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HOUSE BILL 140

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Dennis J. Roch

AN ACT

RELATING TO AUDITS; AMENDING THE AUDIT ACT TO BASE THE ANNUAL REVENUE AMOUNT FOR FINANCIAL REPORTING UPON A THREE-YEAR MOVING AVERAGE FOR MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATIONS, LAND GRANTS, INCORPORATED MUNICIPALITIES AND SPECIAL DISTRICTS THAT HAVE BEEN IN EXISTENCE FOR THREE OR MORE YEARS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 12-6-3 NMSA 1978 (being Laws 1969, Chapter 68, Section 3, as amended) is amended to read:

"12-6-3. ANNUAL AND SPECIAL AUDITS--FINANCIAL EXAMINATIONS.--

A. Except as otherwise provided in Subsection B of this section, the financial affairs of every agency shall be thoroughly examined and audited each year by the state auditor, personnel of the state auditor's office designated by the state

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1 auditor or independent auditors approved by the state auditor.
2 The comprehensive annual financial report for the state shall
3 be thoroughly examined and audited each year by the state
4 auditor, personnel of the state auditor's office designated by
5 the state auditor or independent auditors approved by the state
6 auditor. The audits shall be conducted in accordance with
7 generally accepted auditing standards and rules issued by the
8 state auditor.

9 B. The examination of the financial affairs of a
10 local public body shall be determined according to its annual
11 gross revenue each year. All examinations and compliance with
12 agreed-upon procedures shall be conducted in accordance with
13 generally accepted auditing standards and rules issued by the
14 state auditor. [~~If a local public body has an~~] The annual
15 gross revenue of a local public body shall be calculated on a
16 cash basis of accounting, exclusive of capital outlay funds,
17 federal or private grants or capital outlay funds disbursed
18 directly by an administrating agency [~~of~~]. For a local public
19 body in existence for less than three years, the amount of
20 gross revenue earned during the year for which an audit is due
21 shall be used to determine the applicable financial reporting
22 requirement listed in this subsection. For a local public body
23 in existence for three years or more, the average of the gross
24 revenue earned during the year for which an audit is due and
25 each of the two immediately preceding years shall constitute

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1 its annual gross revenue for purposes of determining the
2 applicable financial reporting requirement listed in this
3 subsection. If the annual gross revenue of a local public body
4 is:

5 (1) less than ten thousand dollars (\$10,000)
6 and does not directly expend at least fifty percent of, or the
7 remainder of, a single capital outlay award, it is exempt from
8 submitting and filing quarterly reports and final budgets for
9 approval to the local government division of the department of
10 finance and administration and from any financial reporting to
11 the state auditor;

12 (2) at least ten thousand dollars (\$10,000)
13 but less than fifty thousand dollars (\$50,000), it shall comply
14 only with the applicable provisions of Section 6-6-3 NMSA 1978;

15 (3) less than fifty thousand dollars (\$50,000)
16 and directly expends at least fifty percent of, or the
17 remainder of, a single capital outlay award, it shall submit to
18 the state auditor a financial report consistent with agreed-
19 upon procedures for financial reporting that are:

20 (a) focused solely on the capital outlay
21 funds directly expended;

22 (b) economically feasible for the
23 affected local public body; and

24 (c) determined by the state auditor
25 after consultation with the affected local public body;

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1 (4) at least fifty thousand dollars (\$50,000)
2 but not more than two hundred fifty thousand dollars
3 (\$250,000), it shall submit to the state auditor, at a minimum,
4 a financial report that includes a schedule of cash basis
5 comparison and that is consistent with agreed-upon procedures
6 for financial reporting that are:

7 (a) narrowly tailored to the affected
8 local public body;

9 (b) economically feasible for the
10 affected local public body; and

11 (c) determined by the state auditor
12 after consultation with the affected local public body;

13 (5) at least fifty thousand dollars (\$50,000)
14 but not more than two hundred fifty thousand dollars (\$250,000)
15 and expends any capital outlay funds, it shall submit to the
16 state auditor, at a minimum, a financial report that includes a
17 schedule of cash basis comparison and a test sample of expended
18 capital outlay funds and that is consistent with agreed-upon
19 procedures for financial reporting that are:

20 (a) narrowly tailored to the affected
21 local public body;

22 (b) economically feasible for the
23 affected local public body; and

24 (c) determined by the state auditor
25 after consultation with the affected local public body;

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1 (6) at least two hundred fifty thousand
2 dollars (\$250,000) but not more than five hundred thousand
3 dollars (\$500,000), it shall submit to the state auditor, at a
4 minimum, a compilation of financial statements and a financial
5 report consistent with agreed-upon procedures for financial
6 reporting that are:

7 (a) economically feasible for the
8 affected local public body; and

9 (b) determined by the state auditor
10 after consultation with the affected local public body; or

11 (7) five hundred thousand dollars (\$500,000)
12 or more, it shall be thoroughly examined and audited as
13 required by Subsection A of this section.

14 C. In addition to the annual audit, the state
15 auditor may cause the financial affairs and transactions of an
16 agency to be audited in whole or in part.

17 D. Annual financial and compliance audits of
18 agencies under the oversight of the financial control division
19 of the department of finance and administration shall be
20 completed and submitted by an agency and independent auditor to
21 the state auditor no later than sixty days after the state
22 auditor receives notification from the financial control
23 division to the effect that an agency's books and records are
24 ready and available for audit. The local government division
25 of the department of finance and administration shall inform

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1 the state auditor of the compliance or failure to comply by a
2 local public body with the provisions of Section 6-6-3 NMSA
3 1978.

4 E. In order to comply with United States department
5 of housing and urban development requirements, the financial
6 affairs of a public housing authority that is determined to be
7 a component unit in accordance with generally accepted
8 accounting principles, other than a housing department of a
9 local government or a regional housing authority, at the public
10 housing authority's discretion, may be audited separately from
11 the audit of its local primary government entity. If a
12 separate audit is made, the public housing authority audit
13 shall be included in the local primary government entity audit
14 and need not be conducted by the same auditor who audits the
15 financial affairs of the local primary government entity.

16 F. The state auditor shall notify the legislative
17 finance committee and the public education department if:

18 (1) a school district, charter school or
19 regional education cooperative has failed to submit a required
20 audit report within ninety days of the due date specified by
21 the state auditor; and

22 (2) the state auditor has investigated the
23 matter and attempted to negotiate with the school district,
24 charter school or regional education cooperative but the school
25 district, charter school or regional education cooperative has

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1 not made satisfactory progress toward compliance with the Audit
2 Act.

3 G. The state auditor shall notify the legislative
4 finance committee and the secretary of finance and
5 administration if:

6 (1) a state agency, state institution,
7 municipality or county has failed to submit a required audit
8 report within ninety days of the due date specified by the
9 state auditor; and

10 (2) the state auditor has investigated the
11 matter and attempted to negotiate with the state agency, state
12 institution, municipality or county but the state agency, state
13 institution, municipality or county has not made satisfactory
14 progress toward compliance with the Audit Act."