

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 699

An Act to amend and reenact § 15.2-2511 of the Code of Virginia, relating to annual local audit; enforcement; civil penalty.

[H 760]

Approved April 6, 2020

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2511 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2511. Audit of local government records, etc.; Auditor of Public Accounts; audit of shortages; civil penalty.

A. Localities shall have all their accounts and records, including all accounts and records of their constitutional officers, audited annually as of June 30 by an independent certified public accountant in accordance with the specifications furnished by the Auditor of Public Accounts. The certified public accountant shall present a detailed written report to the local governing body at a public session by the following December 31. Every locality shall contract for the performance of the annual audit not later than April 1 of each fiscal year, and such contract shall incorporate the provisions of this section relating to audit specifications and report date. The report shall be (i) submitted to the Auditor of Public Accounts, (ii) preserved by the clerk of the local governing body, and (iii) open to public inspection at all times by any qualified voter. If the audit is not completed as required by this section, the locality shall promptly post a statement on its website, if such website exists, declaring that the required audit is pending, the reasons for the delay, and the estimated date of completion. Such statement shall also be posted and made available to the public at the next scheduled meeting of the local governing body and also be sent to the Auditor of Public Accounts. The statement shall continue to be posted and updated until the audit is complete. *If a locality fails to post such notice or make such notice available to the public, any aggrieved person may proceed to enforce such action by filing a petition for mandamus to the general district court, supported by an affidavit showing good cause. The court, if it finds that a violation has occurred, may issue a writ of mandamus and impose a civil penalty of not less than \$500 nor more than \$2,000 against the locality, which amount shall be paid into the Literary Fund.*

The accounts and records of any county or city officer listed in Article VII, Section 4 of the Constitution of Virginia, hereinafter referred to as "constitutional officers," shall be subject to the provisions of this section.

When the annual audit conducted pursuant to this subsection includes the clerk of the circuit court, the audit shall satisfy the requirement of an audit pursuant to § 30-134.

In the event that a locality fails to obtain the annual audit prescribed by this subsection, the Auditor of Public Accounts may undertake the audit or may employ the services of certified public accountants and charge the full cost of such services to the locality. However, no part of the cost and expense of such audit shall be paid by any locality whose governing body has its accounts audited for the fiscal years in question as prescribed above and furnishes the Auditor of Public Accounts with a copy of such audit.

B. Except where otherwise authorized by statute, the Auditor of Public Accounts shall audit the accounts of local governments and constitutional officers only when (i) special circumstances require an audit or (ii) there is suspected fraud or inappropriate handling of funds that may affect the financial interests of the Commonwealth. However, the Auditor of Public Accounts shall also audit the accounts of a local government at any other time upon a majority vote of the local governing body, with all expenses of the audit to be borne by the requesting locality. In all instances, such audits shall be carried out with the approval of the Joint Legislative Audit and Review Commission.

Any shortage existing in the accounts of the locality or constitutional officer, as ascertained by the audit, shall be made public within 30 days after the shortage is discovered, and a brief statement thereof shall be sent by the Auditor of Public Accounts to the members and clerk of the local governing body and to the circuit court for the locality and shall be filed in the clerk's office of such court.

C. The provisions of this section shall apply to all counties and cities, to all towns having a population of 3,500 or over, and to all towns constituting a separate school division regardless of their population. However, any town with a population of less than 3,500 that voluntarily has an audit prepared shall also submit the results of such audit to the Auditor of Public Accounts.

D. Notwithstanding the provisions of this section, any town not required to submit an audit pursuant to subsection C that voluntarily contracts for or performs an audit shall submit the results of such audit to the Auditor of Public Accounts upon completion of the audit.