant, an annual financial audit to be conducted in accordance with ~~the generally accepted~~ auditing standards and ~~the~~ "Government Auditing Standards" as issued by the Comptroller General of the United States. Such

audit shall be ordered within thirty (30) days of the close of each fiscal year. Copies shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year in accordance with the provisions of Sections 24102 and 24103 of Title 68 of the Oklahoma Statutes and with the governing body of the municipality.

B. The governing body of a municipality with a population as of the most recent Federal Decennial Census of less than two thousand five hundred (2,500), and for whom an annual financial statement audit is not required by another law, regulation or contract, shall cause to be conducted, by an independent licensed public accountant or a certified public accountant, an agreed-upon-procedures engagement over certain financial information and compliance requirements to be performed in accordance with the applicable attestation standards of the American Institute of Certified Public Accountants. The specific procedures to be performed and the content of the accountant's report will be prescribed by the Office of State Auditor and Inspector. Such engagement shall be ordered within thirty (30) days of the close of each fiscal year. Copies of the agreed-upon-procedures report shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year and with the governing body of the municipality.

C. Municipalities with a population under two thousand five hundred (2,500) as of the most recent Federal Decennial Census and less than Fifty Thousand Dollars (\$50,000.00) combined revenue from all funds and public trusts of which it is a beneficiary are not subject to the requirements of subsections A and B of this section.

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

Section 17-105.1 An auditor shall file with the State Auditor and Inspector, at the same time a certified copy of an audit is filed as required in Section 17-105 of ~~Title 11 of the Oklahoma~~

~~Statutes~~ this title, two ~~(2)~~ copies of a ~~report~~ prescribed form setting forth for the fiscal year audited the funds available to the municipality and the use of those funds. The ~~report~~ form shall also include information relating to the duly constituted authorities of the municipality and shall be on a form approved by the State Auditor and Inspector. Copies of said audit and the ~~report~~ form shall be made available for public inspection by the municipality and the State Auditor and Inspector. The State Auditor and Inspector may contract for the compilation and reporting of the information submitted on the ~~report~~ form.

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

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

Independent auditor's reports relating to federal ~~financial assistance~~ awards compliance will be in a form consistent with the auditors' reports in "~~Audits of State and Local Governmental Units,~~" the audit guide, "Government Auditing Standards and Circular A-133", which is prepared by The American Institute of Certified Public Accountants and recognized by "~~Government Auditing Standards~~" of the ~~Comptroller General of the United States~~. State agencies or other pass-through grantors of ~~Federal Financial Assistance~~ federal awards will not place auditing requirements on a municipality, in addition to the required reports and schedules of ~~Federal Financial Assistance~~ federal awards expended, without approval of the State Auditor and Inspector.

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

Section 17-107. If a municipality does not file a copy of its audit report or agreed-upon-procedures as provided in Section 17-105 of this title, the State Auditor and Inspector shall notify the Oklahoma Tax Commission which shall withhold from the municipality

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

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

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

B. The trustees of a trust whose beneficiary or beneficiaries are municipalities with a population as of the most recent Federal Decennial Census of less than two thousand five hundred (2,500), and for whom an annual financial statement audit is not required by another law, regulation or contract, shall cause to be conducted, by an independent licensed public accountant or a certified public accountant, an agreed-upon-procedures engagement over certain financial information and compliance requirements to be performed in accordance with the applicable attestation standards of the American Institute of Certified Public Accountants. The specific procedures to be performed and the content of the accountant's report will be prescribed by the Office of State Auditor and Inspector. Such

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

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

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

Section 180.2 (a) The audits herein required shall ~~be certified with~~ include the opinion of a certified public accountant or a licensed public accountant notwithstanding any lesser requirement by any instrument under which the trust may have covenanted for an audit to be made or furnished. The required audit shall adhere to standards set by the State Auditor and Inspector. One copy of the annual audit shall be filed with the State Auditor and Inspector, and, in the case of a trust wherein the state is the beneficiary, one copy with the Governor of the State of Oklahoma ~~and one copy with the legislative committee provided for in Section 178.1 of this title~~ and one copy with each beneficiary of the trust, not later than six (6) months following the close of each fiscal year of the trust.

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

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

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

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

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

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

Section 212A. A. 1. All government entities, as defined by the Governmental Accounting Standards Board that is required by law, regulation, or contract to have an annual financial statement audit, shall have ~~an~~ the audit conducted in accordance with ~~generally accepted~~ auditing standards and Government Auditing Standards. Copies of any audit performed by a person other than the State Auditor shall be filed with the State Auditor and Inspector by that person. The expense of the audit shall be paid by the government entity. For fiscal years ending after December 31, 1995, all government entities receiving public funds that are included in the reporting entity of the State of Oklahoma shall file a copy of the audit required by this paragraph with the Director of State Finance

no later than four (4) months after the end of the fiscal year of the government entity. For purposes of this paragraph, the reporting entity of the State of Oklahoma includes all government entities included in the State of Oklahoma Comprehensive Annual Financial Report. The government entities included in the State of Oklahoma reporting entity shall be determined by the Director of State Finance using criteria set by the Governmental Accounting Standards Board.

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

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

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

C. Schedules of federal ~~financial assistance~~ awards expended will be in a form consistent with the guidance in ~~"Audits of State and Local Governmental Units"~~ "Government Auditing Standards and Circular A-133", which is the audit guide prepared by "The American Institute of Certified Public Accountants" ~~and recognized by Government Auditing Standards issued by the Comptroller General of~~

~~the United States.~~ State agencies or other pass-through grantors of ~~Federal Financial Assistance~~ federal awards expended will not place reporting requirements on a grantee or ~~sub-recipients~~ subrecipients in addition to the required federal compliance reports and schedules of ~~Federal Financial Assistance~~ federal awards expended, without approval of the State Auditor and Inspector.

D. ~~All~~ The annual audit of the financial statements of all governmental entities for whom an annual financial statement audit is required shall ~~report~~ include in the audit, grant funds received, administered or used by the entity and all grant funds under the direct or indirect control of the governmental entity or any of its employees in their employment capacity. ~~A copy of the report shall be filed with the State Auditor and Inspector and the Director of the Office of State Finance within four (4) months after the end of the fiscal year of the governmental entity. The report shall follow standards established by the State Auditor and Inspector.~~ The State Auditor and Inspector may audit any funds reported. The cost of the audit shall be paid by the governmental entity unless the grant provides for the cost of audits from grant funds.

SECTION 9. This act shall become effective November 1, 2005.

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