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GOVERNMENT CODE - GOV

TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205] (Title 3 added by Stats. 1947, Ch. 424.)

DIVISION 2. OFFICERS [24000 - 28085] (Division 2 added by Stats. 1947, Ch. 424.)

PART 3. OTHER OFFICERS [26500 - 27773] (Part 3 added by Stats. 1947, Ch. 424.)

CHAPTER 4. Auditor [26900 - 26946] (Chapter 4 added by Stats. 1947, Ch. 424.)

ARTICLE 1. Duties Generally [26900 - 26914] (Article 1 added by Stats. 1947, Ch. 424.)

26900. The auditor shall examine and settle the accounts of any persons indebted to the county or holding money payable into the county treasury, and shall certify the amount to the treasurer. Upon the presentation and filing of the treasurer's receipt therefor, the auditor shall give to such person a discharge and charge the treasurer with the amount received by him.

(Added by Stats. 1947, Ch. 424.)

26901. The county auditor may require any person or officer indebted to the county or holding money payable into the county treasury to make an oath as to the total amount of money payable by him to the county or into the county treasury, and on what account.

(Amended by Stats. 1957, Ch. 1775.)

26902. "Money payable into the county treasury," as used in Sections 26900 and 26901, includes money belonging to estates of deceased persons and required by law to be paid to the county treasurer, taxes on inheritances and transfers, any money deposited by order of court, and any other money deposited with the county treasurer by virtue of any official authority whatever.

(Added by Stats. 1947, Ch. 424.)

26903. Whenever money or credits, or evidences thereof, are transmitted to the county treasurer by any state officer or employee for deposit in the county treasury or in the treasury of any political subdivision, public or municipal corporation, or district of which the county treasurer is the treasurer, the transmitter shall at the time of the transmission also transmit to the county auditor a notice stating the following:

(a) The amounts of money or credits or evidences thereof transmitted.

(b) The mode of transmission and the date when the transmitter placed the money or credits, or evidences thereof, in course of transmission or deposited them with the county treasurer.

(c) A description of the money or credits, or evidences thereof, and the purpose for which transmitted.

The auditor shall file the notices in his office and shall notify the treasurer of their receipt.

(Added by Stats. 1947, Ch. 424.)

26904. The auditor shall keep accounts current with the treasurer, and when any person deposits with the auditor any receipt given by the treasurer for any money paid into the treasury, the auditor shall file the receipt and charge the treasurer with the amount.

(Added by Stats. 1947, Ch. 424.)

26905. Not later than the last day of each month, the auditor shall reconcile the cash and investment accounts as stated on the auditor's books with the cash and investment accounts as stated on the treasurer's books as of the close of business of the preceding month to determine that the amounts in those accounts as stated on the books of the treasurer are in agreement with the amounts in those accounts as stated on the books of the auditor.

(Amended by Stats. 2001, Ch. 176, Sec. 10. Effective January 1, 2002.)

26906. Any money other than taxes erroneously paid into the county treasury may be returned to the person paying it in upon a warrant drawn by the auditor on the order of the board of supervisors based upon such voucher as shows proper evidence of the facts. The board of supervisors may, by resolution, authorize the auditor to act in lieu of and with the same authority as the board of supervisors in ordering the return of such money. If the board of supervisors authorizes the auditor to make such refunds in lieu of and with the same authority as the board, the auditor shall periodically, but not less than annually, file a report with the board listing all such refunds.

(Amended by Stats. 1970, Ch. 193.)

26906.1. The county auditor, with the approval of the board of supervisors, may impound the disputed revenues of any tax upon secured or unsecured property, levied and collected by the county for the county or any revenue district, whenever, pursuant to Chapter 5 (commencing with Section 5096), Part 9, Division 1 of the Revenue and Taxation Code, a claim or action is filed for the return of the revenues, or the auditor reasonably anticipates that the tax may be refunded in whole or in part. The county auditor shall continue to impound such revenues until the final disposition of the claim or action, or a refund of the tax is no longer anticipated. If, under the final disposition, it is determined that such taxes were properly levied against such property, the auditor shall release the revenues to the county or revenue district.

(Amended by Stats. 1984, Ch. 884, Sec. 3.)

26907. (a) Notwithstanding Section 26201, 26202, or 26205, the auditor or ex officio auditor may destroy any county, school, or special district claim, warrant, or any other paper issued as a warrant voucher that is more than five years old, or at any time after the document has been photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, or recorded on optical disk or reproduced on any other medium that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records if the copy is kept or maintained for five years from the date of the document. A duplicate copy of any record reproduced in compliance with Section 12168.7 for recording of permanent or nonpermanent records, whichever applies, shall be deemed an original.

(b) The auditor may make a photographic record of an index or warrant register and may provide for the destruction of the index or warrant register. Any index or warrant register that is over five years old may be destroyed without being photographically or microphotographically reproduced.

(Amended by Stats. 2007, Ch. 343, Sec. 9.4. Effective January 1, 2008.)

26907.1. Notwithstanding the provisions of Sections 26201, 26202, and 26205 of this code, the auditor or ex officio auditor may destroy any county, school or special district bonds or coupons which have been paid or canceled for a period of not less than five years.

(Added by Stats. 1957, Ch. 911.)

26907.2. Notwithstanding the provisions of Sections 26201, 26202, and 26205 of this code, the board may authorize the destruction or disposition of the copies of any county deposit permits or deposit receipts issued by the county auditor which are more than five years old.

(Added by Stats. 1963, Ch. 1184.)

26908. Notwithstanding the provisions of Sections 4104.3 and 4104.5 of the Revenue and Taxation Code, the tax collector may, upon order of the board of supervisors, destroy such tax rolls two years after the last current item has been recorded thereon, provided that a photographic record of the tax roll has been made, one copy of which shall be permanently retained.

(Amended by Stats. 1976, Ch. 156.)

26908.5. (a) As used in this section "auditor" includes an elected or appointed officer or full-time employee of a county or a special district who is compensated, but does not include an independent contractor.

(b) All books, papers, records, and correspondence of an auditor pertaining to the auditor's work are public records subject to Division 10 (commencing with Section 7920.000) of Title 1 and shall be filed at any of the regularly maintained offices of the auditor. However, none of the following items or papers of which these items are a part may be released to the public by the auditor or the auditor's employees:

(1) Personal papers and correspondence of any person providing assistance to the auditor when that person has requested in writing that the person's papers and correspondence be kept private and confidential. Those papers and that correspondence shall become public records if the written request is withdrawn or upon the order of the auditor.

(2) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed.

(3) Papers, correspondence, or memoranda pertaining to any audit that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit.

(Amended by Stats. 2021, Ch. 615, Sec. 189. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

26909. (a) (1) The county auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided. In each case, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(2) (A) If an audit of a special district's accounts and records is made by a certified public accountant or public accountant, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(B) A report of the audit required pursuant to subparagraph (A) shall be filed within 12 months of the end of the fiscal year or years under examination as follows:

(i) For a special district defined in paragraph (2) of subdivision (d) of Section 12463, with the Controller.

(ii) For a special district defined in Section 56036, with the Controller, the county auditor, and the local agency formation commission of the county in which the special district is located, unless the special district is located in two or more counties, then with each local agency formation commission within each county in which the district is located.

(3) Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special district pursuant to this section shall be borne by the special district and shall be a charge against any unencumbered funds of the district available for the purpose.

(4) For a special district that is located in two or more counties, this subdivision shall apply to the auditor of the county in which the treasury is located.

(5) The county controller, or ex officio county controller, shall effect this section in those counties having a county controller or ex officio county controller.

(b) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with one of the following, performed in accordance with professional standards, as determined by the county auditor:

(1) A biennial audit covering a two-year period.

(2) An audit covering a five-year period if the special district's annual revenues do not exceed an amount specified by the board of supervisors.

(3) An audit conducted at specific intervals, as recommended by the county auditor, that shall be completed at least once every five years.

(c) (1) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with a financial review, or an agreed-upon procedures engagement, in accordance with the appropriate professional standards, as determined by the county auditor, if the following conditions are met:

(A) All of the special district's revenues and expenditures are transacted through the county's financial system.

(B) The special district's annual revenues do not exceed one hundred fifty thousand dollars (\$150,000).

(C) The special district shall pay for any costs incurred by the county auditor in performing an agreed-upon procedures engagement. Those costs shall be charged against any unencumbered funds of the district available for that purpose.

(2) If the board of supervisors is the governing board of the special district, it may, upon unanimous approval, replace the annual audit of the special district required by this section with a financial review, or an agreed-upon procedures engagement, in accordance with the appropriate professional standards, as determined by the county auditor, if the special district satisfies the requirements of subparagraphs (A) and (B) of paragraph (1).

(d) (1) A special district may, by annual unanimous request of the governing board of the special district and with annual unanimous approval of the board of supervisors, replace the annual audit required by this section with an annual financial compilation of the special district to be performed by the county auditor in accordance with professional standards, if all of the following conditions are met:

(A) All of the special district's revenues and expenditures are transacted through the county's financial system.

(B) The special district's annual revenues do not exceed one hundred fifty thousand dollars (\$150,000).

(C) The special district shall pay for any costs incurred by the county auditor in performing a financial compilation. Those costs shall be a charge against any unencumbered funds of the district available for that purpose.

(2) A special district shall not replace an annual audit required by this section with an annual financial compilation of the special district pursuant to paragraph (1) for more than five consecutive years, after which a special district shall comply with subdivision (a).

(e) Notwithstanding this section, a special district shall be exempt from the requirement of an annual audit if the financial statements are audited by the Controller to satisfy federal audit requirements.

(f) Upon receipt of the financial review, agreed-upon procedures engagement, or financial compilation, the county auditor shall have the right to appoint, pursuant to subdivision (a), a certified public accountant or a public accountant to conduct an audit of the special district, with proper notice to the governing board of the special district and board of supervisors.

(g) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

(Amended (as amended by Stats. 2017, Ch. 334, Sec. 2) by Stats. 2019, Ch. 329, Sec. 9. (SB 780) Effective January 1, 2020. Repealed as of January 1, 2027, by its own provisions. See later operative version, as amended by Sec. 10 of Stats. 2019, Ch. 329.)

26909. (a) (1) The county auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided. In each case, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(2) (A) If an audit of a special district's accounts and records is made by a certified public accountant or public accountant, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(B) A report of the audit required pursuant to subparagraph (A) shall be filed within 12 months of the end of the fiscal year or years under examination as follows:

(i) For a special district defined in paragraph (2) of subdivision (d) of Section 12463, with the Controller.

(ii) For a special district defined in Section 56036, with the Controller, the county auditor, and the local agency formation commission of the county in which the special district is located, unless the special district is located in two or more counties, then with each local agency formation commission within each county in which the district is located.

(3) Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special district pursuant to this section shall be borne by the special district and shall be a charge against any unencumbered funds of the district available for the purpose.

(4) For a special district that is located in two or more counties, this subdivision shall apply to the auditor of the county in which the treasury is located.

(5) The county controller, or ex officio county controller, shall effect this section in those counties having a county controller or ex officio county controller.

(b) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with one of the following, performed in accordance with professional standards, as determined by the county auditor:

(1) A biennial audit covering a two-year period.

(2) An audit covering a five-year period if the special district's annual revenues do not exceed an amount specified by the board of supervisors.

(3) An audit conducted at specific intervals, as recommended by the county auditor, that shall be completed at least once every five years.

(c) (1) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with a financial review, in accordance with the appropriate professional standards, as determined by the county auditor, if the following conditions are met:

(A) All of the special district's revenues and expenditures are transacted through the county's financial system.

(B) The special district's annual revenues do not exceed one hundred fifty thousand dollars (\$150,000).

(2) If the board of supervisors is the governing board of the special district, it may, upon unanimous approval, replace the annual audit of the special district required by this section with a financial review in accordance with the appropriate professional standards, as determined by the county auditor, if the special district satisfies the requirements of subparagraphs (A) and (B) of paragraph (1).

(d) Notwithstanding this section, a special district shall be exempt from the requirement of an annual audit if the financial statements are audited by the Controller to satisfy federal audit requirements.

(e) This section shall become operative on January 1, 2027.

(Amended (as amended by Stats. 2017, Ch. 334, Sec. 3) by Stats. 2019, Ch. 329, Sec. 10. (SB 780) Effective January 1, 2020. Section operative January 1, 2027, by its own provisions.)

26910. The auditor may at any reasonable time and place examine the books and records of any special purpose assessing or taxing district located wholly in the county.

(Added by Stats. 1961, Ch. 1461.)

26911. Whenever a special district has elected to have its assessments collected by the county on the property tax roll, the district shall transmit to the county auditor, no later than August 10 of each year, a statement of the rates fixed for assessments.

(Added by Stats. 1996, Ch. 872, Sec. 54. Effective January 1, 1997.)

26912. (a) For the purposes of this section, a local agency includes a city, county, city and county, and special district, as such terms are defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, if such local agency levied a property tax during the 1977–78 fiscal year or if a property tax was levied for such local agency for such fiscal year, except that the Bay Area Pollution Control District shall be considered a local agency.

(b) For the 1978–79 fiscal year only, the amount of revenue derived from levying a tax pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code shall be allocated by the county auditor, subject to the allocation and payment of funds, as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each local agency, school district, county superintendent of schools, and community college district in the following manner:

(1) (A) The auditor shall determine the local agency share of 1978–79 property tax revenue by dividing the amount of property tax revenue received by all local agencies in 1977–78 by the total amount of property tax revenue received by all local agencies, school districts, community college districts, and county superintendents of schools in the 1977–78 fiscal year, and multiplying the quotient by the total amount of revenue generated pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code.

(B) For each local agency, the county auditor shall compute a factor equal to the average amount of property tax revenue received in the three fiscal years prior to the 1978–79 fiscal year by each local agency within the county, divided by the average amount of property tax revenue received by all such agencies during the three fiscal years prior to the 1978–79 fiscal year. The county auditor shall multiply the factor for each local agency by the amount of revenue determined pursuant to subparagraph (A).

(C) Notwithstanding subparagraph (B), in each case where a local agency has been formed in the past three years and has assumed the duties of another local agency, it shall be entitled to the average amount of revenue for the prior three years of the local agency from whom it assumed its duties.

(D) For the purposes of subparagraphs (A) and (B), local agency shall not include a local agency formed after January 1, 1976.

(2) (A) The county auditor shall determine the school share of the 1978–79 fiscal year property tax revenue by subtracting the local agency share, as determined under subparagraph (A) of paragraph (1) of this subdivision, from the total amount of revenue generated pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code.

(B) For each school district, county superintendent of schools, and community college district, the county auditor shall compute a factor equal to the amount of property tax revenue received in the 1977–78 fiscal year by such district and the county superintendent of schools within the county divided by the total amount of property tax revenue received by all such districts and the county board of education in the 1977–78 fiscal year. The county auditor shall multiply the factor for each school district, county superintendent of schools, and community college district by the amount of revenue determined pursuant to subparagraph (A). For the purpose of this paragraph, local agencies formed after January 1, 1976, shall be considered school districts.

(3) For the purpose of this subdivision, the amount of proceeds of any property tax actually and separately levied for the specific purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, including tax rates levied pursuant to Part 10 (commencing with Section 15000) of Division 1 of Sections 39308, 39311, 81338, and 81341 of the Education Code, shall be excluded from all calculations.

(4) The amounts computed under this subdivision shall be the amount of property tax revenue to be allocated to each local agency for the 1978–79 fiscal year.

(5) As used in this section, “property tax revenue” includes the amount of state reimbursement for the homeowners’ and business inventory exemptions.

(c) For the 1978–79 fiscal year only, the amount of state reimbursement to each county with respect to property tax losses pursuant to the homeowners’ exemption under Section 218 of the Revenue and Taxation Code, the business inventory exemption under Section 219 of the Revenue and Taxation Code, and the special treatment accorded livestock, motion pictures and wine and brandy under Sections 5523, 988, and 992, respectively, of the Revenue and Taxation Code, shall be allocated by each county auditor, subject to the allocation and payment of funds, as provided in subdivision (b) of Section 33670 of the Health and Safety Code, to local agencies, school districts, county superintendents of schools, and community college districts within the county pursuant to the proportions established in subdivision (b). This subdivision shall not apply to reimbursements with respect to tax rates levied to pay the interest or principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978.

(d) For local agencies, school districts, and community college districts located in more than one county, the county auditor of each county in which such local agency or district is located shall, for the purposes of computing the amount for such local agency or district pursuant to paragraphs (1) and (2) of subdivision (b), treat the portion of the local agency or district located within that county as a local agency or district.

(Amended by Stats. 1979, Ch. 225.)

26912.1. (a) For the 1978–79 fiscal year only, an amount shall be computed for each local agency, as defined in subdivision (a) of Section 26912, and for each school district, community college district and county superintendent of schools, equal to the sum of the amounts computed pursuant to subdivision (b) of this section. This amount shall be used for the computation of the amount of state assistance to be allocated to local jurisdictions for the 1978–79 fiscal year.

(b) (1) The county auditor shall determine an amount equal to the amount which would be generated by applying a tax rate of four dollars (\$4) per hundred dollars (\$100) of assessed valuation to the total amount of taxable assessed valuation within the county for 1977–78. For purposes of this computation, “taxable assessed valuation” shall be determined as though the homeowners’ and business inventory exemptions did not exist.

(2) The amount computed for each local agency, school district, community college district and county superintendent of schools within the county shall be equal to the amount which each such local jurisdiction would receive if the amount computed pursuant to paragraph (1) were allocated, subject to the allocation and payment of funds as provided in subdivision (b) of Section 33760 of the Health and Safety Code, pursuant to the proportions established in subdivision (b) of Section 26912.

(Added by Stats. 1978, Ch. 332.)

26912.2. Notwithstanding Section 26912, no allocation of property taxes levied pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code shall be made in the 1979–80 fiscal year and thereafter to the Central Delta Water Agency or to the South Delta Water Agency.

(Added by Stats. 1979, Ch. 888.)

26912.7. Notwithstanding any other provision of law, for the purposes of subdivision (d) of Section 95 and subdivision (a) of Section 2237 of the Revenue and Taxation Code, a voted override tax voted specifically for a lease or lease purchase of facilities under the provisions of former Section 42244 of the Education Code shall be deemed to be “other indebtedness,” if such voter approved override was approved prior to July 1, 1978.

(Added by Stats. 1979, Ch. 282.)

26913. If the governing body of a local agency notifies the county auditor by July 10 that it does not wish to receive its total allocation pursuant to Section 26912, the funds not claimed by such agency shall be allocated pursuant to Section 26912.

(Added by Stats. 1978, Ch. 292.)

26914. Notwithstanding the provisions of Section 26912, in any county in which the county superintendent of schools became fiscally independent on or after June 30, 1977, the apportionment of the revenue derived from the unsecured roll by applying the county ad valorem tax rate provided pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code shall be made as if the county superintendent of schools had in fact derived revenue from the unsecured roll in the 1977–78 fiscal year based on the county superintendent's tax rate on the secured roll in that year. The factors determined pursuant to subdivision (b) of Section 26912 shall be adjusted accordingly and there shall be added to the total amount of property tax revenue received by the county superintendent of schools in the 1977–78 fiscal year an amount equal to the amount of such revenue from the unsecured roll.

(Added by Stats. 1978, Ch. 783.)