

## Departments, Agencies

## CHAPTER 215

## PUBLIC EXAMINER

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**215.01 DEPARTMENT ESTABLISHED.** The department of the public examiner is hereby created, which shall have the duty and power to supervise all public accounts, to prescribe and install systems of accounts and reports, to inspect all records and transactions connected with the receipt, disbursement, and custody of public funds, to investigate the use and security of all public appropriations and property, to ascertain the sources and condition of the public revenue, investments, loans, and debt, and to verify the public funds and examine and report upon the condition and security thereof.

[1913 c. 555 s. 1] (3274)

**215.02 PUBLIC EXAMINER; APPOINTMENT; SALARY, BOND.** The department of the public examiner shall be under the supervision and control of the public examiner, which office is hereby created. The public examiner shall be appointed by the governor by and with the advice and consent of the senate for a six-year term and until his successor is appointed and qualifies. In case of a vacancy the governor shall appoint a successor for the remainder of the term. The term of the first public examiner shall expire February 1, 1945. The public examiner shall be a skilled accountant and shall not at any time while in office hold any other public office or own any stock or have any commercial interest in any corporation, copartnership, property, or business subject to supervision or examination by this department. He shall furnish a bond to the state in the sum of \$25,000, to be approved by the governor and the attorney general, conditioned for the faithful discharge of his duties.

[1913 c 555 s 2; 1919 c 425 s 1; 1939 c 431 art 4 s 1; 1949 c 739 s 15; 1951 c 713 s 20] (3275, 3286-8)

**215.03 AUDIT.** At least four times a year, without previous notice to the state treasurer, the public examiner shall examine and audit the accounts, books, and vouchers of the state treasurer, ascertain the amounts of the several funds which should be in the treasury, count the sums actually on hand, and make a record of the facts found. On or before the third day of each regular session the public examiner shall report to the legislature the results of such examinations and his doings in the premises. He shall also witness and attest the transfer of books, accounts, vouchers, and funds from the out-going treasurer to his successor in office, verify the official record of all redeemed bonds, certificates of indebtedness, and interest coupons issued by the state; and, from time to time, shall cause to be destroyed all such obligations which shall have been redeemed for at least one year. A notation shall be made by the treasurer in his records of all such

obligations destroyed and the public examiner shall certify to the correctness thereof. A copy of each such public examiner's certificate shall be filed with the auditor and treasurer.

[1925 c 150 s 1; 1953 c 14 s 1] (96)

**215.04 POWERS AND DUTIES OF PUBLIC EXAMINER.** The public examiner shall keep such books of account as shall be necessary to properly carry out the provisions of this chapter and formulate and prescribe for all departments a system of uniform records, accounts, statements, estimates, vouchers, bills, and demands, with suitable books of instruction covering the installation and use thereof. The accounting system and forms so prescribed shall be adopted and employed in all such departments. The public examiner shall post-audit and make a complete examination and verification of all accounts, records, inventories, vouchers, receipts, funds, securities, and other assets of all state departments, boards, commissions, and other state agencies at least once a year, if funds and personnel permit, and oftener if deemed necessary or as directed by the governor or by the legislature. Audits may include detailed checking of every transaction or test checking as the public examiner deems best. The books of the state treasurer and state auditor may be examined monthly. The public examiner shall see that all provisions of law respecting the installation and use of accounting systems, books, records, and forms are complied with by all departments and agencies of the state government.

The powers and duties of the board of audit and of the former public examiner heretofore transferred to, vested in, and imposed upon the comptroller, are hereby transferred to, vested in, and imposed upon the public examiner.

[1925 c 426 art 3 s 10; 1939 c 431 art 4 s 2, 9; 1949 c 33 s 1] (53-13, 3286-9, 3286-16)

**215.05 DUTIES AS TO STATE OFFICES, INSTITUTIONS, PROPERTIES, INDUSTRIES, AND IMPROVEMENTS.** The public examiner shall exercise a constant supervision over the books and accounts of the several public offices, institutions, properties, industries, and improvements of the state, and over the financial records and transactions of public boards, associations, and societies supported, wholly or in part, by state funds. In all offices where the records of such public affairs are kept and the finances thereof handled, he shall enforce correct methods of accountancy and, in his discretion, prescribe and install systems of accounts and financial reports. Once in each year, if funds and personnel permit, without previous notice, he shall visit each of such offices, institutions, and industries and, so far as practicable, inspect such properties and improvements, thoroughly examine the books and accounts thereof, verifying the funds, securities and other assets, check the items of receipts and disbursements with the voucher records thereof, ascertain the character of the official bonds for the officers thereof and the financial ability of the bondsmen, inspect the sources of revenue thereof, the use and disposition of state appropriations and property, investigate the methods of purchase and sale, the character of contracts on public account, enforce a proper custody and depository for the funds and securities thereof, verify the inventory of public property and other assets held in trust, and ascertain that all financial transactions and operations involving the public funds and property of the state comply with the spirit and purpose of the law and are for the best protection of the public interest.

[1913 c 555 s 3; 1949 c 33 s 2] (3276)

**215.06 TO FILE WRITTEN REPORTS.** The public examiner shall file a written report covering his audits with the department concerned, the governor, and the legislature; and, if he deems necessary, present special reports to the legislative advisory committee for its consideration and action.

Such audit reports shall set forth:

- (1) Whether all funds have been expended for the purposes authorized in the appropriations therefor;
- (2) Whether all receipts have been accounted for and paid into the state treasury as required by law;
- (3) All illegal and unbusinesslike practices, if any;
- (4) Recommendations for greater simplicity, accuracy, efficiency, and economy; and
- (5) Such other data, information, and recommendations as the public examiner may deem advisable and necessary.

[1939 c. 431 art. 4 s. 3] (3286-10)

**215.07 DUTIES WHEN VIOLATIONS ARE DISCOVERED.** If any such public examiner's examinations shall disclose malfeasance, misfeasance, or non-feasance in office on the part of any officer or employee, a copy of such report shall be signed and verified, and it shall be the duty of the public examiner to file such report with the secretary of the legislative advisory committee and the attorney general. It shall be the duty of the attorney general to institute and prosecute such civil proceedings against such delinquent officer or employee, or upon his official bond, or both, as may be appropriate to secure to the state the recovery of any funds or other assets misappropriated, and he shall cause such criminal proceedings to be instituted by the proper authorities as the evidence may warrant.

[1939 c. 431 art. 4 s. 4] (3286-11)

**215.08 INFORMATION COLLECTED FROM LOCAL GOVERNMENTS.** The public examiner, or his designated agent, shall collect annually from all city, village, county, and other local units of government, except towns, information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, borrowing, debts, principal and interest payments on debts, and such other information as may be needful. The data shall be supplied upon blanks prescribed by the public examiner and all public officials so called upon shall fill out properly and return promptly all blanks so transmitted. The public examiner, or his assistants, may examine local records in order to complete or verify the information.

[1939 c. 431 art. 4 s. 5; 1943 c. 435 s. 1] (3286-12)

**215.09 ANNUAL REPORT.** The public examiner shall make and file, annually, in his office a summary report of the information collected, with such compilations and analyses and interpretations as may be deemed helpful. Copies of such report may be made and distributed to interested persons and governmental units.

[1939 c. 431 art. 4 s. 6; 1945 c. 338 s. 1] (3286-13)

**215.10 ACCOUNTING AND BUDGETING SYSTEMS; INVESTIGATION, FORMS.** The public examiner shall inquire into the accounting and budgeting systems of all local units of government 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 the public examiner may install such systems. The public examiner 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.

[1939 c. 431 art 4 s 7; 1953 c 319 s 2] (3286-14)

**215.11 EXAMINATION OF COUNTIES, FEES.** All the powers and duties conferred and imposed upon the public examiner shall be exercised and performed by him in respect to the offices, institutions, public property, and improvements of several counties of the state. At least once in each year, if funds and personnel permit, the public examiner shall visit, without previous notice, each county and make a thorough examination of all accounts and records relating to the receipt and disbursement of the public funds and the custody of the public funds and other property. He shall prescribe and install systems of accounts and financial reports that shall be uniform, so far as practicable, for the same class of offices. A copy of the report of such examination shall be filed and be subject to public inspection in the office of the public examiner and another copy in the office of the auditor of the county thus examined. The public examiner may accept the records and audit, or any part thereof, of the division of social welfare in lieu of his examination of the county social welfare funds, if such audit has been made within any period covered by the public examiner's audit of the other records of the county. If any such examination shall disclose malfeasance, misfeasance, or non-feasance in any office of such county, such report shall be filed with the county attorney of the county, and it shall be his duty to institute such civil and criminal proceedings as the law and the protection of the public interests shall require.

The county receiving such examination shall pay to the state the total cost and expenses of such examination, including the salaries paid to the examiners while actually engaged in making such examination. The public examiner if he deems it advisable may bill counties, having a population of 200,000 or over, monthly for

services rendered and the officials responsible for approving and paying claims shall cause said bill to be promptly paid. The revolving fund of the public examiner shall be credited with all collections made for any such examinations.

[1913 c 555 s 5; 1931 c 125 s 1; 1931 c 246 s 1; 1945 c 392 s 1; 1949 c 33 s 3; 1951 c 57 s 1] (3278)

**215.12 CITIES OF FIRST CLASS.** All powers and duties conferred and imposed upon the public examiner with respect to state and county officers, institutions, property, and improvements are hereby extended to cities of the first class. Copies of the written report of the public examiner on the financial condition and accounts of such city shall be filed in his office, with the mayor, city council, and city comptroller thereof, and with the city commissioners, if such city have such officers. If such report disclose malfeasance, misfeasance, or non-feasance in office, copies thereof shall be filed with the city attorney thereof and with the county attorney of the county in which such city is located, and these officials of the law shall institute such proceedings, civil or criminal, as the law and the public interest require.

The public examiner if he deems it advisable may bill said cities monthly for services rendered and the officials responsible for approving and paying claims shall cause said bill to be promptly paid.

[1913 c 555 s 6; 1949 c 206 s 1] (3279)

**215.13 CITIES OF SECOND, THIRD, OR FOURTH CLASS.** The public examiner shall have like power and duty to supervise the accounts of all cities not included in section 215.12. He shall have the authority to require, in his discretion, the financial officers of any city not included in section 215.12 to send all books, accounts, and vouchers pertaining to the receipt, disbursement, and custody of its public funds to the office of the public examiner for examination. He may prescribe and install for such cities systems of accounts and reports, which shall be uniform for each class of cities and offices. He may conduct such examinations of accounts and records as he may deem the public interest to demand.

The report of such examination shall be filed with the mayor and city council or commission; and, in case of any violation of law, it shall be prosecuted, as provided in section 215.12 with respect to the examination of cities of the first class.

[1913 c 555 s 7; 1949 c 33 s 4; 1951 c 186 s 1] (3280)

**215.14 SCHOOL DISTRICTS, TOWNS, AND VILLAGES.** All powers and duties of the public examiner herein imposed and conferred with respect to the supervision, inspection, and examination of books and accounts of cities in section 215.13 are herewith extended to all school districts, towns, and villages of this state. A copy of the report of such examination shall be filed, subject to public inspection, with the clerk of the town, village, or school district receiving such examination, and an additional copy with the county auditor. If such report disclose malfeasance, misfeasance, or non-feasance in office, the public examiner shall file such copy with the county attorney of the county in which such school district, town, or village is located, and the county attorney shall institute such proceedings as the law and the public interest require.

[1913 c. 555 s. 8] (3281)

**215.15** [Renumbered 270.083]

**215.16 TESTIMONIAL POWERS.** In all matters relating to his official duties, the public examiner shall have the powers possessed by courts of law to issue subpoenas and cause them to be served and enforced. All state and county auditors, treasurers, and other public officials, and their respective deputies and employees, all officers, directors, and employees of all railway and other companies required by law to pay taxes to the state upon a gross earnings basis, and all persons having dealings with or knowledge of the affairs or methods of such companies, and likewise all corporations, firms, and individuals having business involving the receipt, disbursement, or custody of the public funds shall at all times afford reasonable facilities for such examinations, make such returns and reports to the public examiner as he may require, attend and answer under oath his lawful inquiries, produce and exhibit such books, accounts, documents, and property as he may desire to inspect, and in all things aid him in the performance of his duties.

[1913 c. 555 s. 10] (3283)

**215.17 REFUSAL TO ASSIST; PENALTY.** Every person who shall refuse or neglect to obey any lawful direction of the public examiner, or his deputy or any of his assistants; withhold any information, book, record, paper, or other thing called for by him for the purpose of examination; wilfully obstruct or mislead him in the execution of his duties; or swear falsely concerning any matter stated under oath, shall be guilty of a felony, the minimum penalty whereof shall be a fine of \$1,000, or imprisonment in the state prison for one year.

[1913 c. 555 s. 11] (3284)

**215.18 ASSISTANTS; BONDS.** For the exercise of the powers and performance of the duties imposed and conferred upon him, the public examiner may appoint, and at pleasure remove, a deputy examiner, assistant public examiners, an executive clerk, and such other employees as may be necessary for whom provision is made by law. Such deputy and assistant examiners shall each give bond to the state in the sum of \$5,000. During the absence or disability of the public examiner, the deputy examiner shall perform the duties of the office. The duties of the assistants and other employees shall be such as the examiner may prescribe, and any of them may be assigned to perform any special duty imposed by this chapter upon the examiner or his deputy. In such cases the assistant may exercise all the powers of his principal necessary to the proper discharge of such duty. The salaries of the public examiner and his appointees, as above enumerated, shall be such as are fixed by law. The salaries of the several other employees subject to appointment by the public examiner shall be such sums as the examiner may prescribe; and, together with the expenses of the examiner and his deputy and assistants and other employees, necessarily incurred in the discharge of their duties and in the administration of the office, shall be paid out of the contingent fund provided for such office; and such salaries and expenses shall not exceed the aggregate sums appropriated and allowed therefor by law.

[1913 c. 555 s. 13; 1919 c. 425 s. 2] (3286)

**215.19 EXAMINATION OF MUNICIPAL RECORDS PURSUANT TO PETITION BY FREEHOLDERS.** The freeholders of any city, borough, village, or town may petition the public examiner to examine the books, records, accounts, and affairs of any such city, borough, village or town and the scope of the examination may be limited by the petition, but such examination shall cover, at least, all cash received and disbursed and the transactions relating thereto, provided that the public examiner shall not examine more than the six latest years preceding the circulation of the petition, unless it appears to the public examiner during his 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 him 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. When the population of any such city, borough, village, or town is not more than 2,000, the petition shall be signed by at least six freeholders for each 100 inhabitants; when the population thereof is over 2,000 the petition shall be signed by at least four freeholders for each 100 inhabitants. Likewise, the freeholders of any school district may petition the public examiner in the same manner and he 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 freeholders for each 50 pupils in average daily attendance during the preceding school year as shown on the records in the office of the county superintendent of schools. In no case shall the petition for an examination of a town bear the names of less than 25 freeholders; and in the case of a city, borough, or village having a population over 2,000 said petition shall be signed by not less than 120 freeholders; and provided, that in the case of school districts and all other cities, villages, and boroughs, said petition shall be signed by at least ten freeholders. At the time it is circulated, every petition shall contain a statement that the cost of the audit will be borne by the city, village, borough, town, or school district as provided by law. Before such petition is delivered to the public examiner it shall be presented to the auditor of the county in which such city, borough, town, village, or school district is situated, who shall determine whether such petition is signed by the required number of freeholders and shall certify such

fact thereon, and such 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 such petition.

[1929 c 259 s 1; 1937 c 415 s 1; 1951 c 185 s 1; 1953 c 689 s 1] (3286-1)

**215.20 EXAMINATION OF RECORDS PURSUANT TO RESOLUTION OF GOVERNING BODY.** The governing body of any city, borough, village, town, county or school district, by appropriate resolution may ask the public examiner to examine the books, records, accounts and affairs of their government, and the public examiner 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 members of any public utility commission 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 of such city, borough, village, town or school district, before being presented to the public examiner, 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 proceeding 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 public examiner, shall be so construed as to prevent any city, borough, village, town or school district from employing a certified public accountant to examine its books, records, accounts and affairs.

[1929 c 259 s 2; 1943 c 188 s 1; 1953 c 689 s 2] (3286-2)

**215.21 EXAMINATION, PAYMENT OF COST.** Upon the examination of the books, records, accounts, and affairs of any city, village, town, or school district, as provided by law, such city, village, town, or school district 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 public examiner if he deems it advisable may bill such city, village, town, or school district monthly for services 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 revolving fund of the public examiner shall be credited with all collections made for any such examinations.

[1929 c 259 s 3; 1949 c 33 s 5; 1951 c 187 s 1] (3286-3)

**215.22 COLLECTION FOR EXAMINATION.** On July first, of each year, the state treasurer shall certify to the state auditor all uncollected drafts for the examination of any city, village, town, or school district which have remained unpaid for a period of three months from the date of such draft. Upon receipt of such list the auditor shall forthwith notify the clerk, or recording officer, of each city, village, town, or school district against which the state has a claim that, if the same is not paid, with interest from the date of the draft, within 90 days, the full amount thereof will be certified to the auditor for the county or counties in which such city, village, town, or school district is situated, for collection by special tax levy, as herein provided. Such notice shall be served by registered mail and the deposit thereof in the United States mail shall constitute due and legal service thereof upon the city, village, town, or school district.

[1929 c 259 s 4] (3286-4)

**215.225 REVOLVING FUND.** The revolving fund established by Laws 1947, Chapter 634, Section 24, shall be used to employ personnel and pay other expenses for reimbursable examinations only. All receipts from such examinations shall be deposited in the fund and are hereby reappropriated to that purpose. Notwithstanding any law to the contrary, the public examiner is directed to adjust his schedule of charges for such examinations to provide that such charges shall be sufficient to cover all costs of such examinations and that the aggregate charges collected shall be sufficient to pay all salaries and other expenses connected with such reimbursable examinations. The public examiner shall review and adjust the

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schedule of charges for such examinations at the end of each six months and have all schedules of charges approved by the commissioner of administration before they are adopted so as to insure that the amount collected shall be sufficient to pay all the salaries and expenses connected with such examinations during the fiscal year and that the unobligated balance, including accounts receivable, in the revolving fund at the end of each fiscal year shall not be less than \$100,000. The unobligated balance in the revolving fund in excess of said \$100,000, as of June 30 of each fiscal year, shall be canceled into the general revenue fund.

[1947 c 634 s 24]

**215.23 MUNICIPALITIES MAY CONTEST CLAIM.** On or before September first following service of the notice, any such city, village, town, or school district may serve notice, in writing, upon the attorney general that it desires to contest the legality of the state's claim, whereupon such claim shall be withdrawn from the state auditor, and the attorney general shall forthwith file with the clerk of the district court of the county in which such city, village, town, or school district, or major part thereof, is situated, a verified statement of the state's claim, duly itemized, and serve upon the clerk of such city, village, town, or school district, by registered mail, a copy of such statement. Such city, village, town, or school district may file with the clerk 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 clerk of court shall certify to the auditor of the county or counties in which such city, village, town, or school district is situated, the amount so determined by the court to be due to the state, if any.

[1929 c. 259 s. 5] (3286-5)

**215.24 STATE AUDITOR TO CERTIFY AMOUNT DUE.** On October first, of each year, the state auditor shall certify the respective amounts due the state from the various cities, villages, towns, and school districts, as shown by the list so filed by the treasurer, and not withdrawn therefrom, including interest computed to July first, following, to the auditor of the county in which any such city, village, town, or school district is, in whole or in part, situated. The county auditor, upon receiving a certificate from the state auditor, or a certificate from the clerk of court, as provided in section 215.23, shall include the amount of the state's claim, with 25 per cent added, in the tax levy for general revenue purposes of the municipality 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 municipality for general revenue purposes, the amount due the state, including interest, and remit the same to the state treasurer.

[1929 c. 259 s. 6] (3286-6)

**215.25 SUBJECT TO PRIOR ENACTMENT OF LAWS.** Subject to the provisions of Laws 1939, Chapter 431, the public examiner shall have and exercise all the rights, powers, and duties conferred upon the former public examiner by Mason's Minnesota Statutes of 1927, Sections 3274, 3275, 3276, 3277, 3279, 3280, 3281, 3282, 3283, 3284, and 3286, and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 3278, 3286-1, 3286-2, 3286-3, 3286-4, 3286-5, 3286-6, and 3286-7, and acts amendatory thereof or supplementary thereto, and all the provisions thereof shall apply to and govern all matters therein specified respecting the office and department of the public examiner, except that any limitations therein contained as to the number of employees to be appointed by the public examiner shall not apply. The public examiner shall account separately for all of the charges, receipts, and disbursements of the department of the public examiner pertaining to the examining and auditing of all school districts, towns, cities, villages, and boroughs for which charges are made, and after allocating to the expense thereof a proper pro-rata share of the administrative expense, such functions of the department of the public examiner shall be sustained, so far as practicable, by the funds collected therefor from such political subdivisions as otherwise provided by law.

[1939 c. 431 art. 4 s. 8] (3286-15)

**215.26 POST AUDIT; TAX LEVY.** Subdivision 1. **Levy of tax.** Counties, cities, villages, towns, and school districts are authorized, if necessary, to levy, over and above tax levy limitations for other governmental purposes, an amount sufficient to pay the expense of a post audit by the public examiner.

Subd. 2. **Cost of post-audit.** The amount of said levy shall be the amount of the claim or claims submitted by the public examiner for such services or his estimate of the entire cost, and said amount shall be certified by the governing body, after the audit has been commenced, to the county auditor, along with amounts requested for other governmental purposes. Provided, however, counties, cities, and other governmental units 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 public examiner.

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

[1951 c 189 s 1; 1953 c 338 s 1]