

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

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

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

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

(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 event a dispute remains between the state or public office and the independent accountant concerning the terms of or services under the contract, or a breach of the contract, after the administrative provisions of the contract have been exhausted.

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

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

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

Sec. 117.12. (A) Any certified public accountant engaged to perform an audit pursuant to division (C) of section 117.11 of the Revised Code shall conduct the audit pursuant to the standards, procedures, and guidelines of the auditor of state for such audits. The auditor of state shall establish these standards, procedures, and guidelines by rule. The audit shall cover the period beginning with the termination date of the most recent audit conducted under this section or under section 117.11 ~~or 117.114~~ of the Revised Code, and ending on the date specified by the auditor of state. The accountant shall inquire into the methods, accuracy, and legality of the accounts, records, files, and reports of the public office and shall note whether, in the accountant's opinion, the laws, rules, ordinances, and orders pertaining to the public office have been complied with.

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

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

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

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

(2) Make the form available to public offices by any cost-effective, convenient method accessible to the auditor of state and the public offices;

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

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

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

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

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

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

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

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

If the tax commissioner determines that no funds are due and payable to the violating political subdivision or that insufficient amounts of such funds are available to cover the entire certified amount, the tax commissioner shall withhold and deposit to the credit of the local transportation improvement program fund any amount available and certify the remaining amount to be withheld to the county auditor of the county in which the political subdivision is located. The county auditor shall withhold from that political subdivision any amount, up to that certified by the tax commissioner, that is available from any funds under the county auditor's control, that is due or payable to that political subdivision, and that can be lawfully withheld. The county auditor shall promptly pay that withheld amount to the tax commissioner for deposit into the local transportation improvement program fund.

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

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

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

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

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

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

(4) For the department of transportation, the amount established in section 5517.02 of the Revised Code.

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.

(B) The auditor of state may test the accuracy of any certificate of transition described in this

section and may report discrepancies or findings as described in sections 117.28 and 117.29 of the Revised Code.

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

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

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

Sec. 321.06. At the expiration of ~~his~~ the county treasurer's term of office or on ~~his~~ the treasurer's resignation or removal from office, the ~~county~~ treasurer shall deliver to ~~his~~ the treasurer's successor all moneys, books, papers, and other property in ~~his~~ the treasurer's possession as treasurer. In case of the death or incapacity of the treasurer, they shall be delivered over by ~~is~~ the treasurer's legal representatives. The county treasurer shall include an inventory of the items delivered in accordance with this section in a certificate of transition under section 117.171 of the Revised Code.

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

Sec. 703.21. (A) The surrender of corporate powers by a village under section 703.20 or 703.201 of the Revised Code does not affect vested rights or accrued liabilities of the village, or the power to settle claims, dispose of property, or levy and collect taxes to pay existing obligations, or to operate its utilities, including collection of existing rates and charges for services rendered, until the ownership and operation of each utility is transferred to another entity. But, after the presentation of the petition mentioned in section 703.20 of the Revised Code or receipt of the audit report and notice mentioned in section 703.201 of the Revised Code, the legislative authority of the village shall not create any new liability until the result of the election under section 703.20 of the Revised Code is declared or the decision of the court of common pleas under division (C) of section 703.201 of the Revised Code is declared, or thereafter, if the result, in either case, is for the surrender of the village's corporate powers, except to the extent such liability is necessary in connection with the operations of the village's utilities consistent with prudent utility practice. If the auditor of state notifies the village that the attorney general may file a legal action under section 703.201 of the Revised Code, but the attorney general does not file such an action, the village shall not create any new liability for thirty days after receipt of the auditor of state's notice, except to the extent such liability is necessary in

connection with the operations of the village's utilities consistent with prudent utility practice.

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

(C)(1) Village real and personal property, other than electric, water, and sewer utility property, shall be transferred in a timely manner in accordance with agreements between or among the affected village and township or townships. If no such agreements have been reached within sixty days after the certificate of dissolution is filed with the county recorder, title to real and personal property other than any electric, water, and sewer utility property vests by operation of law in the affected township or townships. If more than one township is affected, and agreements have not been reached within sixty days after the certificate of dissolution is filed, title vests by operation of law in proportion to the amount of territory that each township has within the village boundaries as compared to the total territory within the village.

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

In the absence of any agreements and upon the recording of affidavits relating to title, the county recorder shall make appropriate notations in the county records to reflect the conveyance of the village's interest in real property and to evidence that title vested by operation of law in the township or townships as otherwise provided for in this section and as a result of the surrender of corporate powers. The recording of a certificate of dissolution or a certified copy of it, any agreements regarding the transfer of real property, and supporting affidavits serve as sufficient evidence of a transfer of title from the former village to a township or townships. These documents shall be recorded in the same manner as a deed of conveyance, except that the affected township or townships are exempt from any fees specified under section 317.32 of the Revised Code.

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

(D)(1) Electric and water and sewer utility property shall be transferred by agreement entered

into by the village and the entity that will be taking over the electric and water and sewer utility property and assets. Cash balances shall be transferred at the completion of the audit, or, at the discretion of the auditor of state, the agreed-upon procedure audit performed by the auditor of state. The provision of utility and other services shall be uninterrupted during the transition period following the surrender of corporate powers.

(a) Following the filing of the certificate of dissolution, if it is determined that a county, or a regional water and sewer district organized under Chapter 6119. of the Revised Code, is obligated to assume water and sewer utility property and assets by default, the board of county commissioners or board of trustees of the district, as appropriate, may petition the court of common pleas of the county in which the village was located, for an order to revise the current user fees, rates, and charges charged, or assessments levied, by the utility. The board of county commissioners or board of trustees of the district shall file with the petition a systems audit of the utility. The systems audit shall address the financial solvency of the utility; the utility's debt service obligations and operating revenue stream, including user fees, rates, charges, and assessments; the utility's compliance with operating permit requirements; the necessary system maintenance, upgrades, and operational modifications and their associated costs for the utility; outstanding, pending, or potential enforcement actions against the utility; and any other relevant matters impacting the operational viability and financial solvency of the utility.

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

(b) In the case of a village electric utility, the village shall be required to take all necessary steps to transfer its ownership and operation, including continuing with normal operations and activities, fulfilling its contractual and other obligations, and transferring its contractual and other obligations to a successor entity in a timely manner following the filing of the certificate of dissolution. Such steps shall include hiring a third-party engineer knowledgeable about the operation of municipal electric systems to conduct a systems audit of the electric utility, addressing such items as set forth in division (D)(2) of this section. The systems audit shall commence not later than sixty days after the filing of the certificate of dissolution. Such systems audit is a proper expense of the village's electric utility fund. If the village's electric utility fund has a balance of zero or a negative fund balance, the absorbing entity shall pay for the systems audit. During this period, the village's electric utility shall continue with all normal operations and activities, shall continue fulfilling its contractual and other obligations, including with its customers and users and licensees of its poles, conduits, and rights-of-way, and shall collect charges for service at the rates in effect on the date the certificate of dissolution is filed.

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

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

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

Sec. 3313.28. The treasurer of a board of education, at the expiration of the treasurer's term of office, shall deliver to the treasurer's successor all books and papers in the treasurer's hands relating to the affairs of the district, ~~including educator licenses and copies thereof, and reports of school statistics, filed by teachers.~~ The treasurer of a board of education shall include an inventory of the items delivered in accordance with this section in a certificate of transition under section 117.171 of the Revised Code.

SECTION 2. That existing sections 117.11, 117.12, 117.16, 319.27, 321.06, 503.28, 703.21, and 3313.28 of the Revised Code are hereby repealed.

SECTION 3. That section 117.114 of the Revised Code is hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____