WEST VIRGINIA CODE: §6-9-7

§6-9-7. Examinations into affairs of local public offices; penalties.

(a) The chief inspector has the power by himself or herself, or by any person appointed, designated, or approved by the chief inspector to perform the service, to examine into all financial affairs of every local governmental office or political subdivision and all boards, commissions, authorities, agencies or other offices created under authority thereof. An examination shall be made annually, if required, to comply with the Single Audit Act and when otherwise required by law or contract. When that act does not apply, unless otherwise required by law or by contract, the examination shall be made at least once a year, if practicable. Furthermore, the chief inspector shall furnish annually to the Legislature a list of each local government office or political subdivision and all boards, commissions, authorities, agencies, or other offices created under authority thereof and the year of its most recent completed audit.

(b) When required for compliance with regulations for federal funds received or expended by county boards of education the chief inspector or his or her designee, including any certified public accountant approved by the chief inspector shall conduct and issue an audit report within the time specified in controlling federal regulations. Examinations of other local governments shall be conducted and audit, review, or monitoring reports issued in accordance with uniform procedures of the chief inspector.

(c) In cooperation with institutions of higher education located in the State of West Virginia, the chief inspector may establish and maintain a small government monitoring program. The small government monitoring program shall authorize local governments which are not otherwise required to undergo a single audit or a financial audit to apply to the chief inspector, on an annual basis, for participation in the program. The chief inspector shall prescribe and oversee monitoring procedures that shall be performed by higher education students in the field of accounting. Participating institutions of higher education shall enter into a cooperative agreement with the chief inspector to provide the service. The chief inspector shall prescribe policies and procedures for the administration of the small government monitoring program.

(d) A county board of education may elect, by May 1 of the fiscal year to be audited, to have its annual examination performed by a certified public accountant approved by the chief inspector to perform the examinations. When this election is made, a copy of the order of the county board making the election shall be filed with the chief inspector and the State Board of School Finance. The county board of education is allowed to contract with any certified public accountant on the chief inspector’s then current list of approved certified public accountants, unless the State Board of School Finance or the prosecuting attorney of the county in which the board is located timely submits to the chief inspector a written request for the examination to be performed by the chief inspector or a person appointed by the

www.legislature.wv.gov

chief inspector, or the chief inspector determines that a special or unusual situation exists. The county board shall follow the audit bid procurement procedures established by the chief inspector in obtaining the audit.

(e) The chief inspector shall, at least annually, prepare a list of certified public accountants approved by the chief inspector to perform examinations of local governments. Names shall be added to or deleted from that list in accordance with uniform procedures of the chief inspector. When each list or updated list is issued, the chief inspector shall promptly file a copy of the list in the State Register and send a copy to the State Board of Education, the State Board of School Finance, and to local governments who request a copy.

(f) A county board of education, when procuring the services of a certified public accountant on the chief inspector's list, shall follow the procurement standards prescribed by the Uniform Guidance, Title 2 of the Code of Federal Regulations, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, in effect for the fiscal year being examined, or in any replacement circular or regulation of the Office of Management and Budget and in addition shall follow those standards as determined by the office of chief inspector.

(g) The approved independent certified public accountant making examinations under this section shall comply with requirements of this section applicable to examinations performed by the chief inspector, including applicable requirements of the federal government and uniform procedures of the chief inspector applicable to examinations of county boards of education.

(1) Upon completion of the certified public accountant's examination and audit or review report, the certified public accountant shall promptly send two copies of the certified report to the county board of education who shall file one copy with the federal Audit Clearing House. The certified public accountant shall send one copy of the certified report to the State Board of School Finance, and one copy to the chief inspector.

(2) If any examination discloses misfeasance, malfeasance, or nonfeasance in office on the part of any public officer or employee, the certified public accountant shall submit his or her recommendation to the chief inspector regarding the legal action the approved certified public accountant considers appropriate, including, but not limited to, whether criminal prosecution or civil action to effect restitution is appropriate, and three additional copies of the certified audit report. After review of the recommendations and the audit report, the chief inspector shall proceed as provided in §6-9-7(n) of this code. For purposes of this section and §18-9B-13 of this code, a certified audit report of an approved certified public accountant shall be treated in the same manner as a report of the chief inspector.

(h) On every examination, inquiry shall be made as to the financial conditions and resources of the agency having jurisdiction over the appropriations and levies disbursed by the office and whether the requirements of the Constitution and statutory laws of the state and the ordinances and orders of the agency have been properly complied with and also inquire into

WV Legislature

the methods and accuracy of the accounts and such other matters of audit and accounting as the chief inspector may prescribe.

(i) If a local government office is not subject to a single audit requirement under federal regulations or if it is not otherwise required by law or contract to undergo an annual audit and its expenditures from all sources are less than $500,000 during the fiscal year the chief inspector may choose to perform either a review or audit on the local government office and may in his or her discretion determine the frequency of such review or audit.

(j) The chief inspector or any authorized assistant may issue subpoenas and compulsory process, direct the service thereof by any sheriff, compel the attendance of witnesses and the production of books and papers at any designated time and place, selected in their respective county, and administer oaths.

(k) If any person refuses to appear before the chief inspector or his or her authorized assistant when required to do so, refuses to testify on any matter or refuses to produce any books or papers in his or her possession or under his or her control, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100 and confined for not more than six months.

(l) A person convicted of willful false swearing in an examination is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100 and confined in jail not more than six months.

(m) Except as otherwise provided in this section, a copy of the certified report of each examination shall be filed in the office of the commissioner, chief inspector with the governing body of the local government and with other offices as prescribed in uniform procedures of the chief inspector.

(n) If any audit, examination or investigation discloses misfeasance, malfeasance, or nonfeasance in office on the part of any public officer or employee, a certified copy of the report shall be published electronically by the chief inspector with notice of the publishing sent in writing to the proper legal authority of the entity being audited, examined, or investigated the chief inspector deems appropriate for such legal action as is proper. At the time the certified audit, examination, or investigation report is published, the chief inspector shall notify the proper legal authority of the entity being audited, examined, or investigated he or she deems appropriate in writing of his or her recommendation as to the legal action that the chief inspector considers proper, whether criminal prosecution or civil action to effect restitution, or both.

(o) If the proper legal authority or prosecuting attorney, within 90 days of receipt of the certified audit report and recommendations, refuses, neglects, or fails to take efficient legal action by a civil suit to effect restitution or by prosecuting criminal proceedings, in accordance with the recommendations, the chief inspector may institute the necessary proceedings or participate therein and prosecute the proceedings in any court of the state to

WV Legislature

a final conclusion.

(p) A local government that is not a county board of education may elect, by May 1 of the fiscal year to be audited, to have its annual examination performed by a certified public accountant approved by the chief inspector to perform the examinations. When this election is made, a copy of the order of the governing body making the election shall be filed with the chief inspector. An electing local government is allowed to contract with any certified public accountant on the chief inspector's then current list of approved certified public accountants, unless the prosecuting attorney of the county in which the local government is located timely submits to the chief inspector a written request for the examination to be performed by the chief inspector or a person appointed by the chief inspector, or the chief inspector determines that a special or unusual situation exists: Provided, That the audit of a local government may be performed by the chief inspector at his or her discretion. The local government shall follow the audit bid procurement procedures established by the chief inspector in obtaining the audit: Provided, however, That the chief inspector may elect to conduct the audit of a local unit of government with one or more members of his or her audit staff where, in the opinion of the chief inspector, a special or unusual situation exists.

WV Legislature