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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1969

03/02/2017 Authored by Thissen and Albright
The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to state government; repealing the authority for the state auditor to bill for
1.3 services; providing funding for the Office of the State Auditor from the general
1.4 fund; appropriating money; amending Minnesota Statutes 2016, sections 6.49;
1.5 6.61; repealing Minnesota Statutes 2016, sections 6.481, subdivision 6; 6.56,
1.6 subdivisions 2, 3; 6.57; 6.581, subdivisions 1, 3, 4; 6.59; 6.60; 6.62; 6.68,
1.7 subdivision 2; 6.69, subdivision 2.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2016, section 6.49, is amended to read:

1.10 **6.49 CITIES OF FIRST CLASS.**

1.11 All powers and duties conferred and imposed upon the state auditor with respect to state
1.12 and county officers, institutions, property, and improvements are hereby extended to cities
1.13 of the first class. Copies of the written report of the state auditor on the financial condition
1.14 and accounts of such city shall be filed in the state auditor's office, with the mayor, city
1.15 council, and city comptroller thereof, and with the city commissioners, if such city have
1.16 such officers. If such report disclose malfeasance, misfeasance, or nonfeasance in office,
1.17 copies thereof shall be filed with the city attorney thereof and with the county attorney of
1.18 the county in which such city is located, and these officials of the law shall institute such
1.19 proceedings, civil or criminal, as the law and the public interest require.

1.20 ~~The state auditor shall bill said cities monthly for services rendered, including any~~
1.21 ~~examination, and the officials responsible for approving and paying claims shall cause said~~
1.22 ~~bill to be promptly paid.~~

1.23 A city that first became a city of the first class after 2009 may provide for an audit to
1.24 be performed by a certified public accountant firm meeting the requirements of section

2.1 326A.05 instead of having an audit performed by the state auditor. An audit performed
 2.2 under this paragraph must meet the standards and be in the form required by the state auditor.
 2.3 The state auditor may require additional information from the certified public accountant
 2.4 firm that the state auditor deems in the public interest, but the state auditor must accept the
 2.5 audit unless the state auditor determines that it does not meet recognized industry auditing
 2.6 standards or is not in the form required by the state auditor.

2.7 **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to services
 2.8 rendered by the state auditor on or after that date.

2.9 Sec. 2. Minnesota Statutes 2016, section 6.61, is amended to read:

2.10 **6.61 SUBJECT TO PRIOR ENACTMENT OF LAWS.**

2.11 Subject to the provisions of Laws 1939, chapter 431, the state auditor shall have and
 2.12 exercise all the rights, powers, and duties conferred upon the former public examiner by
 2.13 Mason's Minnesota Statutes of 1927, sections 3274, 3275, 3276, 3277, 3279, 3280, 3281,
 2.14 3282, 3283, 3284, and 3286, and the 1938 Supplement to Mason's Minnesota Statutes of
 2.15 1927, sections 3278, 3286-1, 3286-2, 3286-3, 3286-4, 3286-5, 3286-6, and 3286-7, and acts
 2.16 amendatory thereof or supplementary thereto, and all the provisions thereof shall apply to
 2.17 and govern all matters therein specified respecting the Office and Department of the State
 2.18 Auditor, except that any limitations therein contained as to the number of employees to be
 2.19 appointed by the state auditor shall not apply. ~~The state auditor shall account separately for~~
 2.20 ~~all of the charges, receipts, and disbursements of the Department of the State Auditor~~
 2.21 ~~pertaining to the examining and auditing of all school districts, towns and cities for which~~
 2.22 ~~charges are made, and after allocating to the expense thereof a proper pro rata share of the~~
 2.23 ~~administrative expense, such functions of the Department of the State Auditor shall be~~
 2.24 ~~sustained, so far as practicable, by the funds collected therefor from such political~~
 2.25 ~~subdivisions as otherwise provided by law.~~

2.26 **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to services
 2.27 rendered by the state auditor on or after that date.

2.28 Sec. 3. **TRANSFER; STATE AUDITOR ENTERPRISE FUND.**

2.29 Notwithstanding any law to the contrary, amounts in the state auditor enterprise fund
 2.30 are transferred to the general fund on July 1, 2017.

3.1 Sec. 4. **APPROPRIATION.**

3.2 \$..... in fiscal year 2018 is appropriated from the general fund to the Office of the State
3.3 Auditor.

3.4 Sec. 5. **REPEALER.**

3.5 Minnesota Statutes 2016, sections 6.481, subdivision 6; 6.56, subdivisions 2 and 3; 6.57;
3.6 6.581, subdivisions 1, 3, and 4; 6.59; 6.60; 6.62; 6.68, subdivision 2; and 6.69, subdivision
3.7 2, are repealed effective July 1, 2017, as applied to services rendered by the state auditor
3.8 on or after that date. The provisions repealed by this section continue to be effective for
3.9 purposes of billing and collection related to services rendered by the state auditor before
3.10 July 1, 2017.

6.481 COUNTY AUDITS.

Subd. 6. **Payments to state auditor.** A county audited by the state auditor must pay the state auditor for the costs and expenses of the audit. If the state auditor makes additional examinations of a county whose audit is performed by a CPA firm, the county must pay the auditor for the cost of these examinations. Payments must be deposited in the state auditor enterprise fund.

6.56 COST OF EXAMINATION, PAYMENT.

Subd. 2. **Billings by state auditor.** Upon the examination of the books, records, accounts, and affairs of any political subdivision, as provided by law, such political subdivision shall be liable to the state for the total cost and expenses of such examination, including the salaries paid to the examiners while actually engaged in making such examination. The state auditor may bill such political subdivision periodically for service rendered and the officials responsible for approving and paying claims are authorized to pay said bill promptly. Said payments shall be without prejudice to any defense against said claims that may exist or be asserted. The state auditor enterprise fund shall be credited with all collections made for any such examinations, including interest payments made pursuant to subdivision 3.

Subd. 3. **Payment of interest on late payments required.** (a) A political subdivision shall pay interest to the state auditor for undisputed billings when the political subdivision has not paid the billing within 60 days following receipt of the invoice. A negotiated contract or agreement between a political subdivision and the state auditor which requires an audit by the political subdivision before acceptance and payment of the state auditor's invoice shall not be considered past due until 60 days after the completion of the audit by the political subdivision. Before any interest payment is made, the state auditor must invoice the political subdivision for the interest.

(b) The rate of interest paid by the political subdivision on undisputed bills not paid within 60 days shall be 1.5 percent per month or any part of a month.

(c) No interest penalties may accrue against a political subdivision that delays payment of a bill due to a disagreement with the state auditor over the validity of the bill if the dispute is settled within 60 days after the bill became due. Upon the resolution of the dispute, the political subdivision must pay the state auditor accrued interest on all proper invoices for which payment was not received within 60 days following the receipt of the original invoice.

(d) The minimum monthly interest penalty payment that a political subdivision shall pay the state auditor for the unpaid balance for any one overdue bill equal to or in excess of \$100, is \$10. For unpaid balances of less than \$100, the political subdivision shall pay the actual penalty due to the state auditor.

6.57 COST OF EXAMINATION, COLLECTION.

On July 1 of each year, the state auditor shall certify all uncollected claims for the examination of any political subdivision that have remained unpaid for a period of three months from the date of such claim. The auditor shall forthwith notify the clerk, recording officer, or chief administrative officer of each political subdivision against which the state has a claim that, if the same is not paid, with interest at the rate of six percent per annum from the date of the claim, within 90 days, the full amount thereof will be certified to the county auditor of the county having such examination, or to the county auditor for the county or counties in which the political subdivision is situated, for collection by special tax levy, as herein provided. Such notice shall be served by certified mail and the deposit thereof in the United States mail shall constitute due and legal service thereof upon the political subdivision.

6.581 STATE AUDITOR ENTERPRISE FUND.

Subdivision 1. **State auditor enterprise fund.** A state auditor enterprise fund is established in the state treasury. All amounts received for the costs and expenses of examinations performed under this chapter shall be credited to the fund. Amounts credited to the fund are annually appropriated to the state auditor to pay the costs and expenses related to the examinations performed, including, but not limited to, salaries, office overhead, equipment, authorized contracts, and other expenses.

Subd. 3. **Schedule of charges.** The state auditor may adjust the schedule of charges for the examinations performed so that the charges are sufficient to cover all costs of the examinations performed and that the aggregate charges collected are sufficient to pay all salaries and other expenses, including the charges for the use of the equipment used in connection with the

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Repealed Minnesota Statutes: 17-3805

reimbursable examinations performed, and the cost of contracting for accounting and other technical services. The schedule of charges shall be based on an estimate of the cost of performing reimbursable examinations including, but not limited to, salaries, office overhead, equipment, authorized contracts, and other expenses. The state auditor may allocate a proportionate part of the total costs to an hourly or daily charge for each person or class of persons engaged in the performance of an examination. The schedule of charges shall reflect an equitable charge for the expenses incurred in the performance of any given examination. The state auditor shall review and adjust the schedule of charges for the examinations performed at least annually. All schedules of charges must be approved by the commissioner of management and budget before the charges are adopted to ensure that the amount collected is sufficient to pay all the costs connected with the examinations performed during the fiscal year.

Subd. 4. **Reports to legislature.** At least 30 days before implementing increased charges for examinations, the state auditor must report the proposed increases to the chairs and ranking minority members of the committees in the house of representatives and the senate with jurisdiction over the budget of the state auditor. By January 15 of each odd-numbered year, the state auditor must report to the chairs and ranking minority members of the legislative committees and divisions with primary jurisdiction over the budget of the state auditor a summary of the state auditor enterprise fund anticipated revenues, and expenditures for the biennium ending June 30 of that year. The report must also include for the biennium the number of full-time equivalents paid by the fund, any audit rate changes stated as a percentage, the number of audit reports issued, and the number of counties audited.

6.59 CLAIM OF STATE FOR COST OF EXAMINATION, CONTEST.

On or before September 1 of each year, following service of the notice, any political subdivision may serve notice, in writing, upon the attorney general that it desires to contest the legality of the state's claim, and the attorney general shall forthwith file with the court administrator of the district court of the county having such examination, or in which the political subdivision, or major part thereof, is situated, a verified statement of the state's claim, duly itemized and serve upon the auditor, clerk, or chief administrative officer of the political subdivision, by certified mail, a copy of such statement. The political subdivision may file with the court administrator of such district court, within ten days after the service of such statement upon it, verified objections to the state's claim, and such district court shall thereupon summarily, in or out of term, hear and determine the amount due the state, if any, for such examination, at a time and place fixed by the court therefor. The court administrator of court shall certify to the county auditor of the county having such examination, or to the county auditor of the county or counties in which the political subdivision is situated, the amount so determined by the court to be due to the state, if any.

6.60 STATE AUDITOR, CERTIFICATION OF AMOUNTS DUE.

On October 1 of each year, the state auditor shall certify the respective amounts due the state from the various political subdivisions, including interest computed to July first, following, to the county auditor of the county having such examination, or to the county auditor of the county in which any political subdivision is, in whole or in part, situated. The county auditor, upon receiving a certificate from the state auditor, or a certificate from the court administrator, as provided in section 6.59, shall include the amount of the state's claim, with 25 percent added, in the tax levy for general revenue purposes of the political subdivision liable therefor, and such additional levy shall not be within any limitation imposed by law upon the amount of taxes which may be levied for revenue purposes. Upon completion of the June tax settlement following such levy the county treasurer shall deduct from the amount apportioned to the political subdivision for general revenue purposes, the amount due the state, including interest, and remit the same to the commissioner of management and budget.

6.62 POSTAUDIT; TAX LEVY.

Subdivision 1. **Levy of tax.** Counties, cities and towns are authorized, if necessary, to levy an amount sufficient to pay the expense of a postaudit by the state auditor.

Subd. 2. **Cost of postaudit.** The amount of said levy shall be the amount of the claim or claims submitted by the state auditor for such services or the auditor's estimate of the entire cost, and said amount shall be certified by the governing body, after the request or petition for the audit has been filed, to the county auditor, along with amounts requested for other governmental purposes. If such levy has been made in excess of statutory limitations, and if the request or petition is withdrawn after the amount of the levy has been certified but the levy

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cannot be canceled because it has been spread on the tax lists, the governing body shall cause the proceeds of such levy to be transferred to the general fund and reduce the succeeding year's levy for general purposes accordingly. Provided, however, political subdivisions whose financial affairs are required by statute or charter to be audited at regular intervals may levy annually or biennially in anticipation of the audit expense, without the presentment of such claim or estimate by the state auditor.

Subd. 3. **Use of proceeds of levy.** The proceeds of said levy shall be set aside and used only to cover the state auditor's claim.

6.68 STATE AUDITOR MAY ASSIST PUBLIC ACCOUNTANT IN AUDIT.

Subd. 2. **Auditor's report; payment.** The state auditor shall work in close cooperation with the public accountant in rendering the services so requested and the state auditor shall make such report of findings to the county attorney as is required by law to be made of nonfeasance, misfeasance, and malfeasance discovered by the state auditor. The political subdivision shall be liable for the payment of such services so performed by the state auditor in the same manner as if it had requested the services pursuant to section 6.55.

6.69 INFORMATION FURNISHED PUBLIC ACCOUNTANT BY STATE AUDITOR.

Subd. 2. **Charge for services.** The state auditor may charge the actual cost of furnishing such information and the public accountant shall pay the amount so charged promptly after receipt of the claim.