

**As Passed by the Senate**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. H. B. No. 450**

**Representative Stephens**

**Cosponsors: Representatives Hoops, Ginter, Wiggam, Hambley, Abrams, Baldrige, Carruthers, Clites, Cupp, Cutrona, Edwards, Fraizer, Ghanbari, Green, Greenspan, Grendell, Ingram, Jones, Jordan, Keller, Kelly, Lanese, LaRe, Lipps, McClain, Miller, J., O'Brien, Patterson, Perales, Robinson, Roemer, Rogers, Seitz, Smith, T., Stein, Swearingen, Wilkin**

**Senators Brenner, Hackett, Hoagland, Manning, Blessing, Craig, Dolan, Fedor, Gavarone, Johnson, Kunze, Obhof, Peterson, Rulli, Schaffer, Sykes, Thomas, Wilson, Yuko**

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**A BILL**

To amend sections 117.11, 117.12, 117.16, 319.27, 1  
321.06, 503.28, 703.21, and 3313.28, to enact 2  
section 117.171, and to repeal section 117.114 3  
of the Revised Code to require fiscal officers 4  
of certain political subdivisions to provide 5  
certificates of transition to their successors 6  
when leaving office, to modify language 7  
regarding the duty of a treasurer of a board of 8  
education to deliver to the treasurer's 9  
successor all papers related to the affairs of 10  
the district, and to remove the eligibility 11  
requirements for political subdivisions to 12  
receive agreed-upon procedure audits from the 13  
Auditor of State, while continuing the agreed- 14  
upon procedure audits under rules adopted by the 15  
Auditor of State. 16

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 117.11, 117.12, 117.16, 319.27, 17  
321.06, 503.28, 703.21, and 3313.28 be amended and section 18  
117.171 of the Revised Code be enacted to read as follows: 19

**Sec. 117.11.** (A) Except as otherwise provided in this 20  
division and in sections 117.112, and 117.113, ~~and 117.114~~ of 21  
the Revised Code, the auditor of state shall audit each public 22  
office at least once every two fiscal years. The auditor of 23  
state shall audit a public office each fiscal year if that 24  
public office is required to be audited on an annual basis 25  
pursuant to "The Single Audit Act of 1984," 98 Stat. 2327, 31 26  
U.S.C.A. 7501 et seq., as amended. In the annual or biennial 27  
audit, inquiry shall be made into the methods, accuracy, and 28  
legality of the accounts, financial reports, records, files, and 29  
reports of the office, whether the laws, rules, ordinances, and 30  
orders pertaining to the office have been observed, and whether 31  
the requirements and rules of the auditor of state have been 32  
complied with. Except as otherwise provided in this division or 33  
where auditing standards or procedures dictate otherwise, each 34  
audit shall cover at least one fiscal year. If a public office 35  
is audited only once every two fiscal years, the audit shall 36  
cover both fiscal years. 37

(B) In addition to the annual or biennial audit provided 38  
for in division (A) of this section ~~or in section 117.114 of the~~ 39  
~~Revised Code~~, the auditor of state may conduct an audit of a 40  
public office at any time when so requested by the public office 41  
or upon the auditor of state's own initiative if the auditor of 42  
state has reasonable cause to believe that an additional audit 43  
is in the public interest. 44

(C) (1) The auditor of state shall identify any public office in which the auditor of state will be unable to conduct an audit at least once every two fiscal years as required by division (A) of this section and shall provide immediate written notice to the clerk of the legislative authority or governing board of the public office so identified. Within six months of the receipt of such notice, the legislative authority or governing board may engage an independent certified public accountant to conduct an audit pursuant to section 117.12 of the Revised Code.

(2) When the chief fiscal officer of a public office notifies the auditor of state that an audit is required at a time prior to the next regularly scheduled audit by the auditor of state, the auditor of state shall either cause an earlier audit to be made by the auditor of state or authorize the legislative authority or governing board of the public office to engage an independent certified public accountant to conduct the required audit. The scope of the audit shall be as authorized by the auditor of state.

(3) The auditor of state shall approve the scope of an audit under division (C) (1) or (2) of this section as set forth in the contract for the proposed audit before the contract is executed on behalf of the public office that is to be audited. The independent accountant conducting an audit under division (C) (1) or (2) of this section shall be paid by the public office.

(4) The contract for attest services with an independent accountant employed pursuant to this section or section 117.115 of the Revised Code may include binding arbitration provisions, provisions of Chapter 2711. of the Revised Code, or any other

alternative dispute resolution procedures to be followed in the 75  
event a dispute remains between the state or public office and 76  
the independent accountant concerning the terms of or services 77  
under the contract, or a breach of the contract, after the 78  
administrative provisions of the contract have been exhausted. 79

(D) If a uniform accounting network is established under 80  
section 117.101 of the Revised Code, the auditor of state or a 81  
certified public accountant employed pursuant to this section or 82  
section 117.112 or 117.115 of the Revised Code shall, to the 83  
extent practicable, utilize services offered by the network in 84  
order to conduct efficient and economical audits of public 85  
offices. 86

(E) The auditor of state, in accordance with division (A) 87  
(3) of section 9.65 of the Revised Code and this section, may 88  
audit an annuity program for volunteer fire fighters established 89  
by a political subdivision under section 9.65 of the Revised 90  
Code. As used in this section, "volunteer fire fighters" and 91  
"political subdivision" have the same meanings as in division 92  
(C) of section 9.65 of the Revised Code. 93

(F) The auditor of state may establish by rule an agreed- 94  
upon procedure by which political subdivisions may be audited. 95  
The rules shall set forth the standards, procedures, guidelines, 96  
and reporting requirements for an agreed-upon procedure audit. 97

**Sec. 117.12.** (A) Any certified public accountant engaged 98  
to perform an audit pursuant to division (C) of section 117.11 99  
of the Revised Code shall conduct the audit pursuant to the 100  
standards, procedures, and guidelines of the auditor of state 101  
for such audits. The auditor of state shall establish these 102  
standards, procedures, and guidelines by rule. The audit shall 103  
cover the period beginning with the termination date of the most 104

recent audit conducted under this section or under section 105  
117.11 ~~or 117.114~~ of the Revised Code, and ending on the date 106  
specified by the auditor of state. The accountant shall inquire 107  
into the methods, accuracy, and legality of the accounts, 108  
records, files, and reports of the public office and shall note 109  
whether, in the accountant's opinion, the laws, rules, 110  
ordinances, and orders pertaining to the public office have been 111  
complied with. 112

~~(B) Any certified public accountant engaged to perform an 113  
agreed-upon procedure audit pursuant to section 117.114 of the 114  
Revised Code shall conduct the audit pursuant to the standards, 115  
procedures, guidelines, and reporting requirements adopted by 116  
rule of the auditor of state pursuant to that section. 117~~

~~(C) The certified public accountant shall have no 118  
authority to make formal findings of illegality, malfeasance, or 119  
gross neglect under this section or section 117.23 of the 120  
Revised Code. 121~~

**Sec. 117.16.** (A) The auditor of state shall do all of the 122  
following: 123

(1) Develop a force account project assessment form that 124  
each public office that undertakes force account projects shall 125  
use to estimate or report the cost of a force account project. 126  
The form shall include costs for employee salaries and benefits, 127  
any other labor costs, materials, freight, fuel, hauling, 128  
overhead expense, workers' compensation premiums, and all other 129  
items of cost and expense, including a reasonable allowance for 130  
the use of all tools and equipment used on or in connection with 131  
such work and for the depreciation on the tools and equipment. 132

(2) Make the form available to public offices by any cost- 133

effective, convenient method accessible to the auditor of state 134  
and the public offices; 135

(3) When conducting an audit under this chapter of a 136  
public office that undertakes force account projects, examine 137  
the forms and records of a sampling of the force account 138  
projects the public office completed since an audit was last 139  
conducted, to determine compliance with its force account 140  
limits. 141

(B) If the auditor of state receives a complaint from any 142  
person that a public office has violated the force account 143  
limits established for that office, the auditor of state may 144  
conduct an audit in addition to the audit provided in section 145  
117.11 ~~or 117.114~~ of the Revised Code if the auditor of state 146  
has reasonable cause to believe that an additional audit is in 147  
the public interest. 148

(C) (1) If the auditor of state finds that a county, 149  
township, or municipal corporation violated the force account 150  
limits established for that political subdivision, the auditor 151  
of state, in addition to any other action authorized by this 152  
chapter, shall notify the political subdivision that, for a 153  
period of one year from the date of the notification, the force 154  
account limits for the subdivision are reduced as follows: 155

(a) For a county, the limits shall be ten thousand dollars 156  
per mile for construction or reconstruction of a road and forty 157  
thousand dollars for construction, reconstruction, maintenance, 158  
or repair of a bridge or culvert; 159

(b) For a township, the limit shall be fifteen thousand 160  
dollars for maintenance and repair of a road or five thousand 161  
per mile for construction or reconstruction of a township road; 162

(c) For a municipal corporation, the limit shall be ten 163  
thousand dollars for the construction, reconstruction, widening, 164  
resurfacing, or repair of a street or other public way. 165

(2) If the auditor of state finds that a county, township, 166  
or municipal corporation violated the force account limits 167  
established for that political subdivision a second or 168  
subsequent time, the auditor of state, in addition to any other 169  
action authorized by this chapter, shall notify the political 170  
subdivision that, for a period of two years from the date of the 171  
notification, the force account limits for the subdivision are 172  
reduced in accordance with division (C) (1) (a), (b), or (c) of 173  
this section. 174

(3) If the auditor of state finds that a county, township, 175  
or municipal corporation violated the force account limits 176  
established for that political subdivision a third or subsequent 177  
time, the auditor of state shall certify to the tax commissioner 178  
an amount the auditor of state determines to be twenty per cent 179  
of the total cost of the force account project that is the basis 180  
of the violation. Upon receipt of this certification, the tax 181  
commissioner shall withhold the certified amount from any funds 182  
under the tax commissioner's control that are due or payable to 183  
that political subdivision. The tax commissioner shall promptly 184  
deposit this withheld amount to the credit of the local 185  
transportation improvement program fund created by section 186  
164.14 of the Revised Code. 187

If the tax commissioner determines that no funds are due 188  
and payable to the violating political subdivision or that 189  
insufficient amounts of such funds are available to cover the 190  
entire certified amount, the tax commissioner shall withhold and 191  
deposit to the credit of the local transportation improvement 192

program fund any amount available and certify the remaining 193  
amount to be withheld to the county auditor of the county in 194  
which the political subdivision is located. The county auditor 195  
shall withhold from that political subdivision any amount, up to 196  
that certified by the tax commissioner, that is available from 197  
any funds under the county auditor's control, that is due or 198  
payable to that political subdivision, and that can be lawfully 199  
withheld. The county auditor shall promptly pay that withheld 200  
amount to the tax commissioner for deposit into the local 201  
transportation improvement program fund. 202

The payments required under division (C) (3) of this 203  
section are in addition to the force account limit reductions 204  
described in division (C) (2) of this section and also are in 205  
addition to any other action authorized by this chapter. 206

(D) If the auditor of state finds that a county, township, 207  
or municipal corporation violated its force account limits when 208  
participating in a joint force account project, the auditor of 209  
state shall impose the reduction in force account limits under 210  
division (C) of this section on all entities participating in 211  
the joint project. 212

(E) As used in this section, "force account limits" means 213  
any of the following, as applicable: 214

(1) For a county, the amounts established in section 215  
5543.19 of the Revised Code; 216

(2) For a township, the amounts established in section 217  
5575.01 of the Revised Code; 218

(3) For a municipal corporation, the amount established in 219  
section 723.52 of the Revised Code; 220

(4) For the department of transportation, the amount 221



established in section 5517.02 of the Revised Code. 222

Sec. 117.171. (A) Before a county treasurer or fiscal officer leaves office, the county treasurer or fiscal officer shall prepare a certificate of transition, in the form and substance prescribed by the auditor of state, for the successor county treasurer or fiscal officer. For a county auditor, the certificate shall contain an inventory of items delivered in accordance with section 319.27 of the Revised Code and other information prescribed by the auditor of state. For a county treasurer, the certificate shall contain an inventory of items delivered in accordance with section 321.06 of the Revised Code and any other information prescribed by the auditor of state. For a township fiscal officer, the certificate shall contain an inventory of items delivered in accordance with section 503.28 of the Revised Code and any other information prescribed by the auditor of state. For a treasurer of a board of education, the certificate shall contain an inventory of items delivered in accordance with section 3313.28 of the Revised Code and any other information prescribed by the auditor of state. For all other fiscal officers, the certificate shall contain an inventory of items, accounts, and any other information prescribed by the auditor of state. The county treasurer or fiscal officer shall sign the certificate. The certificate shall be considered certified by the county treasurer or fiscal officer and the signature of the county treasurer or fiscal officer on the certificate shall have the same effect as though made under oath. The county treasurer or fiscal officer shall retain one copy of the certificate and shall deliver one copy of the certificate to the successor county treasurer or fiscal officer. 223  
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(B) The auditor of state may test the accuracy of any 252

certificate of transition described in this section and may 253  
report discrepancies or findings as described in sections 117.28 254  
and 117.29 of the Revised Code. 255

(C) Before prescribing the inventory of items, accounts, 256  
and other information to be contained in the certificate of 257  
transition, the auditor of state shall solicit input from county 258  
treasurers and fiscal officers or from their affiliated groups. 259

(D) As used in this section, "fiscal officer" has the 260  
meaning defined in division (D) of section 5705.01 of the 261  
Revised Code. 262

**Sec. 319.27.** Upon going out of or suspension from office 263  
by the board of county commissioners, each county auditor shall 264  
deliver to ~~his~~ the auditor's successor or the appointee of the 265  
board, all documents, books, records, vouchers, papers, maps, 266  
and other property in ~~his~~ the auditor's hands belonging to the 267  
county, and in the case of the death of an auditor, such 268  
property shall in like manner be delivered by ~~his~~ the auditor's 269  
legal representatives. The county auditor shall include an 270  
inventory of the items delivered in accordance with this section 271  
in a certificate of transition under section 117.171 of the 272  
Revised Code. 273

**Sec. 321.06.** At the expiration of ~~his~~ the county 274  
treasurer's term of office or on ~~his~~ the treasurer's resignation 275  
or removal from office, the ~~county~~ treasurer shall deliver to 276  
~~his~~ the treasurer's successor all moneys, books, papers, and 277  
other property in ~~his~~ the treasurer's possession as treasurer. 278  
In case of the death or incapacity of the treasurer, they shall 279  
be delivered over by ~~is~~ the treasurer's legal representatives. 280  
The county treasurer shall include an inventory of the items 281  
delivered in accordance with this section in a certificate of 282

transition under section 117.171 of the Revised Code. 283

**Sec. 503.28.** All township officers shall deliver to their 284  
successors in office all books, records, documents, laws, 285  
obligations, papers, blanks, and all other articles and property 286  
belonging to their respective offices or deposited with them in 287  
their official capacity. Any person who has been a township 288  
officer and refuses to deliver over such property, or any part 289  
thereof, shall forfeit not less than five nor more than fifty 290  
dollars, to be recovered by action, for the use of the township. 291  
The fiscal officer shall include an inventory of the items 292  
delivered in accordance with this section in a certificate of 293  
transition under section 117.171 of the Revised Code. 294

**Sec. 703.21.** (A) The surrender of corporate powers by a 295  
village under section 703.20 or 703.201 of the Revised Code does 296  
not affect vested rights or accrued liabilities of the village, 297  
or the power to settle claims, dispose of property, or levy and 298  
collect taxes to pay existing obligations, or to operate its 299  
utilities, including collection of existing rates and charges 300  
for services rendered, until the ownership and operation of each 301  
utility is transferred to another entity. But, after the 302  
presentation of the petition mentioned in section 703.20 of the 303  
Revised Code or receipt of the audit report and notice mentioned 304  
in section 703.201 of the Revised Code, the legislative 305  
authority of the village shall not create any new liability 306  
until the result of the election under section 703.20 of the 307  
Revised Code is declared or the decision of the court of common 308  
pleas under division (C) of section 703.201 of the Revised Code 309  
is declared, or thereafter, if the result, in either case, is 310  
for the surrender of the village's corporate powers, except to 311  
the extent such liability is necessary in connection with the 312  
operations of the village's utilities consistent with prudent 313

utility practice. If the auditor of state notifies the village 314  
that the attorney general may file a legal action under section 315  
703.201 of the Revised Code, but the attorney general does not 316  
file such an action, the village shall not create any new 317  
liability for thirty days after receipt of the auditor of 318  
state's notice, except to the extent such liability is necessary 319  
in connection with the operations of the village's utilities 320  
consistent with prudent utility practice. 321

(B) Due and unpaid taxes may be collected after the 322  
surrender of corporate powers, and all moneys or property 323  
remaining after the surrender belongs to the township or 324  
townships located wholly or partly within the village, subject 325  
to the agreements entered into as provided for in this section 326  
for the timely transfer of real and personal property and 327  
subject to the report of an audit or, at the discretion of the 328  
auditor of state, an agreed-upon procedure audit performed by 329  
the auditor of state under section 117.11 ~~or 117.114~~ of the 330  
Revised Code. The auditor of state shall commence the audit or 331  
agreed-upon procedure audit within thirty days after receipt of 332  
the notice of dissolution as provided in division (E) of section 333  
117.10 of the Revised Code. Cash balances shall be transferred 334  
at the completion of the audit or agreed-upon procedure audit 335  
performed by the auditor of state. Except as otherwise provided 336  
by agreement of the affected village and townships, if more than 337  
one township is to receive the remaining money or property, the 338  
money and property shall be divided among the townships in 339  
proportion to the amount of territory that each township has 340  
within the village boundaries as compared to the total territory 341  
within the village. 342

(C) (1) Village real and personal property, other than 343  
electric, water, and sewer utility property, shall be 344

transferred in a timely manner in accordance with agreements 345  
between or among the affected village and township or townships. 346  
If no such agreements have been reached within sixty days after 347  
the certificate of dissolution is filed with the county 348  
recorder, title to real and personal property other than any 349  
electric, water, and sewer utility property vests by operation 350  
of law in the affected township or townships. If more than one 351  
township is affected, and agreements have not been reached 352  
within sixty days after the certificate of dissolution is filed, 353  
title vests by operation of law in proportion to the amount of 354  
territory that each township has within the village boundaries 355  
as compared to the total territory within the village. 356

(2) Any agreements entered into under this section 357  
regarding the transfer of real property shall be recorded with 358  
the county recorder of the county in which the affected real 359  
property is situated, along with affidavits stating facts 360  
relating to title as provided for in section 5301.252 of the 361  
Revised Code. The county recorder shall make appropriate 362  
notations in the county records to reflect the conveyance of the 363  
village's interest in real property in accordance with the 364  
recorded agreements resulting from the surrender of corporate 365  
powers. The notations shall include a reference to the county's 366  
recorded certificate of dissolution. 367

In the absence of any agreements and upon the recording of 368  
affidavits relating to title, the county recorder shall make 369  
appropriate notations in the county records to reflect the 370  
conveyance of the village's interest in real property and to 371  
evidence that title vested by operation of law in the township 372  
or townships as otherwise provided for in this section and as a 373  
result of the surrender of corporate powers. The recording of a 374  
certificate of dissolution or a certified copy of it, any 375

agreements regarding the transfer of real property, and 376  
supporting affidavits serve as sufficient evidence of a transfer 377  
of title from the former village to a township or townships. 378  
These documents shall be recorded in the same manner as a deed 379  
of conveyance, except that the affected township or townships 380  
are exempt from any fees specified under section 317.32 of the 381  
Revised Code. 382

(3) Cash balances shall be transferred at the completion 383  
of the audit, or, at the discretion of the auditor of state, the 384  
agreed-upon procedure audit performed by the auditor of state. 385

(D) (1) Electric and water and sewer utility property shall 386  
be transferred by agreement entered into by the village and the 387  
entity that will be taking over the electric and water and sewer 388  
utility property and assets. Cash balances shall be transferred 389  
at the completion of the audit, or, at the discretion of the 390  
auditor of state, the agreed-upon procedure audit performed by 391  
the auditor of state. The provision of utility and other 392  
services shall be uninterrupted during the transition period 393  
following the surrender of corporate powers. 394

(a) Following the filing of the certificate of 395  
dissolution, if it is determined that a county, or a regional 396  
water and sewer district organized under Chapter 6119. of the 397  
Revised Code, is obligated to assume water and sewer utility 398  
property and assets by default, the board of county 399  
commissioners or board of trustees of the district, as 400  
appropriate, may petition the court of common pleas of the 401  
county in which the village was located, for an order to revise 402  
the current user fees, rates, and charges charged, or 403  
assessments levied, by the utility. The board of county 404  
commissioners or board of trustees of the district shall file 405

with the petition a systems audit of the utility. The systems 406  
audit shall address the financial solvency of the utility; the 407  
utility's debt service obligations and operating revenue stream, 408  
including user fees, rates, charges, and assessments; the 409  
utility's compliance with operating permit requirements; the 410  
necessary system maintenance, upgrades, and operational 411  
modifications and their associated costs for the utility; 412  
outstanding, pending, or potential enforcement actions against 413  
the utility; and any other relevant matters impacting the 414  
operational viability and financial solvency of the utility. 415

When considering whether to grant the order, the court 416  
shall review the systems audit and any other relevant evidence. 417  
The order of the court shall assure that the operational 418  
viability and financial solvency of the utility is maintained, 419  
and that an unreasonable financial burden is not placed upon the 420  
county or district due to the acquisition of the utility 421  
property and assets. 422

(b) In the case of a village electric utility, the village 423  
shall be required to take all necessary steps to transfer its 424  
ownership and operation, including continuing with normal 425  
operations and activities, fulfilling its contractual and other 426  
obligations, and transferring its contractual and other 427  
obligations to a successor entity in a timely manner following 428  
the filing of the certificate of dissolution. Such steps shall 429  
include hiring a third-party engineer knowledgeable about the 430  
operation of municipal electric systems to conduct a systems 431  
audit of the electric utility, addressing such items as set 432  
forth in division (D) (2) of this section. The systems audit 433  
shall commence not later than sixty days after the filing of the 434  
certificate of dissolution. Such systems audit is a proper 435  
expense of the village's electric utility fund. If the village's 436

electric utility fund has a balance of zero or a negative fund 437  
balance, the absorbing entity shall pay for the systems audit. 438  
During this period, the village's electric utility shall 439  
continue with all normal operations and activities, shall 440  
continue fulfilling its contractual and other obligations, 441  
including with its customers and users and licensees of its 442  
poles, conduits, and rights-of-way, and shall collect charges 443  
for service at the rates in effect on the date the certificate 444  
of dissolution is filed. 445

(2) The systems audit required under division (D) (1) (a) or 446  
(b) of this section shall not prevent the auditor of state from 447  
conducting the audit, or, at the discretion of the auditor of 448  
state, the agreed-upon procedure audit, required by this 449  
section. 450

(E) As used in divisions (C) and (D) of this section, 451  
"certificate of dissolution" means the certified election 452  
results approving the surrender of corporate powers as recorded 453  
by the county recorder under section 703.20 of the Revised Code. 454

After the surrender of corporate powers, all resolutions 455  
of the township or townships into which the village's territory 456  
was dissolved shall apply throughout the township's newly 457  
included territory. 458

**Sec. 3313.28.** The treasurer of a board of education, at 459  
the expiration of the treasurer's term of office, shall deliver 460  
to the treasurer's successor all books and papers in the 461  
treasurer's hands relating to the affairs of the district, ~~and~~ 462  
~~including educator licenses and copies thereof, and reports of~~ 463  
~~school statistics, filed by teachers.~~ The treasurer of a board 464  
of education shall include an inventory of the items delivered 465  
in accordance with this section in a certificate of transition 466



under section 117.171 of the Revised Code. 467

**Section 2.** That existing sections 117.11, 117.12, 117.16, 468  
319.27, 321.06, 503.28, 703.21, and 3313.28 of the Revised Code 469  
are hereby repealed. 470

**Section 3.** That section 117.114 of the Revised Code is 471  
hereby repealed. 472