

CHAPTER 200—S.F.No. 1436

An act relating to state government; defining political subdivision for the purposes of the chapter governing the state auditor; applying provisions for the state auditor to all political subdivisions; amending Minnesota Statutes 2006, sections 6.47; 6.51; 6.54; 6.55; 6.551; 6.57; 6.59; 6.60; 6.62, subdivision 2; 6.63; 6.64; 6.65; 6.66; 6.67; 6.68; 6.70; 6.71; 6.76; 103D.355; proposing coding for new law in Minnesota Statutes, chapter 6; repealing Minnesota Statutes 2006, section 6.56, subdivision 1.

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

Section 1. **[6.465] DEFINITIONS.**

Subdivision 1. **Application.** For the purposes of this chapter, the terms defined in this section have the meaning given them.

Subd. 2. **Political subdivision.** "Political subdivision" means a county, home rule charter or statutory city, town, school district, metropolitan or regional agency, public corporation, political subdivision, or special district as defined in subdivision 3. "Political subdivision" does not include a metropolitan or regional agency or a public corporation audited by the legislative auditor.

Subd. 3. **Special district.** "Special district" means a public entity with a special or limited purpose, financed by property tax revenues or other public funds, that is not included in a city, county, or town financial report as a component of that local government, that is created or authorized by law, and that is governed by (1) persons directly elected to the governing board of the district, (2) persons appointed to the governing board of the district by local elected officials, (3) local elected officials who serve on the board by virtue of their elected office, or (4) a combination of these methods of selection. Special district includes special taxing districts listed in section 275.066.

Sec. 2. Minnesota Statutes 2006, section 6.47, is amended to read:

6.47 ACCOUNTING AND BUDGETING SYSTEMS; INVESTIGATION, FORMS.

The state auditor shall inquire into the accounting and budgeting systems of all ~~local units of government~~ political subdivisions and shall prescribe suitable systems of accounts and budgeting, and forms, books, and instructions concerning the same. At the request of any ~~local unit of government~~ political subdivision the state auditor may install such systems. ~~The state auditor shall recommend a form for order- and warrant-checks of all local units of government which shall conform, so far as consistent with statutory and charter requirements, to approved banking practice in order to facilitate handling of such instruments by banks and other depositories.~~

Sec. 3. Minnesota Statutes 2006, section 6.51, is amended to read:

6.51 SCHOOL DISTRICTS, TOWNS, AND STATUTORY CITIES OTHER POLITICAL SUBDIVISIONS.

All powers and duties of the state auditor herein imposed and conferred with respect to the supervision, inspection, and examination of books and accounts of cities in section 6.50 are herewith extended to all ~~school districts, towns, and statutory cities~~ political subdivisions of this state. A copy of the report of such examination shall be filed, subject to public inspection, with the clerk or chief administrative officer of the ~~town, statutory city, or school district~~ political subdivision receiving such examination, and an additional copy with the county auditor of the county in which the administrative offices of ~~such town, statutory city, or school district~~ the political subdivision are located. If such report disclose malfeasance, misfeasance, or nonfeasance in office, the state auditor shall file such copy with the county attorney of the county in which the administrative offices of ~~such school district, town, or statutory city~~ the political subdivision are located, and the county attorney shall institute such proceedings as the law and the public interest require.

Sec. 4. Minnesota Statutes 2006, section 6.54, is amended to read:

6.54 EXAMINATION OF COUNTY AND MUNICIPAL POLITICAL SUBDIVISION RECORDS PURSUANT TO PETITION.

Subdivision 1. Petition of voters for audit. The registered voters in a ~~county or home rule charter or statutory city~~ political subdivision other than a town or school district or the electors at an annual or special town meeting of a town may petition the state auditor to examine the books, records, accounts, and affairs of the ~~county, home rule charter or statutory city, town,~~ political subdivision or of any organizational unit, activity, project, enterprise, or fund thereof; and the scope of the examination may be limited by the petition, but the examination shall cover, at least, all cash received and disbursed and the transactions relating thereto, provided that the state auditor shall not examine more than the six latest years preceding the circulation of the petition, unless it appears to the state auditor during the examination that the audit period should be extended to permit a full recovery under bonds furnished by public officers or employees, and may if it appears to the auditor in the public interest confine the period or the scope of audit or both period and scope of audit, to less than that requested by the petition. In the case of a ~~county or home rule charter or statutory city~~ political subdivision other than a town or school district, the petition shall be signed by a number of registered voters at least equal to 20 percent of those voting in the last presidential election.

Subd. 2. School districts. The eligible voters of any school district may petition the state auditor, who shall be subject to the same restrictions regarding the scope and period of audit, provided that the petition shall be signed by at least ten eligible voters for each 50 resident pupils in average daily membership during the preceding school year as shown on the records in the office of the commissioner of education. In the case of school districts, the petition shall be signed by at least ten eligible voters.

Subd. 3. Certifications required. At the time it is circulated, every petition shall contain a statement that the cost of the audit will be borne by the ~~county, city, or school district~~ political subdivision as provided by law. Thirty days before the petition is delivered to the state auditor it shall be presented to the appropriate ~~city or school district~~ clerk or chief administrative officer of the political subdivision and the county auditor. The county auditor shall determine and certify whether the petition is signed by the

required number of registered voters or eligible voters as the case may be. The certificate shall be conclusive evidence thereof in any action or proceeding for the recovery of the costs, charges, and expenses of any examination made pursuant to the petition.

Sec. 5. Minnesota Statutes 2006, section 6.55, is amended to read:

6.55 EXAMINATION OF RECORDS PURSUANT TO RESOLUTION OF GOVERNING BODY.

The governing body of any ~~city, town, county or school district,~~ political subdivision by appropriate resolution may ask the state auditor to examine the books, records, accounts and affairs of their government, or of any organizational unit, activity, project, enterprise, or fund thereof; and the state auditor shall examine the same upon receiving, pursuant to said resolution, a written request signed by a majority of the members of the governing body; and the governing body of any ~~public utility commission, or of any public corporation having a body politic and corporate~~ political subdivision, or of any instrumentality joint or several of any ~~city, town, county, or school district~~ political subdivision, may request an audit of its books, records, accounts and affairs in the same manner; provided that the scope of the examination may be limited by the request, but such examination shall cover, at least, all cash received and disbursed and the transactions relating thereto. Such written request shall be presented to the clerk, ~~or~~ recording officer, ~~or chief administrative officer~~ of ~~such city, town, county, school district, public utility commission, public corporation,~~ the political subdivision or instrumentality, before being presented to the state auditor, who shall determine whether the same is signed by a majority of the members of such governing body and, if found to be so signed, shall certify such fact, and the fact that such resolution was passed, which certificate shall be conclusive evidence thereof in any action or proceedings for the recovery of the costs, charges and expenses of any examination made pursuant to such request. Nothing contained in any of the laws of the state relating to the state auditor, shall be so construed as to prevent any ~~county, city, town, or school district~~ political subdivision from employing a certified public accountant to examine its books, records, accounts, and affairs. For the purposes of this section, the governing body of a town is the town board.

Sec. 6. Minnesota Statutes 2006, section 6.551, is amended to read:

6.551 EXAMINATION OF GRANTEEES AND CONTRACTORS OF ~~LOCAL GOVERNMENTS~~ POLITICAL SUBDIVISIONS.

The state auditor may examine the books, records, documents, and accounting procedures and practices of a contractor or grantee of a ~~local government~~ political subdivision pursuant to section 16C.05, subdivision 5. The examination shall be limited to the books, records, documents, and accounting procedures and practices that are relevant to the contract or transaction with the ~~local government~~ political subdivision.

Sec. 7. Minnesota Statutes 2006, section 6.57, is amended to read:

6.57 COST OF EXAMINATION, COLLECTION.

On July ~~first,~~ 1 of each year, the state auditor shall certify all uncollected claims for the examination of any ~~county, city, town, or school district~~ which 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, ~~or~~ recording officer, ~~or chief administrative officer~~ of each ~~county, city, town, or school district~~ 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 ~~such city, town, or school district~~ 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 ~~county, city, town, or school district~~ political subdivision.

Sec. 8. Minnesota Statutes 2006, section 6.59, is amended to read:

6.59 CLAIM OF STATE FOR COST OF EXAMINATION, CONTEST.

On or before September ~~first~~ 1 of each year, following service of the notice, any ~~such county, city, town, or school district~~ 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 ~~such city, town, or school district~~ the political subdivision, or major part thereof, is situated, a verified statement of the state's claim, duly itemized and serve upon the auditor ~~or~~ clerk, or chief administrative officer of ~~such county, city, town, or school district~~ the political subdivision, by certified mail, a copy of such statement. ~~Such county, city, town, or school district~~ 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 ~~such city, town, or school district~~ the political subdivision is situated, the amount so determined by the court to be due to the state, if any.

Sec. 9. Minnesota Statutes 2006, section 6.60, is amended to read:

6.60 STATE AUDITOR, CERTIFICATION OF AMOUNTS DUE.

On October ~~first~~ 1 of each year, the state auditor shall certify the respective amounts due the state from the various ~~counties, cities, towns, and school districts~~ 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 ~~such city, town, or school district~~ 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 ~~county or municipality~~ 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 ~~county or municipality~~ political subdivision for general revenue purposes, the amount due the state, including interest, and remit the same to the commissioner of finance.

Sec. 10. Minnesota Statutes 2006, section 6.62, subdivision 2, is amended to read:

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 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, ~~counties, cities, and other governmental units~~ 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.

Sec. 11. Minnesota Statutes 2006, section 6.63, is amended to read:

6.63 APPLICATION.

The units of government set forth in sections ~~6.56, 6.465, 6.57, 6.59, 6.60, and 6.62~~ shall be construed, where applicable, to include, in addition to those therein specifically named, public utility commissions, public corporations, and instrumentalities.

Sec. 12. Minnesota Statutes 2006, section 6.64, is amended to read:

6.64 COOPERATION WITH PUBLIC ACCOUNTANTS; PUBLIC ACCOUNTANT DEFINED.

There shall be mutual cooperation between the state auditor and public accountants in the performance of auditing, accounting, and other related services for ~~counties, cities, towns, school districts, and other public corporations~~ political subdivisions. For the purposes of sections 6.64 to 6.71 and section 6.756, the term public accountant shall have the meaning ascribed to it in section 412.222.

Sec. 13. Minnesota Statutes 2006, section 6.65, is amended to read:

6.65 MINIMUM PROCEDURES FOR AUDITORS, PRESCRIBED.

The state auditor shall prescribe minimum procedures and the audit scope for auditing the books, records, accounts, and affairs of ~~counties and local governments~~ political subdivisions in Minnesota. The minimum scope for audits of all ~~local governments~~ political subdivisions must include financial and legal compliance audits. Audits of all school districts must include a determination of compliance with uniform financial accounting and reporting standards. The state auditor shall promulgate an audit guide for legal compliance audits, in consultation with representatives of the state auditor, the attorney general, towns, cities, counties, school districts, and private sector public accountants.

Sec. 14. Minnesota Statutes 2006, section 6.66, is amended to read:

6.66 CERTAIN PRACTICES OF PUBLIC ACCOUNTANTS AUTHORIZED.

Any public accountant may engage in the practice of auditing the books, records, accounts, and affairs of ~~counties, cities, towns, school districts, and other public~~

~~corporations which~~ political subdivisions that are not otherwise required by law to be audited exclusively by the state auditor.

Sec. 15. Minnesota Statutes 2006, section 6.67, is amended to read:

6.67 PUBLIC ACCOUNTANTS; REPORT OF EVIDENCE POINTING TO MISCONDUCT.

Whenever a public accountant in the course of auditing the books and affairs of a ~~county, city, town, school district, or other public corporations,~~ political subdivision shall discover evidence pointing to nonfeasance, misfeasance, or malfeasance, on the part of an officer or employee in the conduct of duties and affairs, the public accountant shall promptly make a report of such discovery to the state auditor and the county attorney of the county in which the ~~governmental unit~~ political subdivision is situated and the public accountant shall also furnish a copy of the report of audit upon completion to said officers. The county attorney shall act on such report in the same manner as required by law for reports made to the county attorney by the state auditor.

Sec. 16. Minnesota Statutes 2006, section 6.68, is amended to read:

6.68 STATE AUDITOR MAY ASSIST PUBLIC ACCOUNTANT IN AUDIT.

Subdivision 1. **Request to governing body.** If in an audit of a ~~county, city, town, school district, or other public corporation,~~ political subdivision a public accountant has need of the assistance of the state auditor, the accountant may obtain such assistance by requesting the governing body of the ~~governmental unit~~ political subdivision being examined to request the state auditor to perform such auditing or investigative services, or both, as the matter and the public interest require.

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 ~~governmental unit~~ 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.

Sec. 17. Minnesota Statutes 2006, section 6.70, is amended to read:

6.70 ACCESS TO REPORTS.

The state auditor and the public accountants shall have reasonable access to each other's audit reports, working papers, and audit programs concerning audits made by each of ~~counties, cities, towns, school districts, and other public corporations~~ the political subdivisions.

Sec. 18. Minnesota Statutes 2006, section 6.71, is amended to read:

6.71 SCOPE OF AUDITOR'S INVESTIGATION.

Whenever the governing body of a ~~county, city, town, or school district~~ political subdivision shall have requested a public accountant to make an audit of its books and affairs, and such audit is in progress or has been completed, and registered voters or electors petition or the governing body requests or both the state auditor to make an examination covering the same, or part of the same, period, the state auditor may, in the

public interest, limit the scope of the examination to less than that specified in section 6.54, but the scope shall cover, at least, an investigation of those complaints which are within the state auditor's powers and duties to investigate.

Sec. 19. **[6.756] SPECIAL DISTRICTS; INFORMATION REQUIRED TO BE FILED WITH STATE AUDITOR; AUDITS.**

Subdivision 1. **Governance documents must be filed.** Each special district must file with the state auditor, within 60 days of adoption, any document relating to the governance of the district, including articles of incorporation, bylaws, or agreements, and any amendment to these documents.

Subd. 2. **Audit requirements.** (a) A special district with total annual revenue greater than the threshold amount for cities under section 412.591, subdivision 3, paragraph (b), must provide for an annual audit of the district's financial affairs by the state auditor or a public accountant in accordance with minimum auditing procedures prescribed by the state auditor.

(b) A special district with total annual revenue that is equal to or less than the threshold amount for cities under section 412.591, subdivision 3, paragraph (b), must provide for an audit of the district's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor at least once every five years. The audit must be for a one-year period to be determined at random by the person conducting the audit. The audited financial statement must be prepared in a form prescribed by the state auditor similar to the reporting requirements for cities under 2,500 in population. For any year in which a special district is not audited, the district must prepare a financial statement in a form prescribed by the state auditor similar to the reporting requirements for cities reporting on a cash basis and file that statement with the state auditor.

(c) This subdivision does not apply to a special district subject to financial auditing and reporting requirements under other law.

Subd. 3. **Presentation to governing board; filing with state auditor.** Except as provided by other law, financial statements and audits must be completed, presented to the district's governing board, and filed with the state auditor within 180 days after the end of the district's fiscal year.

Sec. 20. Minnesota Statutes 2006, section 6.76, is amended to read:

6.76 LOCAL ~~GOVERNMENTAL~~ POLITICAL SUBDIVISION EXPENDITURES FOR LOBBYISTS.

(a) On or before January 31 of each year, all ~~counties, cities, school districts, metropolitan agencies, regional railroad authorities, and the Metropolitan Council~~ political subdivisions shall report to the state auditor, on forms prescribed by the auditor, their estimated expenditures paid for the previous calendar year to a lobbyist as defined in section 10A.01, subdivision 21, except payments to associations of ~~local governments~~ political subdivisions that are reported under paragraph (b), and to any staff person not registered as a lobbyist, over 25 percent of whose time is spent during the legislative session on legislative matters.

(b) Associations of ~~local governments~~ political subdivisions subject to this section shall report annually, on or before January 31, to the state auditor and the association's members the proportionate amount of each member's dues spent for lobbying purposes.

(c) For purposes of this section, "political subdivision" has the meaning given in section 6.465, but also includes a metropolitan or regional agency or a public corporation audited by the legislative auditor.

Sec. 21. Minnesota Statutes 2006, section 103D.355, is amended to read:

103D.355 ANNUAL AUDIT.

Subdivision 1. **Requirement.** The managers must have an annual audit completed of the books and accounts of the watershed district. The annual audit may be made by a private certified public accountant or by the state auditor. ~~The annual audit must be made by a certified public accountant or the state auditor at least once every five years, or when cumulative district revenues or expenditures exceed an amount established by the board in consultation with the state auditor.~~

Subd. 2. **Audit by state auditor.** (a) ~~If the annual~~ An audit ~~is to be made~~ by the state auditor, ~~the audit must~~ may be initiated by a petition of the resident owners of the watershed district or resolution of the managers of the watershed district. The petition must request an annual audit pursuant to the authority granted municipalities under sections 6.54 and 6.55. The state auditor may conduct such examinations of accounts and records as the state auditor may deem the public interest to demand.

(b) If the audit or examination is made by the state auditor, the watershed district receiving the examination must pay the state the total cost and expenses of the examination, including the salaries paid to the examiners while actually engaged in making the examination. The general fund must be credited with all collections made for examinations under this subdivision.

Subd. 3. **Reports for state auditor.** The managers must make and submit reports demanded by the state auditor.

Sec. 22. **REPEALER.**

Minnesota Statutes 2006, section 6.56, subdivision 1, is repealed.

Presented to the governor April 16, 2008

Signed by the governor April 17, 2008, 8:27 a.m.