

CHAPTER 6

STATE AUDITOR

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6.01 DUTIES, SEAL.

The state auditor shall superintend and manage the fiscal concerns of the state as required by law. The state auditor may execute in behalf of the state assignments and satisfactions of judgments rendered in its favor. The state auditor shall have a seal bearing the words "Seal of the Auditor of Minnesota" and affix it to all official certificates and conveyances executed by the state auditor.

History: (65) *RL s 33; 1955 c 863 s 1; 1986 c 444*

6.02 DEPUTIES, EMPLOYEES.

The state auditor shall appoint a deputy, who may perform all the duties of the office when the auditor is absent or disabled. The state auditor may employ and at pleasure dismiss two additional deputies and a private secretary. This section does not increase the complement of the state auditor.

History: (66) *RL s 34; 1955 c 863 s 2; 1986 c 444; 1992 c 592 s 1*

6.03 [Renumbered 16A.40]

6.04 [Renumbered 16A.41]

6.05 [Renumbered 16A.42]

6.06 [Renumbered 16A.43]

6.07 [Repealed, 1955 c 863 s 22]

- 6.08 [Renumbered 16A.44]
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- 6.10 [Renumbered 16A.45]
- 6.11 [Renumbered 16A.46]
- 6.12 [Renumbered 16A.47]
- 6.13 [Repealed, 1955 c 863 s 22]
- 6.135 [Repealed, 1947 c 416 s 3]
- 6.136 [Renumbered 16A.48]
- 6.137 [Renumbered 16A.49]
- 6.14 [Repealed, 1955 c 863 s 22]
- 6.15 [Repealed, 1955 c 863 s 22]
- 6.16 [Repealed, 1955 c 863 s 22]
- 6.17 [Repealed, 1955 c 863 s 22]
- 6.18 [Renumbered 16A.50]
- 6.19 [Renumbered 16A.51]
- 6.20 [Renumbered 16A.36]
- 6.21 [Renumbered 16A.055]
- 6.211 [Renumbered 16A.52]
- 6.212 [Renumbered 16A.53]
- 6.213 [Renumbered 16A.54]
- 6.214 [Renumbered 16A.55]
- 6.215 [Obsolete]
- 6.22 [Renumbered 16A.56]
- 6.23 [Renumbered 16A.57]
- 6.24 [Renumbered 16A.58]
- 6.25 [Renumbered 16A.59]
- 6.26 [Repealed, 1996 c 310 s 1]
- 6.27 [Repealed, 1955 c 863 s 22]
- 6.28 [Renumbered 16A.60]
- 6.29 [Renumbered 16A.61]
- 6.291 [Renumbered 16A.62]
- 6.30 [Renumbered 16A.63]
- 6.31 [Renumbered 16A.64]
- 6.32 [Repealed, 1969 c 399 s 51]
- 6.321 [Repealed, 1969 c 399 s 51]
- 6.33 [Renumbered 16A.65]

6.34 [Renumbered 16A.66]

6.35 [Renumbered 16A.67]

6.40 [Renumbered 16A.68]

6.42 [Renumbered 16A.69]

6.43 [Renumbered 16A.70]

6.44 [Renumbered 16A.71]

6.45 [Renumbered 16A.72]

6.46 TRANSFER OF POWERS OF PUBLIC EXAMINER TO STATE AUDITOR.

Except as otherwise provided for in Laws 1973, chapter 492, relating to the legislative auditor, all the powers, duties and responsibilities of the public examiner relating to audits of cities of all classes, counties, towns, school districts, and other governmental subdivisions or bodies corporate and politic as contained in sections 6.47 to 6.71, or any other law are hereby transferred to, vested in, and imposed upon the state auditor.

History: 1973 c 123 art 5 s 7; 1973 c 492 s 7

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 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 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.

History: (3286-14) 1939 c 431 art 4 s 7; 1953 c 319 s 2; 1973 c 492 s 14

6.48 EXAMINATION OF COUNTIES; COST, FEES.

All the powers and duties conferred and imposed upon the state auditor shall be exercised and performed by the state auditor 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 state auditor may 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. If the audit is performed by a private certified public accountant, the state auditor may require additional information from the private certified public accountant as the state auditor deems in the public interest. The state auditor may accept the audit or make additional examinations as the state auditor deems to be in the public interest. The state auditor 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 state auditor and another copy in the office of the auditor of the county thus examined. The state auditor may accept the records and audit, or any part thereof, of the Department of Human Services in lieu of examination of the county social welfare funds, if such audit has been made within any period covered by the state auditor's audit of the other records of the county. If any such examination shall disclose malfeasance, misfeasance, or nonfeasance in any office of such county, such report shall be filed with the county attorney of the county, and the county attorney shall institute such civil and criminal proceedings as the law and the protection of the public interests shall require.

The county receiving any examination shall pay to the state general fund, notwithstanding the provisions of section 16A.125, the total cost and expenses of such examinations, including the salaries paid to the examiners while actually engaged in making such examina-

tion. The state auditor on deeming 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 general fund shall be credited with all collections made for any such examinations.

History: (3278) 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; 1953 c 593 s 2; 1955 c 441 s 1; 1969 c 1129 art 10 s 2; 1973 c 492 s 14; 1984 c 654 art 5 s 58; 1986 c 444; 1989 c 335 art 4 s 2; 2001 c 185 s 1; 1Sp2003 c 1 art 2 s 4

6.49 CITIES OF FIRST CLASS.

All powers and duties conferred and imposed upon the state auditor 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 state auditor on the financial condition and accounts of such city shall be filed in the state auditor's 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 nonfeasance 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 state auditor shall bill said cities monthly for services rendered, including any examination, and the officials responsible for approving and paying claims shall cause said bill to be promptly paid.

History: (3279) 1913 c 555 s 6; 1949 c 206 s 1; 1973 c 492 s 14; 1986 c 444; 1Sp2003 c 1 art 2 s 5

6.495 EXAMINATION OF FIRE AND POLICE RELIEF ASSOCIATIONS.

Subdivision 1. **Audit and examinations.** All powers and duties conferred and imposed upon the state auditor with respect to state, county, and first-class city officers, institutions, and property are hereby extended to the various fire and police relief associations in the state. The state auditor shall annually audit the special and general funds of the relief association or, at the request of the board of trustees or the municipality, the state auditor may contract for an annual audit by a certified public accountant. The state auditor may determine that an annual audit is not necessary, in which case the state auditor shall develop a plan for examination of unaudited relief associations, and shall prescribe suitable systems of accounts and budgeting, and forms, books, and instructions concerning the same.

Copies of the written report of the state auditor on the financial condition and accounts of the relief association shall be filed with the board of trustees of the relief association and the governing body of the municipality associated with the relief association. If the report discloses malfeasance, misfeasance, or nonfeasance with regard to relief association funds, copies thereof shall be filed with the city attorney or county attorney in the city or county in which the relief association is located, and these officials of the law shall institute proceedings, civil or criminal, as the law and public interest require.

Subd. 2. [Repealed, 1987 c 404 s 191]

Subd. 3. **Report to commissioner of revenue.** The state auditor shall file with the commissioner of revenue a financial compliance report certifying for each relief association:

- (1) the completion of the annual financial report required pursuant to section 69.051 and the auditing or certification of those financial reports pursuant to subdivision 1; and
- (2) the receipt of any actuarial valuations required pursuant to section 69.77 or 69.773.

History: 1986 c 359 s 2

6.50 CITIES OF SECOND, THIRD, OR FOURTH CLASS.

The state auditor shall have like power and duty to supervise the accounts of all cities not included in section 6.49. The state auditor may require the financial officers of any city

not included in section 6.49 to send all books, accounts, and vouchers pertaining to the receipt, disbursement, and custody of its public funds to the Office of the State Auditor for examination. The state auditor may prescribe and install for such cities systems of accounts and reports, which shall be uniform for each class of cities and offices. The state auditor may conduct such examinations of accounts and records as the state auditor 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, such report shall be filed with the city attorney thereof and with the county attorney of the county in which the administrative offices of such city are located, and these officials of the law shall institute such proceedings as the law and the public interest require.

History: (3280) 1913 c 555 s 7; 1949 c 33 s 4; 1951 c 186 s 1; 1961 c 586 s 2; 1973 c 492 s 14; 1986 c 444

6.51 SCHOOL DISTRICTS, TOWNS, AND STATUTORY CITIES.

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 of this state. A copy of the report of such examination shall be filed, subject to public inspection, with the clerk of the town, statutory city, or school district 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 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 are located, and the county attorney shall institute such proceedings as the law and the public interest require.

History: (3281) 1913 c 555 s 8; 1961 c 586 s 3; 1973 c 123 art 5 s 7; 1973 c 492 s 14

6.515 AUDIT OF FEDERAL MONEY.

The state auditor, in respect to any political subdivision subject to the state auditor's audit jurisdiction provided by this chapter, is empowered to examine all accounts and records of the subdivision relating to funds consisting in whole or part of money received from the federal government or any agency thereof.

History: 1977 c 447 art 7 s 1; 1986 c 444

6.52 TESTIMONIAL POWERS.

In all matters relating to official duties, the state auditor 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 state auditor as required, attend and answer under oath the auditor's lawful inquiries, produce and exhibit such books, accounts, documents, and property as the auditor may desire to inspect, and in all things aid the auditor in the performance of duties.

History: (3283) 1913 c 555 s 10; 1973 c 492 s 14; 1986 c 444

6.53 REFUSAL TO ASSIST; PENALTY.

Every person who shall refuse or neglect to obey any lawful direction of the state auditor, or the auditor's deputy or assistants; withhold any information, book, record, paper, or

other thing called for by the auditor for the purpose of examination; willfully obstruct or mislead the auditor in the execution of 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 \$3,000, or imprisonment in the Minnesota Correctional Facility—Stillwater for one year.

History: (3284) 1913 c 555 s 11; 1973 c 492 s 14; 1979 c 102 s 13; 1984 c 628 art 3 s 11; 1986 c 444

6.54 EXAMINATION OF COUNTY AND MUNICIPAL RECORDS PURSUANT TO PETITION.

The registered voters in a county or home rule charter or statutory city 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, 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, 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. 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. 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 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 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.

History: (3286-1) 1929 c 259 s 1; 1937 c 415 s 1; 1951 c 185 s 1; 1953 c 689 s 1; 1959 c 518 s 1; 1973 c 71 s 1; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1979 c 82 s 1; 1983 c 314 art 7 s 2; 1984 c 562 s 1; 1987 c 266 art 2 s 1; 1Sp1995 c 3 art 16 s 13; 2003 c 130 s 12; 1Sp2003 c 1 art 2 s 6

6.55 EXAMINATION OF RECORDS PURSUANT TO RESOLUTION OF GOVERNING BODY.

The governing body of any city, town, county or school district, 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, or of any instrumentality joint or several of any city, town, county, or school district, 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, town, county, school district, public utility commission, public corporation, or instrumentality, before be-

ing 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 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.

History: (3286-2) 1929 c 259 s 2; 1943 c 188 s 1; 1953 c 689 s 2; 1959 c 518 s 2; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1984 c 562 s 2; 1Sp2003 c 1 art 2 s 7

6.551 EXAMINATION OF GRANTEES AND CONTRACTORS OF LOCAL GOVERNMENTS.

The state auditor may examine the books, records, documents, and accounting procedures and practices of a contractor or grantee of a local government 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.

History: 1993 c 315 s 1; 1998 c 386 art 2 s 7

6.552 AUDIT OF COUNTY OR MUNICIPAL HOSPITALS AND COUNTY NURSING HOMES.

Subdivision 1. **Hospitals.** Notwithstanding the provisions of any law to the contrary, any county or municipal hospital board may employ a certified public accountant to annually audit and examine the books of said hospital. The report of such examination or audit by such certified public accountant shall be submitted to the state auditor who shall review such audit report and may accept such audit or make such additional examinations as the state auditor deems to be in the public interest.

Subd. 2. **Nursing homes.** Notwithstanding the provisions of any law to the contrary, any county nursing home board may employ a certified public accountant to annually audit and examine the books of the nursing home. The report of the examination or audit by the certified public accountant must be submitted to the state auditor. The state auditor shall review the audit report and may accept the audit or make additional examinations as the state auditor deems to be in the public interest.

History: 1974 c 489 s 1; 1986 c 444; 2003 c 53 s 1

6.56 COST OF EXAMINATION, PAYMENT.

Subdivision 1. **Definition.** As used in this section, "political subdivision" means any county, home rule charter or statutory city, town, school district, metropolitan or regional agency, or other special purpose district of the state of Minnesota.

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 monthly 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 general 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.

History: (3286-3) 1929 c 259 s 3; 1949 c 33 s 5; 1951 c 187 s 1; 1955 c 870 s 1; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1986 c 444; 1989 c 335 art 4 s 3; 1993 c 315 s 2

6.57 COST OF EXAMINATION, COLLECTION.

On July first, of each year, the state auditor shall certify all uncollected claims for the examination of any county, city, town, or school district which 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, of each county, city, town, or school district 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 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.

History: (3286-4) 1929 c 259 s 4; 1955 c 870 s 1; 1969 c 359 s 2; 1973 c 123 art 5 s 7; 1974 c 406 s 42; 1978 c 674 s 60

6.58 GENERAL FUND.

The general fund shall be used to provide personnel, pay other expenses, and for the acquisition of equipment used in connection with reimbursable examinations and other duties pursuant to law. When full-time personnel are not available, the state auditor may contract with private persons, firms, or corporations for accounting and other technical services. Notwithstanding any law to the contrary, the acquisition of equipment may include duplicating equipment to be used in producing the reports issued by the department. All receipts from such reimbursable examinations shall be deposited in the general fund. The state auditor is directed to adjust the 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 including charges for the use of the equipment used in connection with such reimbursable examinations and including the cost of contracting for accounting and other technical services. The schedule of charges shall be based upon an estimate of the cost of performing reimbursable examinations 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 such examinations at least annually and have all schedules of charges ap-

proved by the commissioner of finance before they are adopted so as to ensure that the amount collected shall be sufficient to pay all the costs connected with such examinations during the fiscal year.

History: 1947 c 634 s 24; 1959 c 518 s 4; 1969 c 399 s 49; 1974 c 149 s 1; 1978 c 674 s 1; 1980 c 431 s 1; 1986 c 444; 1989 c 335 art 4 s 4

6.582 PERSONNEL PLAN.

Notwithstanding any law to the contrary, the state auditor shall develop and implement for nonclerical positions in the Office of the State Auditor a personnel recruitment and hiring plan. The plan shall be approved by the commissioner of employee relations before becoming effective.

History: 1980 c 431 s 2; 1982 c 560 s 2

6.59 CLAIM OF STATE FOR COST OF EXAMINATION, CONTEST.

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

History: (3286-5) 1929 c 259 s 5; 1955 c 870 s 1; 1969 c 359 s 3; 1973 c 123 art 5 s 7; 1978 c 674 s 60; 1Sp1986 c 3 art 1 s 82

6.60 STATE AUDITOR, CERTIFICATION OF AMOUNTS DUE.

On October first, of each year, the state auditor shall certify the respective amounts due the state from the various counties, cities, towns, and school districts, 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 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 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 for general revenue purposes, the amount due the state, including interest, and remit the same to the commissioner of finance.

History: (3286-6) 1929 c 259 s 6; 1955 c 870 s 1; 1969 c 359 s 4; 1973 c 123 art 5 s 7; 1974 c 406 s 43; 1Sp1986 c 3 art 1 s 82; 2003 c 112 art 2 s 50

6.61 SUBJECT TO PRIOR ENACTMENT OF LAWS.

Subject to the provisions of Laws 1939, chapter 431, the state auditor 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, sec-

tions 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 State Auditor, except that any limitations therein contained as to the number of employees to be appointed by the state auditor shall not apply. The state auditor shall account separately for all of the charges, receipts, and disbursements of the Department of the State Auditor pertaining to the examining and auditing of all school districts, towns and cities 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 State Auditor shall be sustained, so far as practicable, by the funds collected therefor from such political subdivisions as otherwise provided by law.

History: (3286-15) 1939 c 431 art 4 s 8; 1973 c 123 art 5 s 7; 1973 c 492 s 14

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 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 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.

History: 1951 c 189 s 1; 1953 c 338 s 1; 1959 c 518 s 5; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1978 c 764 s 1; 1983 c 314 art 7 s 3; 1986 c 444; 1Sp1989 c 1 art 5 s 1; 1Sp1995 c 3 art 1 s 1

6.63 APPLICATION.

The units of government set forth in sections 6.56, 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.

History: 1959 c 518 s 3

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. For the purposes of sections 6.64 to 6.71 the term public accountant shall have the meaning ascribed to it in section 412.222.

History: 1957 c 631 s 1; 1961 c 560 s 18; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1Sp2003 c 1 art 2 s 8

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 in Minnesota.

The minimum scope for audits of all local governments 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.

History: 1957 c 631 s 2; 1973 c 492 s 14; 1983 c 301 s 62; 1988 c 629 s 6; 1989 c 67 s 1; 1990 c 562 art 8 s 1; 1993 c 224 art 14 s 1; 2001 c 161 s 1; 1Sp2003 c 1 art 2 s 9

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 are not otherwise required by law to be audited exclusively by the state auditor.

History: 1957 c 631 s 3; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1Sp2003 c 1 art 2 s 10

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, 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 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.

History: 1957 c 631 s 4; 1959 c 518 s 6; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1986 c 444; 1Sp2003 c 1 art 2 s 11

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, 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 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 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.

History: 1957 c 631 s 5; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1986 c 444; 1Sp2003 c 1 art 2 s 12

6.69 INFORMATION FURNISHED PUBLIC ACCOUNTANT BY STATE AUDITOR.

Subdivision 1. **Governmental accounting information.** The state auditor, whenever time and facilities permit, shall furnish information to public accountants, when requested by them to do so, concerning governmental accounting and auditing principles, practices, and procedures, and other related matters.

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.

History: 1957 c 631 s 6; 1973 c 492 s 14

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.

History: 1957 c 631 s 7; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1Sp2003 c 1 art 2 s 13

6.71 SCOPE OF AUDITOR'S INVESTIGATION.

Whenever the governing body of a county, city, town, or school district 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.

History: 1957 c 631 s 8; 1959 c 518 s 7; 1973 c 123 art 5 s 7; 1973 c 492 s 14; 1986 c 444; 1Sp2003 c 1 art 2 s 14

6.715 CLASSIFICATION OF STATE AUDITOR'S DATA.

Subdivision 1. **Definitions.** (a) For purposes of this section, "audit" means an examination, financial audit, compliance audit, or investigation performed by the state auditor.

(b) The definitions in section 13.02 apply to this section.

Subd. 2. **Classification.** Data relating to an audit are protected nonpublic data or confidential data on individuals, until the final report of the audit has been published or the audit is no longer being actively pursued. Data that support the conclusions of the report and that the state auditor reasonably believes will result in litigation are protected nonpublic data or confidential data on individuals, until the litigation has been completed or is no longer being actively pursued. Data on individuals that could reasonably be used to determine the identity of an individual supplying data for an audit are private if the data supplied by the individual were needed for an audit and the individual would not have provided the data to the state auditor without an assurance that the individual's identity would remain private, or the state auditor reasonably believes that the subject would not have provided the data. Data that could reasonably be used to determine the identity of an individual supplying data pursuant to section 609.456 are private.

Subd. 3. **Law enforcement.** Notwithstanding any provision to the contrary in subdivision 2, chapter 13, or any other statute related to the classification of government data, the state auditor may share data relating to an audit with appropriate law enforcement agencies, including data classified as not public.

Subd. 4. **Access to data.** It is not a violation of chapter 13 or any other statute related to the classification of government data for a state agency, statewide system, or political subdivision, as defined in section 13.02, to provide data or information to the state auditor, including data classified as not public, for the purpose of an audit or pursuant to section 609.456, subdivision 1.

History: 1993 c 351 s 1; 2002 c 352 s 1,2

6.72 STATE AUDITOR; REPORT TO LEGISLATURE ON VOLUNTEER FIRE-FIGHTERS' RELIEF ASSOCIATIONS.

Subdivision 1. **Reporting requirements.** (a) Annually, the state auditor shall report to the legislature on the general financial condition of the various volunteer firefighters' relief associations in the state as of December 31 of the year preceding the filing of the report.

(b) Two copies of the report shall be filed with the executive director of the Legislative Commission on Pensions and Retirement and ten copies of the report shall be filed with the director of the Legislative Reference Library.

Subd. 2. **Contents of report.** The report must include for all volunteer firefighters' relief associations directly associated with the municipal fire departments and all volunteer firefighters' relief associations subsidiary to independent nonprofit firefighting corporations, the following:

- (1) amount of accrued liability,
- (2) amount of the assets of the special fund,
- (3) amount of surplus or unfunded accrued liability,
- (4) funding ratio,
- (5) amount of annual accruing liability or normal cost,
- (6) amount of annual required contribution to amortize the unfunded accrued liability,
- (7) amount of total required contribution,
- (8) amount of fire state aid and supplemental fire state aid,
- (9) amount of any municipal contributions,
- (10) amount of administrative expenses,
- (11) amount of service pension disbursements,
- (12) amount of other retirement benefit disbursements,
- (13) number of active members,
- (14) number of retired members,
- (15) number of deferred members,
- (16) amount of fidelity bond of secretary and treasurer,
- (17) amount of lump sum or monthly service pension accrued per year of service credit,
- (18) minimum retirement age required for commencement of a service pension,
- (19) minimum years of active service credit required for commencement of service pension,
- (20) minimum years of active membership credit required for commencement of service pension, and
- (21) type and amount of other retirement benefits.

Subd. 3. **Report format.** The report required by this section must be organized in a manner that the state auditor determines to provide fair representation of the condition of the various volunteer firefighters' relief associations.

History: 1979 c 201 s 20; 1986 c 359 s 3,26; 2006 c 271 art 13 s 1

6.74 INFORMATION COLLECTED FROM LOCAL GOVERNMENTS.

The state auditor, or a designated agent, shall collect annually from all city, county, and other local units of government, 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 forms prescribed by the state auditor, and all public officials so called upon shall fill out properly and return promptly all forms so transmitted. The state auditor or assistants, may examine local records in order to complete or verify the information.

History: (3286-12) 1939 c 431 art 4 s 5; 1943 c 435 s 1; 1973 c 123 art 5 s 7; 1973 c 492 s 31; 1986 c 444; 1999 c 99 s 5; 1Sp2003 c 1 art 2 s 15

6.745 SUMMARY BUDGET DATA TO STATE AUDITOR.

Subdivision 1. **Cities.** Annually, upon adoption of the city budget, the city council of each home rule charter or statutory city shall forward summary budget information to the Office of the State Auditor. The summary budget information shall be provided on forms prescribed by the state auditor. The Office of the State Auditor shall work with representatives of city government to develop a budget reporting form that conforms with city budgeting prac-

tics and provides the necessary summary budget information to the Office of the State Auditor. The summary budget data must include separately any net unrealized gains or losses from investments. The summary budget data shall be provided to the Office of the State Auditor no later than January 31 of each budget year.

Subd. 2. **Counties.** Annually, upon adoption of the county budget, the county board shall forward summary budget information to the Office of the State Auditor. The summary budget information shall be provided on forms prescribed by the state auditor. The Office of the State Auditor shall work with representatives of county government to develop a budget reporting form that conforms with county budgeting practices and provides the necessary summary budget information to the Office of the State Auditor. The summary budget data must include separately any net unrealized gains or losses from investments. The summary budget data shall be provided to the Office of the State Auditor no later than December 31 of the year preceding each budget year.

History: 1993 c 315 s 3; 1995 c 134 s 1; 1996 c 399 art 1 s 1

6.75 ANNUAL REPORT.

The state auditor shall make and file, annually, in the state auditor's 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. A copy of the report shall be forwarded to the legislative auditor.

History: (3286-13) 1939 c 431 art 4 s 6; 1945 c 338 s 1; 1973 c 492 s 32; 1986 c 444

6.755 REPORTS TO THE LEGISLATURE.

Section 3.195 applies to the state auditor. For purposes of determining whether members or employees of the legislature wish to receive reports or publications prepared by the state auditor, the state auditor may send a brief listing of reports to each member. The state auditor must deliver reports or publications to the legislature electronically whenever it is cost effective.

History: 2005 c 156 art 2 s 2

6.76 LOCAL GOVERNMENTAL 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 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 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 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.

History: 1986 c 444; 1Sp1989 c 1 art 3 s 30; 1994 c 628 art 3 s 1; 1997 c 231 art 16 s 1; 1999 c 220 s 50; 2001 c 7 s 2

6.77 [Repealed, 1Sp2003 c 1 art 2 s 136]

6.78 BEST PRACTICES REVIEWS.

The state auditor shall conduct best practices reviews that examine the procedures and practices used to deliver local government services, determine the methods of local government service delivery, identify variations in cost and effectiveness, and identify practices to save money or provide more effective service delivery. The state auditor shall recommend to

local governments service delivery methods and practices to improve the cost-effectiveness of services. The state auditor shall determine the local government services to be reviewed in consultation with representatives of the Association of Minnesota Counties, the League of Minnesota Cities, the Association of Metropolitan Municipalities, the Minnesota Association of Townships, the Minnesota Municipal Utilities Association, and the Minnesota Association of School Administrators.

History: *1Sp2003 c 1 art 2 s 16*

6.79 STATE MANDATES.

A county, town, school district, or statutory or home rule charter city may file a written resolution with the state auditor objecting to a state mandate or making recommendations for reforming a state mandate. The state auditor must list on the state auditor's Web site a list of all state mandates cited in a resolution under this section, and the name of the unit of local government citing the mandate.

History: *2005 c 156 art 2 s 3*

6.80 RULE AND LAW WAIVER REQUESTS.

Subdivision 1. **Generally.** (a) Except as provided in paragraph (b), a local government unit may request the state auditor to grant a waiver from one or more administrative rules or a temporary, limited exemption from enforcement of state procedural laws governing delivery of services by the local government unit. Two or more local government units may submit a joint application for a waiver or exemption under this section if they propose to cooperate in providing a service or program that is subject to the rule or law. Before submitting an application to the state auditor, the governing body of the local government unit must approve, in concept, the proposed waiver or exemption at a meeting required to be public under chapter 13D. A local government unit or two or more units acting jointly may apply for a waiver or exemption on behalf of a nonprofit organization providing services to clients whose costs are paid by the unit or units. A waiver or exemption granted to a nonprofit organization under this section applies to services provided to all the organization's clients.

(b) A school district that is granted a variance from rules of the commissioner of education under section 122A.163, need not apply for a waiver of those rules under this section. A school district may not seek a waiver of rules under this section if the commissioner of education has authority to grant a variance to the rules under section 122A.163. This paragraph does not preclude a school district from being included in a cooperative effort with another local government unit under this section.

(c) Before petitioning the state auditor's office for an exemption from an administrative rule, the petitioner must have requested and been denied such an exemption from the appropriate agency pursuant to sections 14.055 and 14.056.

Subd. 2. **Application.** A local government unit requesting a waiver of a rule or exemption from enforcement of a law under this section shall present a written application to the state auditor. The application must include:

- (1) the name and address of the entity for whom a waiver of a rule or exemption from enforcement of a law is being requested;
- (2) identification of the service or program at issue;
- (3) identification of the administrative rule or the law imposing a procedural requirement with respect to which the waiver or exemption is sought;
- (4) a description of the improved service outcome sought, including an explanation of the effect of the waiver or exemption in accomplishing that outcome, and why that outcome cannot be accomplished under established rules or laws;
- (5) information on the state auditor's office treatment on similar cases;
- (6) the name, address, and telephone number of any person, business, or other government unit the petitioner knows would be adversely affected by the grant of the petition; and

(7) a signed statement as to the accuracy of the facts presented.

A copy of the application must be provided by the requesting local government unit to the exclusive representative certified under section 179A.12 to represent employees who provide the service or program affected by the requested waiver or exemption.

Subd. 3. Review process. (a) Upon receipt of an application from a local government unit, the state auditor shall review the application. The state auditor shall dismiss an application if the application proposes a waiver of rules or exemption from enforcement of laws that would result in due process violations, violations of federal law or the state or federal constitution, or the loss of services to people who are entitled to them.

(b) The state auditor shall determine whether a law from which an exemption for enforcement is sought is a procedural law, specifying how a local government unit is to achieve an outcome, rather than a substantive law prescribing the outcome or otherwise establishing policy. For the purposes of this section, "procedural law" does not include a statutory notice requirement. In making the determination, the state auditor shall consider whether the law specifies such requirements as:

- (1) who must deliver a service;
- (2) where the service must be delivered;
- (3) to whom and in what form reports regarding the service must be made; and
- (4) how long or how often the service must be made available to a given recipient.

(c) If the application requests a waiver of a rule or temporary, limited exemptions from enforcement of a procedural law over which the Metropolitan Council or a metropolitan agency has jurisdiction, the state auditor shall also transmit a copy of the application to the council or applicable metropolitan agency, whichever has jurisdiction, for review and comment. The council or agency shall report its comments to the board within 60 days of the date the application was transmitted to the council or agency. The council or agency may point out any resources or technical assistance it may be able to provide a local government unit submitting a request under this section.

(d) Within 15 days after receipt of the application, the state auditor shall transmit a copy of it to the commissioner of each agency having jurisdiction over a rule or law from which a waiver or exemption is sought. The agency may mail a notice that it has received an application for a waiver or exemption to all persons who have registered with the agency under section 14.14, subdivision 1a, identifying the rule or law from which a waiver or exemption is requested. If no agency has jurisdiction over the rule or law, the state auditor shall transmit a copy of the application to the attorney general. The agency shall inform the state auditor of its agreement with or objection to and grounds for objection to the waiver or exemption request within 60 days of the date when the application was transmitted to it. An agency's failure to do so is considered agreement to the waiver or exemption. The state auditor shall decide whether to grant a waiver or exemption at the end of the 60-day response period. Interested persons may submit written comments to the state auditor on the waiver or exemption request up to the end of the 60-day response period.

(e) If the exclusive representative of the affected employees of the requesting local government unit objects to the waiver or exemption request it may inform the state auditor of the objection to and the grounds for the objection to the waiver or exemption request within 60 days of the receipt of the application.

Subd. 4. Hearing. If a state agency under subdivision 3, paragraph (d), or the exclusive representative of the affected employees under subdivision 3, paragraph (e), has objected to a waiver or exemption request, the state auditor's office shall set a date for a hearing on the applications. The hearing must be conducted informally at a time and place determined by all parties. Persons representing the local government unit shall present their case for the waiver or exemption, and persons representing the agency or the exclusive representative of the affected employees shall explain their objection to it. The state auditor may request additional information from the local government unit or either objecting party. The state auditor may also request, either before or at the hearing, information or comments from representatives of

business, labor, local governments, state agencies, consultants, and members of the public. If necessary, the hearing may be continued for a later date. The state auditor may modify the terms of the waiver or exemption request in arriving at the agreement required under subdivision 5.

Subd. 5. Conditions of agreements. (a) In determining whether to grant a petition for a waiver of a rule or exemption from enforcement of a law, the state auditor should consider the following factors:

(1) whether there is a true and unique impediment under current law to accomplishing the goal of the local government unit;

(2) granting the waiver of a rule or exemption from enforcement of law will only change procedural requirements of a local government unit;

(3) the purpose of any rule or law that is waived is still being met in another manner;

(4) granting the proposed waiver of a rule or exemption from enforcement of a law would result in a more efficient means of providing government services; and

(5) granting the proposed waiver will not have a significant negative impact on other state government, local government units, businesses, or citizens.

(b) If the state auditor grants a request for a waiver or exemption, the state auditor and the local government unit shall enter into an agreement providing for the delivery of the service or program that is the subject of the application. The agreement must specify desired outcomes, the reasons why the desired outcomes cannot be met under current laws or rules, and the means of measurement by which the state auditor will determine whether the outcomes specified in the agreement have been met. The agreement must specify the duration of the waiver or exemption. The duration of a waiver from an administrative rule may be for no less than two years and no more than four years, subject to renewal if both parties agree. An exemption from enforcement of a law terminates ten days after adjournment of the regular legislative session held during the calendar year following the year when the exemption is granted, unless the legislature has acted to extend or make permanent the exemption.

(c) The state auditor must report any grants of waivers or exemptions to the legislature, including the chairs of the governmental operations and appropriate policy committees in the house and senate, and the governor within 30 days.

(d) The state auditor may reconsider or renegotiate the agreement if the rule or law affected by the waiver or exemption is amended or repealed during the term of the original agreement. A waiver of a rule under this section has the effect of a variance granted by an agency under section 14.055. A local unit of government that is granted an exemption from enforcement of a procedural requirement in state law under this section is exempt from that law for the duration of the exemption. The state auditor may require periodic reports from the local government unit, or conduct investigations of the service or program.

Subd. 6. Enforcement. If the state auditor finds that the local government unit is failing to comply with the terms of the agreement under subdivision 5, the state auditor may rescind the agreement. Upon the rescission, the local unit of government becomes subject to the rules and laws covered by the agreement.

Subd. 7. Access to data. If a local government unit, through a cooperative program under this section, gains access to data collected, created, received, or maintained by another local government that is classified as not public, the unit gaining access is governed by the same restrictions on access to and use of the data as the unit that collected, created, received, or maintained the data.

History: 2005 c 156 art 2 s 4