

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 1058

By: Boles of the House

and

6 Taylor and Hall of the
7 Senate

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to cities and towns; providing short
11 title; amending 11 O.S. 2021, Section 17-105, which
12 relates to annual audits of municipalities;
13 increasing municipal income threshold for required
14 annual or biennial audits to be conducted; modifying
15 manner in which threshold is calculated; modifying
16 statutory references; defining scope of biennial
17 audit; deleting certain required procedures;
18 authorizing the use of alternate auditing procedure;
19 directing development of alternate auditing procedure
20 in collaboration with certain entities; providing
21 time limitation for use of alternate auditing
22 procedure; providing that act shall sunset by
23 operation of law unless certain conditions have been
24 met; requiring alternate auditing procedure to meet
certain attestation standards; extending time for
filing of audit; providing for additional extension
of time under certain conditions; including and
excluding income from certain trusts in calculating
municipal income; amending 11 O.S. 2021, Section 17-
107, which relates to the failure to file an audit;
specifying condition under which withholding of
certain gasoline taxes shall cease; requiring certain
withheld funds to be deposited in certain revolving
fund; creating the Special Investigative Unit
Auditing Revolving Fund; making fund continuing and
nonfiscal; stating sources of revenue; stating
purpose of fund; establishing procedures of
expenditures of monies accruing to the credit of the

1 fund; repealing 11 O.S. 2021, Section 17-108, which
2 relates to municipal trust exemptions; providing for
3 noncodification; providing for codification;
4 providing an effective date; and declaring an
5 emergency.

6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

7 SECTION 1. NEW LAW A new section of law not to be
8 codified in the Oklahoma Statutes reads as follows:

9 This act shall be known and may be cited as the "Municipal Audit
10 Reform Act of 2022".

11 SECTION 2. AMENDATORY 11 O.S. 2021, Section 17-105, is
12 amended to read as follows:

13 Section 17-105. A. The governing body of each municipality
14 with an ~~income of Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty
15 Thousand Dollars (\$50,000.00) or more ~~to its general fund in total~~
16 revenue to all funds including component units of which the
17 municipality is a beneficiary, during a fiscal year shall cause to
18 be prepared, by an independent licensed public accountant or a
19 certified public accountant, an annual financial statement audit to
20 be conducted in accordance with auditing standards generally
21 accepted in the United States of America and "Government Auditing
22 Standards" as issued by the Comptroller General of the United
23 States. Such audit shall be ordered within thirty (30) days of the
24 close of each fiscal year. Copies shall be filed with the State

1 Auditor and Inspector within six (6) months after the close of the
2 fiscal year in accordance with the provisions of ~~Sections 3022 and~~
3 ~~3023 of this act Title 68 of the Oklahoma Statutes~~ and with the
4 governing body of the municipality.

5 B. The governing body of each municipality with ~~an income of~~
6 ~~Twenty five Thousand Dollars (\$25,000.00)~~ Fifty Thousand Dollars
7 (\$50,000.00) or more ~~to its general fund during a fiscal year in~~
8 total revenue to all funds including component units of which the
9 municipality is a beneficiary, and with a population of less than
10 two thousand five hundred (2,500) as of the most recent Federal
11 Decennial Census, and for whom an annual financial statement audit
12 is not required by another law, regulation or contract, shall cause
13 to be prepared, by an independent licensed public accountant or a
14 certified public accountant, ~~an annual~~ a biennial financial
15 statement audit in accordance with auditing standards generally
16 accepted in the United States and Government Auditing Standards as
17 issued by the Comptroller General of the United States, ~~or an~~
18 ~~agreed upon procedures engagement over certain financial information~~
19 ~~and compliance requirements to be performed in accordance with the~~
20 ~~applicable attestation standards of The American Institute of~~
21 ~~Certified Public Accountants. The specific procedures to be~~
22 ~~performed are as follows for the fiscal year:~~

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1 ~~1. Prepare a schedule of changes in fund balances for each fund~~
2 ~~and determine compliance with the statutory prohibition of creating~~
3 ~~fund balance deficits;~~

4 ~~2. Prepare a budget and actual financial schedule for the~~
5 ~~General Fund and any other significant funds listing separately each~~
6 ~~federal fund and determine compliance with the legal level of~~
7 ~~appropriations by comparing expenditures and encumbrances to~~
8 ~~authorized appropriations;~~

9 ~~3. Agree material bank account balances to bank statements, and~~
10 ~~trace significant reconciling items to subsequent clearance;~~

11 ~~4. Compare uninsured deposits to fair value of pledged~~
12 ~~collateral;~~

13 ~~5. Compare use of material-restricted revenues and resources to~~
14 ~~their restrictions;~~

15 ~~6. Determine compliance with requirements for separate funds;~~
16 ~~and~~

17 ~~7. Determine compliance with reserve account and debt service~~
18 ~~coverage requirements of bond indentures. Each biennial audit shall~~
19 ~~cover the two (2) preceding years.~~

20 The governing body of each municipality may alternatively
21 request a biennial agreed-upon-procedures engagement to be
22 prescribed by the State Auditor and Inspector, developed in
23 collaboration with a representative from a statewide organization
24 that has represented municipal governments for at least fifty (50)

1 years, a representative from an organization that advises or trains
2 municipal clerks and treasurers, and a certified public accountant.
3 Each biennial agreed-upon-procedures engagement shall cover the two
4 (2) preceding years.

5 For engagements performed for the fiscal year ending June 30,
6 2023, the prescribed procedures developed under the terms of this
7 subsection will be utilized on a one-year basis ending June 30,
8 2024. The procedures shall then be submitted to the Legislature for
9 ratification. If the rules are not ratified by the Legislature on
10 or before December 31, 2023, the Municipal Audit Reform Act of 2022
11 shall sunset and be repealed as a matter of law. Agreed-upon
12 procedures required under this act shall be performed in accordance
13 with the applicable attestation standards of The American Institute
14 of Certified Public Accountants.

15 ~~Such~~ ~~The~~ audit or agreed-upon-procedures engagement shall be
16 ordered within thirty (30) days of the close of ~~each~~ the fiscal year
17 that the audit is due. Copies shall be filed with the State Auditor
18 and Inspector within ~~six (6)~~ nine (9) months after the close of the
19 fiscal year in accordance with the provisions of ~~Sections 3022 and~~
20 ~~3023~~ paragraph 2 of subsection A of Section 212A of Title ~~68~~ 74 of
21 the Oklahoma Statutes and with the governing body of the
22 municipality~~-,~~ with the deadline to order and file the audit or
23 agreed-upon procedures eligible for extension by the State Auditor
24 for special circumstances or emergencies.

1 C. The municipal income requirements in subsections A and B of
2 this section shall not include any grant monies provided to a
3 municipality from any federal, state, or other governmental entity.
4 The municipal income requirements shall not include income of any
5 public trust established under Sections 176 through 180.4 of Title
6 60 of the Oklahoma Statutes with a municipality as the beneficiary
7 of the trust; provided, income from trusts established principally
8 for the purpose of operating electric, water, wastewater, and
9 sanitation utilities shall be included for purposes of the municipal
10 income requirements.

11 SECTION 3. AMENDATORY 11 O.S. 2021, Section 17-107, is
12 amended to read as follows:

13 Section 17-107. If a municipality does not file a copy of its
14 audit or agreed-upon-procedures report as provided in Section 17-105
15 of this title, the State Auditor and Inspector shall notify the
16 Oklahoma Tax Commission which shall withhold from the municipality
17 its monthly allocations of gasoline taxes until notified by the
18 Office of the State Auditor and Inspector that the audit report ~~is~~
19 has been filed. If a report is not filed within two (2) years after
20 the close of the fiscal year in the case of an annual audit, or the
21 second fiscal year of a biennial audit period, the funds being
22 withheld shall be remitted by the Oklahoma Tax Commission to the
23 ~~county in which the incorporated city or town is located and~~
24 ~~deposited to the county highway fund of that county to be used as~~

1 ~~otherwise provided by law~~ Special Investigative Unit Auditing
2 Revolving Fund created pursuant to Section 4 of this act.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 17-107A of Title 11, unless
5 there is created a duplication in numbering, reads as follows:

6 There is hereby created in the State Treasury a revolving fund
7 for the State Auditor and Inspector to be designated the "Special
8 Investigative Unit Auditing Revolving Fund". The fund shall be a
9 continuing fund, not subject to fiscal year limitations, and shall
10 consist of all monies received by the State Auditor and Inspector
11 from funds withheld from a municipality's allocations of gasoline
12 taxes as provided in Section 17-107 of Title 11 of the Oklahoma
13 Statutes and all monies received from legislative appropriations for
14 the purpose of conducting investigative municipal audits. All
15 monies accruing to the credit of such fund are hereby appropriated
16 and may be budgeted and expended by the State Auditor and Inspector
17 for the purpose of offsetting expenses incurred from special
18 investigative audit activities relating to municipal government.
19 Expenditures from the fund shall be made upon warrants issued by the
20 State Treasurer against claims filed as prescribed by law with the
21 Director of the Office of Management and Enterprise Services for
22 approval and payment.

23 SECTION 5. REPEALER 11 O.S. 2021, Section 17-108, is
24 hereby repealed.

1 SECTION 6. This act shall become effective July 1, 2022.

2 SECTION 7. It being immediately necessary for the preservation
3 of the public peace, health or safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

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