

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 27

Introduced by Murante, 49.

Read first time January 05, 2017

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to state and local government; to amend
2 sections 81-1118, 81-1348, and 84-321, Reissue Revised Statutes of
3 Nebraska, and sections 13-513, 73-506, 84-304, and 84-311, Revised
4 Statutes Cumulative Supplement, 2016; to change provisions relating
5 to the Nebraska Budget Act; to provide for late fees and remedial
6 fees; to change provisions relating to the duration of certain state
7 agency contracts and membership of the Suggestion Award Board; to
8 authorize additional assistant deputies for and sharing of working
9 papers by the Auditor of Public Accounts; to provide the rate of
10 interest on and liability for certain delinquent payments; to
11 harmonize provisions; and to repeal the original sections.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-513, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 13-513 (1) The auditor shall, on or before August ~~December~~ 1 each
4 year, request information from each governing body in a form prescribed
5 by the auditor regarding (a) (1) trade names, corporate names, or other
6 business names under which the governing body operates and (b) (2)
7 agreements to which the governing body is a party under the Interlocal
8 Cooperation Act and the Joint Public Agency Act. Each governing body
9 shall provide such information to the auditor on or before September 20
10 December 31.

11 (2) Information requested pursuant to this section that is not
12 received by the auditor on or before September 20 shall be delinquent.
13 The auditor shall notify the political subdivision by facsimile
14 transmission, email, or first-class mail of such delinquency. Beginning
15 on the day that such notification is sent, the auditor may assess the
16 political subdivision a late fee of twenty dollars per day for each
17 calendar day the requested information remains delinquent. The total late
18 fee assessed to a political subdivision under this section shall not
19 exceed two thousand dollars per delinquency.

20 (3) The auditor shall remit to the State Treasurer for credit to the
21 Auditor of Public Accounts Cash Fund a remedial fee sufficient to
22 reimburse the direct costs of administering and enforcing this section,
23 but such remedial fee shall not to exceed one hundred dollars from any
24 late fee received under this section. The auditor shall remit any late
25 fee amount in excess of one hundred dollars received under this section
26 to the State Treasurer to be distributed in accordance with Article VII,
27 section 5, of the Constitution of Nebraska.

28 (4) If a political subdivision fails to provide the information
29 requested under this section on or before September 20, the auditor may,
30 at his or her discretion, audit such political subdivision. The expense
31 of such audit shall be paid by the political subdivision.

1 Sec. 2. Section 73-506, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 73-506 State agency contracts for services shall be subject to the
4 following requirements:

5 (1) Payments shall be made when contractual deliverables are
6 received or in accordance with specific contractual terms and conditions;

7 (2) State agencies shall not enter into contracts for services with
8 an unspecified or unlimited duration, and no contract for services shall
9 be amended to extend the duration of the contract for a period of more
10 than fifty percent of the initial contract term. Following the adoption
11 of any amendment to extend the contract for a period of fifty percent or
12 less of the initial contract term, no further extensions of the original
13 contract shall be permitted. This subdivision does not prohibit the
14 exercise of any renewal option expressly provided in the original
15 contract;

16 (3) State agencies shall not structure contracts for services to
17 avoid any of the requirements of sections 73-501 to 73-510; and

18 (4) State agencies shall not enter into contracts for services in
19 excess of fifteen million dollars unless the state agency has complied
20 with section 73-510.

21 Sec. 3. Section 81-1118, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 81-1118 The materiel division of the Department of Administrative
24 Services is hereby established and shall be managed by the materiel
25 administrator.

26 There are hereby established the following seven branches of the
27 materiel division of the Department of Administrative Services which
28 shall have the following duties, powers, and responsibilities:

29 (1) The office supplies bureau shall be responsible for providing
30 office supplies, paper, and forms to using agencies;

31 (2) Central mail shall be responsible for all mailing operations,

1 transportation of material, tracking shipments, and making freight
2 claims;

3 (3) The print shop shall be responsible for specifications and for
4 receiving bids and placing orders to the lowest and best commercial
5 bidder for all printing and reproduction operations for the state. The
6 print shop shall also be responsible for coordinating all existing
7 printing and reproduction operations of the state;

8 (4) Copy services shall be responsible for the purchasing and
9 placement of all copier requirements;

10 (5) The state purchasing bureau shall be responsible for all
11 purchases by all state agencies other than the University of Nebraska.
12 The materiel division shall administer the public notice and bidding
13 procedures and any other areas designated by the Director of
14 Administrative Services to carry out the lease or purchase of personal
15 property. All purchases of and contracts for materials, supplies, or
16 equipment and all leases of personal property shall be made in the
17 following manner except in emergencies approved by the Governor:

18 (a) By a competitive formal sealed bidding process through the
19 materiel division in all cases in which the purchases are of estimated
20 value in the amount of twenty-five thousand dollars or more;

21 (b) By a competitive informal bidding through the materiel division
22 in all cases in which the purchases are of estimated value equal to or
23 exceeding ten thousand dollars but less than twenty-five thousand
24 dollars;

25 (c) By unrestricted open market purchases through the materiel
26 division in all cases in which purchases are of estimated value of less
27 than ten thousand dollars;

28 (d) All requisitions for whatever purpose coming to the state
29 purchasing bureau shall be in conformance with the approved budget of the
30 requisitioning department or agency; ~~and~~

31 (e) All contracts for purchases and leases shall be bid as a single

1 whole item. In no case shall contracts be divided or fractionated in
2 order to produce several contracts which are of an estimated value below
3 that required for competitive bidding; and

4 (f) No contract for purchase or lease shall be amended to extend the
5 duration of the contract for a period of more than fifty percent of the
6 initial contract term. Following the adoption of any amendment to extend
7 the contract for a period of fifty percent or less of the initial
8 contract term, no further extensions of the original contract shall be
9 permitted. This subdivision (f) does not prohibit the exercise of any
10 renewal option expressly provided in the original contract;

11 (6) The state recycling office shall be responsible for the
12 administration and operation of the State Government Recycling Management
13 Act; and

14 (7) State surplus property shall be responsible for the disposition
15 of the state's surplus property and the maintenance of all inventory
16 records.

17 Nothing in this section shall be construed to require that works of
18 art must be procured through the materiel division.

19 Sec. 4. Section 81-1348, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 81-1348 There is hereby created the Suggestion Award Board. The
22 membership of such board shall consist of the Director of Personnel, the
23 Director of Administrative Services, the Auditor of Public Accounts or
24 his or her designee, and three persons, each to serve a term of three
25 years, selected and appointed by the Governor from the bargaining units
26 listed in section 81-1373, except that the first three appointments made
27 after February 23, 2000, shall be for terms of one year, two years, and
28 three years, as designated by the Governor. Of the persons selected from
29 such bargaining units, one person shall be selected from each of such
30 bargaining units as follows:

31 (1) The first term from the bargaining units listed in subdivisions

1 (1)(a), (b), and (l) of such section;

2 (2) The second term from the bargaining units listed in subdivisions
3 (1)(c), (d), and (g) of such section;

4 (3) The third term from the bargaining units listed in subdivisions
5 (1)(e), (f), and (h) of such section; and

6 (4) The fourth term from the bargaining units listed in subdivisions
7 (1)(i), (j), and (k) of such section.

8 After the fourth term, the appointments shall be made starting from
9 subdivision (1) of this section and following the same sequence.

10 Whenever a vacancy occurs on the board for any reason, the Governor
11 shall appoint an individual to fill such vacancy from the same bargaining
12 unit in which the vacancy exists.

13 The members shall be reimbursed for their actual and necessary
14 expenses as provided in sections 81-1174 to 81-1177.

15 The board shall adopt and promulgate rules and regulations to aid in
16 carrying out sections 81-1350 and 81-1351.

17 Sec. 5. Section 84-304, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 84-304 It shall be the duty of the Auditor of Public Accounts:

20 (1) To give information electronically to the Legislature, whenever
21 required, upon any subject relating to the fiscal affairs of the state or
22 with regard to any duty of his or her office;

23 (2) To furnish offices for himself or herself and all fuel, lights,
24 books, blanks, forms, paper, and stationery required for the proper
25 discharge of the duties of his or her office;

26 (3) To examine or cause to be examined, at such time as he or she
27 shall determine, books, accounts, vouchers, records, and expenditures of
28 all state officers, state bureaus, state boards, state commissioners, the
29 state library, societies and associations supported by the state, state
30 institutions, state colleges, and the University of Nebraska, except when
31 required to be performed by other officers or persons. Such examinations

1 shall be done in accordance with generally accepted government auditing
2 standards for financial audits and attestation engagements set forth in
3 Government Auditing Standards (2011 Revision), published by the
4 Comptroller General of the United States, Government Accountability
5 Office, and except as provided in subdivision (11) of this section,
6 subdivision (16) of section 50-1205, and section 84-322, shall not
7 include performance audits, whether conducted pursuant to attestation
8 engagements or performance audit standards as set forth in Government
9 Auditing Standards (2011 Revision), published by the Comptroller General
10 of the United States, Government Accountability Office;

11 (4)(a) To examine or cause to be examined, at the expense of the
12 political subdivision, when the Auditor of Public Accounts determines
13 such examination necessary or when requested by the political
14 subdivision, the books, accounts, vouchers, records, and expenditures of
15 any agricultural association formed under Chapter 2, article 20, any
16 county agricultural society, any joint airport authority formed under the
17 Joint Airport Authorities Act, any city or county airport authority, any
18 bridge commission created pursuant to section 39-868, any cemetery
19 district, any community redevelopment authority or limited community
20 redevelopment authority established under the Community Development Law,
21 any development district, any drainage district, any health district, any
22 local public health department as defined in section 71-1626, any
23 historical society, any hospital authority or district, any county
24 hospital, any housing agency as defined in section 71-1575, any
25 irrigation district, any county or municipal library, any community
26 mental health center, any railroad transportation safety district, any
27 rural water district, any township, Wyuka Cemetery, the Educational
28 Service Unit Coordinating Council, any entity created pursuant to the
29 Interlocal Cooperation Act, any educational service unit, any village,
30 any service contractor or subrecipient of state or federal funds, any
31 political subdivision with the authority to levy a property tax or a

1 toll, or any entity created pursuant to the Joint Public Agency Act.

2 For purposes of this subdivision, service contractor or subrecipient
3 means any nonprofit entity that expends state or federal funds to carry
4 out a state or federal program or function, but it does not include an
5 individual who is a direct beneficiary of such a program or function or a
6 licensed health care provider or facility receiving direct payment for
7 medical services provided for a specific individual.

8 (b) The Auditor of Public Accounts may waive the audit requirement
9 of subdivision (4)(a) of this section upon the submission by the
10 political subdivision of a written request in a form prescribed by the
11 auditor. The auditor shall notify the political subdivision in writing of
12 the approval or denial of the request for a waiver.

13 (c) The Auditor of Public Accounts may conduct audits under this
14 subdivision for purposes of sections 2-3228, 12-101, 13-2402, 14-567,
15 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,
16 23-3526, and 71-1631.02;

17 (5) To report promptly to the Governor and the appropriate standing
18 committee of the Legislature the fiscal condition shown by such
19 examinations conducted by the auditor, including any irregularities or
20 misconduct of officers or employees, any misappropriation or misuse of
21 public funds or property, and any improper system or method of
22 bookkeeping or condition of accounts. The report submitted to the
23 committee shall be submitted electronically. In addition, if, in the
24 normal course of conducting an audit in accordance with subdivision (3)
25 of this section, the auditor discovers any potential problems related to
26 the effectiveness, efficiency, or performance of state programs, he or
27 she shall immediately report them electronically to the Legislative
28 Performance Audit Committee which may investigate the issue further,
29 report it electronically to the appropriate standing committee of the
30 Legislature, or both;

31 (6)(a) To examine or cause to be examined the books, accounts,

1 vouchers, records, and expenditures of a fire protection district. The
2 expense of the examination shall be paid by the political subdivision.

3 (b) Whenever the expenditures of a fire protection district are one
4 hundred fifty thousand dollars or less per fiscal year, the fire
5 protection district shall be audited no more than once every five years
6 except as directed by the board of directors of the fire protection
7 district or unless the auditor receives a verifiable report from a third
8 party indicating any irregularities or misconduct of officers or
9 employees of the fire protection district, any misappropriation or misuse
10 of public funds or property, or any improper system or method of
11 bookkeeping or condition of accounts of the fire protection district. In
12 the absence of such a report, the auditor may waive the five-year audit
13 requirement upon the submission of a written request by the fire
14 protection district in a form prescribed by the auditor. The auditor
15 shall notify the fire protection district in writing of the approval or
16 denial of a request for waiver of the five-year audit requirement. Upon
17 approval of the request for waiver of the five-year audit requirement, a
18 new five-year audit period shall begin.

19 (c) Whenever the expenditures of a fire protection district exceed
20 one hundred fifty thousand dollars in a fiscal year, the auditor may
21 waive the audit requirement upon the submission of a written request by
22 the fire protection district in a form prescribed by the auditor. The
23 auditor shall notify the fire protection district in writing of the
24 approval or denial of a request for waiver. Upon approval of the request
25 for waiver, a new five-year audit period shall begin for the fire
26 protection district if its expenditures are one hundred fifty thousand
27 dollars or less per fiscal year in subsequent years;

28 (7) To appoint two or more assistant deputies (a) whose entire time
29 shall be devoted to the service of the state as directed by the auditor,
30 (b) who shall be certified public accountants with at least five years'
31 experience, (c) who shall be selected without regard to party affiliation

1 or to place of residence at the time of appointment, (d) who shall
2 promptly report ~~in duplicate~~ to the auditor the fiscal condition shown by
3 each examination, including any irregularities or misconduct of officers
4 or employees, any misappropriation or misuse of public funds or property,
5 and any improper system or method of bookkeeping or condition of
6 accounts, and it shall be the duty of the auditor to file promptly with
7 the Governor a duplicate of such report, and (e) who shall qualify by
8 taking an oath which shall be filed in the office of the Secretary of
9 State;

10 (8) To conduct audits and related activities for state agencies,
11 political subdivisions of this state, or grantees of federal funds
12 disbursed by a receiving agency on a contractual or other basis for
13 reimbursement to assure proper accounting by all such agencies, political
14 subdivisions, and grantees for funds appropriated by the Legislature and
15 federal funds disbursed by any receiving agency. The auditor may contract
16 with any political subdivision to perform the audit of such political
17 subdivision required by or provided for in section 23-1608 or 79-1229 or
18 this section and charge the political subdivision for conducting the
19 audit. The fees charged by the auditor for conducting audits on a
20 contractual basis shall be in an amount sufficient to pay the cost of the
21 audit. The fees remitted to the auditor for such audits and services
22 shall be deposited in the Auditor of Public Accounts Cash Fund;

23 (9) To conduct all audits and examinations in a timely manner and in
24 accordance with the standards for audits of governmental organizations,
25 programs, activities, and functions published by the Comptroller General
26 of the United States;

27 (10) To develop and maintain an annual budget and actual financial
28 information reporting system for political subdivisions that is
29 accessible online by the public; ~~and~~

30 (11) When authorized, to conduct joint audits with the Legislative
31 Performance Audit Committee as described in section 50-1205; ~~and~~ -

1 (12) Unless otherwise specifically provided, to assess the interest
2 rate on delinquent payments of any fees for audits and services owing to
3 the Auditor of Public Accounts at a rate of fourteen percent per annum
4 from the date of billing unless paid within thirty days after the date of
5 billing. For an entity created pursuant to the Interlocal Cooperation Act
6 or the Joint Public Agency Act, any participating public agencies shall
7 be jointly and severally liable for the fees and interest owed if such
8 entity is defunct or unable to pay.

9 Sec. 6. Section 84-311, Revised Statutes Cumulative Supplement,
10 2016, is amended to read:

11 84-311 (1)(a) All final audit reports issued by the Auditor of
12 Public Accounts shall be maintained permanently as a public record in the
13 office of the Auditor of Public Accounts.

14 (b) Working papers and other audit files maintained by the Auditor
15 of Public Accounts are not public records and are exempt from sections
16 84-712 to 84-712.05. The information contained in working papers and
17 audit files prepared pursuant to a specific audit is not subject to
18 disclosure except to a county attorney or the Attorney General in
19 connection with an investigation made or action taken in the course of
20 the attorney's official duties or to the Legislative Performance Audit
21 Committee in the course of the committee's official duties and pursuant
22 to the requirements of subdivision (16) of section 50-1205 or subdivision
23 (5) of section 84-304.

24 (c) A public entity being audited and any federal agency that has
25 made a grant to such public entity shall also have access to the relevant
26 working papers and audit files, except that such access shall not include
27 information that would disclose or otherwise indicate the identity of any
28 individual who has confidentially provided the Auditor of Public Accounts
29 with allegations of wrongdoing regarding, or other information pertaining
30 to, the public entity being audited.

31 (d) The Auditor of Public Accounts may, at his or her discretion,

1 share working papers, other than personal information and telephone
2 records, with the Legislative Council. The Auditor of Public Accounts
3 may, at his or her discretion, share working papers with the Attorney
4 General, the Internal Revenue Service, the Tax Commissioner, the Federal
5 Bureau of Investigation, a law enforcement agency as defined in section
6 28-359, and the Nebraska Accountability and Disclosure Commission. The
7 working papers may be shared with such entities during an ongoing audit
8 or after the final audit report is issued.

9 (e) For purposes of this subsection, working papers means those
10 documents containing evidence to support the auditor's findings,
11 opinions, conclusions, and judgments and includes the collection of
12 evidence prepared or obtained by the auditor during the audit.

13 (f) The Auditor of Public Accounts may make the working papers
14 available for purposes of an external quality control review as required
15 by generally accepted government auditing standards. However, any reports
16 made from such external quality control review shall not make public any
17 information which would be considered confidential under this section
18 when in the possession of the Auditor of Public Accounts.

19 (2) If the Auditor of Public Accounts or any employee of the Auditor
20 of Public Accounts knowingly divulges or makes known in any manner not
21 permitted by law any record, document, or information, the disclosure of
22 which is restricted by law, he or she is subject to the same penalties
23 provided in section 84-712.09.

24 Sec. 7. Section 84-321, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 84-321 There is hereby created in the office of the Auditor of
27 Public Accounts a cash fund to be known as the Auditor of Public Accounts
28 Cash Fund. The fund shall be used for payment for services performed by
29 the Auditor of Public Accounts for state agencies, political
30 subdivisions, and grantees of federal funds disbursed by a receiving
31 agency for which he or she is entitled to reimbursement on a contractual

1 or other basis for such reimbursement.

2 Sec. 8. Original sections 81-1118, 81-1348, and 84-321, Reissue
3 Revised Statutes of Nebraska, and sections 13-513, 73-506, 84-304, and
4 84-311, Revised Statutes Cumulative Supplement, 2016, are repealed.