

VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 57

An Act to amend and reenact §§ 2.2-2312, 2.2-2323, 2.2-2490, 2.2-2717, 3.2-3109, 10.1-1025, 15.2-2416, 17.1-204, 29.1-108, 30-133, 32.1-122.7:1, 32.1-362, 36-154, 51.5-59, 56-484.17, and 59.1-394 of the Code of Virginia, relating to audits conducted by the Auditor of Public Accounts.

[H 1468]

Approved February 28, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2312, 2.2-2323, 2.2-2490, 2.2-2717, 3.2-3109, 10.1-1025, 15.2-2416, 17.1-204, 29.1-108, 30-133, 32.1-122.7:1, 32.1-362, 36-154, 51.5-59, 56-484.17, and 59.1-394 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2312. Annual report; audit.

The Authority shall, within 120 days of the close of each fiscal year, submit an annual report of its activities for the preceding fiscal year to the Governor and the chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Each report shall set forth, for the preceding fiscal year, a complete operating and financial statement for the Authority and any loan fund or loan guarantee fund the Authority administers or manages. The Auditor of Public Accounts or his legally authorized representatives shall ~~at least once in a year~~ audit the books and accounts of the Authority and any loan fund or loan guarantee fund the Authority administers or manages *as determined necessary by the Auditor of Public Accounts*.

§ 2.2-2323. Forms of accounts and records; annual reports; audit.

The Authority shall maintain accounts and records showing the receipt and disbursement of funds from whatever source derived in a form as prescribed by the Auditor of Public Accounts. Such accounts and records shall correspond as nearly as possible to accounts and records maintained by corporate enterprises.

The accounts of the Authority shall be audited ~~annually~~ by the Auditor of Public Accounts, or his legally authorized representatives, *as determined necessary by the Auditor of Public Accounts*, and the costs of such audits shall be borne by the Authority. The Authority shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor. Each report shall set forth a complete operating and financial statement for the Authority during the fiscal year it covers.

§ 2.2-2490. Audit.

The accounts of the Board shall be audited ~~annually~~ by the Auditor of Public Accounts or his legally authorized representatives *as determined necessary by the Auditor of Public Accounts*. Copies of the ~~annual~~ audit shall be distributed to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

§ 2.2-2717. Form of accounts and records; audit.

The accounts and records of the Foundation showing the receipt and disbursement of funds from whatever source derived shall be established by the Auditor of Public Accounts in a manner similar to other organizations. The Auditor of Public Accounts or his legally authorized representative shall ~~annually~~ audit the accounts of the Foundation *as determined necessary by the Auditor of Public Accounts*, and the cost of such audit services shall be borne by the Foundation.

§ 3.2-3109. Form of accounts; audit.

A. The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes.

B. The accounts of the Commission shall be audited ~~annually~~ by the Auditor of Public Accounts, or his legally authorized representatives, *as determined necessary by the Auditor of Public Accounts*. Copies of the ~~annual~~ audit shall be distributed to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

§ 10.1-1025. Forms of accounts and records; audit of same.

The accounts and records of the Foundation showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by similar enterprises. The accounts and records of the Foundation shall be subject to audit by the Auditor of Public Accounts or his legal representative ~~on an annual basis~~ *as determined necessary by the Auditor of Public Accounts*, and the costs of such audit services shall be borne by the Foundation. The Foundation's fiscal year shall be the same as the Commonwealth's.

§ 15.2-2416. Audit.

The Auditor of Public Accounts or his legally authorized representatives shall ~~annually~~ audit the

accounts of the Fund *as determined necessary by the Auditor of Public Accounts* in accordance with generally accepted auditing standards, and the cost of such audit services shall be borne by the Fund.

§ 17.1-204. Examination of office and accounts of clerk.

The books and accounts of the clerk of the Supreme Court shall be audited ~~annually and at such other times as the Court may deem proper~~ *as determined necessary* by the Auditor of Public Accounts, who shall make reports of his findings to the Governor and file a copy of such report with the Court within ~~thirty~~ 30 days after the completion of any such audit.

§ 29.1-108. Audits and examinations.

The minute books and other records of the Board shall be open to examination by the Governor, members of the General Assembly, and Auditor of Public Accounts, or their representatives, at all times. The accounts of the Board shall be audited in the manner provided for the audit of other state agencies. In addition, the Board shall ensure that the Auditor of Public Accounts, or an entity approved by him, conducts an ~~annual~~ audit of a fiscal and compliance nature of the accounts and transactions of the Department *as determined necessary by the Auditor of Public Accounts*. The Board may order such other audits as it deems necessary and desirable.

§ 30-133. Duties and powers generally.

A. The Auditor of Public Accounts shall audit all the accounts of every state department, officer, board, commission, institution or other agency handling any state funds *as determined necessary by the Auditor of Public Accounts*. In the performance of such duties and the exercise of such powers he may employ the services of certified public accountants, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office.

B. The Auditor of Public Accounts shall review the information required in § 2.2-1501 to determine that state agencies are providing and reporting appropriate information on financial and performance measures, and the Auditor shall review the accuracy of the management systems used to accumulate and report the results. The Auditor shall report ~~annually~~ to the General Assembly the results of such audits and make recommendations, if indicated, for new or revised accountability or performance measures to be implemented for the agencies audited.

C. The Auditor of Public Accounts shall prepare, by November 1, a summary of the results of all of the audits and other oversight responsibilities performed for the most recently ended fiscal year. The Auditor of Public Accounts shall present this summary to the Senate Finance, House Appropriations and House Finance Committees on the day the Governor presents to the General Assembly the Executive Budget in accordance with §§ 2.2-1508 and 2.2-1509 or at the direction of the respective Chairman of the Senate Finance, House Appropriations or House Finance Committees at one of their committee meetings prior to the meeting above.

D. As part of his normal oversight responsibilities, the Auditor of Public Accounts shall incorporate into his audit procedures and processes a review process to ensure that the Commonwealth's payments to counties, cities, and towns under Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1 are consistent with the provisions of § 58.1-3524. The Auditor of Public Accounts shall report to the Governor and the Chairman of the Senate Finance Committee annually any material failure by a locality or the Commonwealth to comply with the provisions of Chapter 35.1 of Title 58.1.

E. The Auditor of Public Accounts when called upon by the Governor shall examine the accounts of any institution maintained in whole or in part by the Commonwealth and, upon the direction of the Comptroller, shall examine the accounts of any officer required to settle his accounts with him; and upon the direction of any other state officer at the seat of government he shall examine the accounts of any person required to settle his accounts with such officer.

F. Upon the written request of any member of the General Assembly, the Auditor of Public Accounts shall furnish the requested information and provide technical assistance upon any matter requested by such member.

G. In compliance with the provisions of the federal Single Audit Act Amendments of 1996, Public Law 104-156, the Joint Legislative Audit and Review Commission may authorize the Auditor of Public Accounts to audit biennially the accounts pertaining to federal funds received by state departments, officers, boards, commissions, institutions or other agencies.

H. 1. The Auditor of Public Accounts shall compile and maintain on its Internet website a searchable database providing certain state expenditure, revenue, and demographic information as described in this subsection. In maintaining the database, the Auditor of Public Accounts shall work with and coordinate his efforts with the Joint Legislative Audit and Review Commission in obtaining, summarizing, and compiling the information to avoid duplication of efforts. The database shall be updated each year by October 15 to provide the information required in this subsection for the 10 most recently ended fiscal years of the Commonwealth.

The online database shall be made available to citizens of the Commonwealth to allow public access to historical revenue collections and appropriations with related demographic information, to the extent that the information is available and provided to the Auditor of Public Accounts. All state departments, courts officers, boards, commissions, institutions, or other agencies of the Commonwealth shall furnish all information requested by the Auditor of Public Accounts and shall cooperate with him to the fullest

extent.

For purposes of reporting information and implementing the database pursuant to this subsection, the Auditor of Public Accounts shall include all appropriated funds and other sources under the control of public institutions of higher education, except for the activity of private gifts, including endowment funds and unrestricted gifts referenced in § 23.1-101. The exclusion of this activity does not affect the public access to these records unless otherwise specifically exempted by law.

2. The database shall contain the following for each of the 10 most recently ended fiscal years of the Commonwealth:

a. Major categories of spending by each secretariat and each agency and institution, including each independent agency, and including within each major category a register of all funds expended, showing vendor name, date of payment, amount, and a description of the type of expense, including credit card purchases with the same information to the extent that the information exists. The database shall include the name, phone number, and email address for a contact at the agency or institution who may be contacted for additional information;

b. The number of full-time state employees and a listing of the positions and salary of each such position, organized by agency;

c. Total fiscal year revenues from state taxes, fees, and other charges, and total fiscal year revenues from state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income in the Commonwealth;

d. With regard to state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income, a comparison of such statistics for Virginia with the same statistics for other states;

e. Total fiscal year revenues from federal sources, including the major categories of spending for such revenues;

f. Total population and total population by various age groups including, but not limited to, school-age population and the population of persons 65 years of age and older;

g. Student enrollment in grades K through 12;

h. Enrollment in public institutions of higher education of the Commonwealth;

i. Enrollment in private institutions of higher education in the Commonwealth;

j. The annual prison population;

k. Virginia adjusted gross income and Virginia taxable income by various age groups;

l. The number of citizens in the Commonwealth receiving food stamps;

m. The number of driver's licenses issued;

n. The number of registered motor vehicles;

o. The number of full-time private sector employees;

p. The number of households;

q. The number of prepaid tuition contracts outstanding pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 and the estimated total liability under such contracts;

r. Any state audit or report relating to the programs or activities of an agency;

s. Information on capital outlay payments including, but not limited to, project title, funding date, completion date, appropriations, year-to-date expenditures, and unexpended appropriations;

t. Annual bonded indebtedness that shall include, but not be limited to, the amount of the total original obligation stated in terms of principal and interest, the term of the obligation, the amounts of principal and interest previously paid to reduce the obligation, the balance remaining of the obligation, and any refinancing of the obligation; and

u. Other data as the Auditor deems appropriate relating to the Commonwealth of Virginia.

3. The Auditor of Public Accounts shall incorporate into the database the following additional elements as they become available through improved enterprise applications or other systems:

a. Commodities including, but not limited to, line item expenditures;

b. Virginia Performs data as it directly relates to funding actions or expenditures;

c. Descriptive purpose for funding action or expenditure;

d. Statute or act of General Assembly authorizing the issuance of bonds; and

e. Copies of actual grants and contracts.

4. The Auditor of Public Accounts shall incorporate in the database the following enhancements:

a. Graphs, charts, or other visual displays of aggregated data showing (i) current state spending by expense category, (ii) year-to-year state spending, and (iii) other data deemed appropriate by the Auditor, including display of available line item expenditures; and

b. Frequently asked questions and their responses.

5. By October 15 of each year, the Auditor shall also produce a paper copy or a computer file containing the information described in this subsection and shall distribute the copy or file to newspapers of general circulation in the Commonwealth. The distribution shall include the address of the Internet website for the searchable database.

I. As a part of audits conducted pursuant to subsection A, the Auditor of Public Accounts shall review compliance with requirements established pursuant to the provisions of § 2.2-519 and the

requirements of the Virginia Debt Collection Act (§ 2.2-4800 et seq.).

§ 32.1-122.7:1. Board of Directors of the Virginia Health Workforce Development Authority.

The Virginia Health Workforce Development Authority shall be governed by a Board of Directors. The Board shall consist of 13 members to be appointed as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate, to be appointed by the Senate Committee on Rules; seven nonlegislative citizen members, three of whom shall be representatives of health professional educational or training programs, three of whom shall be health professionals or employers or representatives of health professionals, and one of whom shall be a representative of community health, to be appointed by the Governor; and the Commissioner of Health or his designee, the Chancellor of the Virginia Community College System or his designee, and the Director of the Department of Health Professions or his designee, who shall serve as ex officio members with voting privileges. Members appointed by the Governor shall be citizens of the Commonwealth.

Legislative members and state government officials shall serve terms coincident with their terms of office. All appointments of nonlegislative citizen members shall be for two-year terms following the initial staggering of terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative and citizen members may be reappointed; however, no citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's term limit. Vacancies shall be filled in the same manner as the original appointments.

The Board shall elect a chairman and vice-chairman annually from among its legislative members. A majority of the members of the Board shall constitute a quorum.

The Board of Directors shall report biennially on the activities and recommendations of the Authority to the Secretary of Health and Human Resources, the Secretary of Education, the Secretary of Commerce and Trade, the State Board of Health, the State Council of Higher Education for Virginia, the Joint Commission on Health Care, the Governor, and the General Assembly. In any reporting period where state general funds are appropriated to the Authority, the report shall include a detailed summary of how state general funds were expended.

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts, or his legally authorized representative, shall ~~annually~~ examine the accounts of the Authority *as determined necessary by the Auditor of Public Accounts*. The cost of such audit shall be borne by the Authority.

§ 32.1-362. Audit.

The accounts of the Foundation shall be audited ~~annually~~ by the Auditor of Public Accounts, or his legally authorized representatives, *as determined necessary by the Auditor of Public Accounts*. Copies of the ~~annual~~ audit shall be distributed to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

§ 36-154. Audit.

The Auditor of Public Accounts or his legally authorized representatives shall ~~annually~~ audit the accounts of the Fund in accordance with generally accepted auditing standards *as determined necessary by the Auditor of Public Accounts*, and the cost of such audit services shall be borne by the Fund.

§ 51.5-59. Annual report; Auditor of Public Accounts to audit books and accounts.

The Board shall submit an annual report that includes a statement of the receipts, disbursements, and current investments of the Fund for the preceding year to the Governor and the General Assembly. The report shall set forth a complete operating and financial statement covering the operation of the Fund during the year, including any loan fund or loan guarantee fund the Authority administers or manages. The Auditor of Public Accounts or his legally authorized representatives shall ~~at least once in a year~~ audit the books and accounts of the Authority and any loan fund or loan guarantee fund the Authority administers or manages *as determined necessary by the Auditor of Public Accounts*.

§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 2.2-2031, moneys in the Fund shall be used for the purposes stated in subsections C through D. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner or the Chief Information Officer of the Commonwealth.

B. Each CMRS provider and each CMRS reseller shall collect a wireless E-911 surcharge from each of its customers whose place of primary use is within the Commonwealth. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Department of Taxation. The Department of Taxation,

after subtracting its direct costs of administration, shall deposit all remitted wireless E-911 surcharges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the wireless E-911 surcharges collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers shall be subject to the provisions of the federal Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended).

The CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

C. Beginning July 1, 2012, 60 percent of the Wireless E-911 Fund shall be distributed on a monthly basis to the PSAPs according to each PSAP's average pro rata distribution from the Wireless E-911 Fund for fiscal years 2007-2012, taking into account any funding adjustments made pursuant to subsection E. On or before July 1, 2018, and every five years thereafter, the Department of Taxation shall recalculate the distribution percentage for each PSAP based on the cost and call load data of the PSAP for the previous five fiscal years, which data shall continue to be received by the Board and then reported to the Department of Taxation. The distribution from the Wireless E-911 Fund shall be made on a monthly basis to the PSAPs according to such distribution percentage beginning July 1 of such fiscal year.

D. Using 30 percent of the Wireless E-911 Fund, the Board shall provide payment to CMRS providers of wireless E-911 CMRS costs. For these purposes each CMRS provider shall submit to the Board on or before December 31 of each year an estimate of wireless E-911 CMRS costs it expects to incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates. The Board shall review such estimates and advise each CMRS provider on or before the following March 1 whether its estimate qualifies for payment hereunder and whether the Wireless E-911 Fund is expected to be sufficient for such payment during said fiscal year. A CMRS provider with an approved estimate of costs shall submit its request for payment of such costs no later than four months after the end of the fiscal year in which the cost was incurred. If the portion of the Fund designated for CMRS provider cost payments is insufficient to provide full payment to each CMRS provider for its costs, no unpaid cost shall be paid in the following fiscal year. The remaining 10 percent of the Fund and any remaining funds for the previous fiscal year from the 30 percent for CMRS providers shall be distributed to PSAPs or on behalf of PSAPs based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from the Fund, including procedures for determining the amount of a grant and payment schedule; however, the grants must be to the benefit of wireless E-911. Any grant funding that has not been committed by the Board by the end of the fiscal year shall be distributed to the PSAPs based on the same distribution percentage used during the fiscal year in which the funding was collected; however, the Board may retain some or all of this uncommitted funding for an identified funding need in the next fiscal year or for a reserve balance pursuant to a reserve balance policy adopted by the Board.

E. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements. For the fiscal year ending June 30, 2005, the Board shall determine whether qualifying payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or CMRS provider. Each funding recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during the then current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding in the then current fiscal year.

F. The Auditor of Public Accounts, or his legally authorized representatives, shall ~~annually~~ audit the Wireless E-911 Fund *as determined necessary by the Auditor of Public Accounts*. The cost of such audit shall be borne by the Board and be payable from the Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission.

G. The special tax authorized by § 58.1-1730 shall not be imposed on consumers of CMRS.

§ 59.1-394. Audit required.

A regular post-audit shall be conducted of all accounts and transactions of the Commission. An ~~annual~~ audit of a fiscal and compliance nature of the accounts and transactions of the Commission shall be conducted by the Auditor of Public Accounts ~~on or before September 30 of each year as determined necessary by the Auditor of Public Accounts~~. The cost of the ~~annual~~ audit and post-audit examinations shall be borne by the Commission.