

**As Reported by the Senate Local Government, Public Safety and
Veterans Affairs Committee**

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

A BILL

To amend sections 117.11, 117.12, 117.16, 319.27, 1 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, 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 47
division (A) of this section and shall provide immediate written 48
notice to the clerk of the legislative authority or governing 49
board of the public office so identified. Within six months of 50
the receipt of such notice, the legislative authority or 51
governing board may engage an independent certified public 52
accountant to conduct an audit pursuant to section 117.12 of the 53
Revised Code. 54

(2) When the chief fiscal officer of a public office 55
notifies the auditor of state that an audit is required at a 56
time prior to the next regularly scheduled audit by the auditor 57
of state, the auditor of state shall either cause an earlier 58
audit to be made by the auditor of state or authorize the 59
legislative authority or governing board of the public office to 60
engage an independent certified public accountant to conduct the 61
required audit. The scope of the audit shall be as authorized by 62
the auditor of state. 63

(3) The auditor of state shall approve the scope of an 64
audit under division (C) (1) or (2) of this section as set forth 65
in the contract for the proposed audit before the contract is 66
executed on behalf of the public office that is to be audited. 67
The independent accountant conducting an audit under division 68
(C) (1) or (2) of this section shall be paid by the public 69
office. 70

(4) The contract for attest services with an independent 71
accountant employed pursuant to this section or section 117.115 72
of the Revised Code may include binding arbitration provisions, 73
provisions of Chapter 2711. of the Revised Code, or any other 74
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 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. 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 certificate of transition described in this section and may 252
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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, ~~—~~ 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