

ARTICLE IX
AUDITORS; ACCOUNTANTS

Section 901. Township Auditors; Meetings; Duties; Quorum.--

(a) The board of auditors shall meet annually at the place of meeting of the board of supervisors on the day following the day designated by this act for organization of the board of supervisors, and they shall organize by the election of a chairman and secretary. The board of auditors shall audit, settle and adjust the accounts of all elected or appointed officials of the township and its boards or agencies that received or disbursed funds of or owing to the township during the immediately preceding calendar year. The board of auditors shall determine the compensations for the current year authorized in section 606 for supervisors employed by the township. Two auditors shall constitute a quorum. The auditors may also make an audit of the dockets, transcripts and other official records of the district justices to determine the amount of fines and costs paid over or due the township, and the dockets and records of the district justices shall be open to inspection by the auditors for that purpose. Unless otherwise agreed to by the board of auditors and the officer being audited, the audit shall be conducted at the place the records of the officer are normally kept.

(b) Upon the death or resignation of any of the officials designated in this section to be audited, the board of auditors, upon call of the chairman, shall meet and audit the accounts of the former incumbent and determine the compensation of the successor if so authorized by this act.

Compiler's Note: Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Section 902. Auditor's Compensation.--(a) Each auditor shall receive ten dollars (\$10) for each hour necessarily employed in the duties of the office upon presentation to the board of supervisors of an itemized listing of the dates, times, places and hours worked to perform the audit. No auditor in a township having a population of ten thousand or less is entitled to receive more than one thousand dollars (\$1,000) for completing the annual audit, settlement and adjustment. No auditor in a township having a population in excess of ten thousand is entitled to receive more than two thousand dollars (\$2,000) for completing the annual audit, settlement and adjustment.

(b) In addition to the time actually used by the board of auditors to complete the audit, settlement and adjustment, each auditor may be compensated at the rate of ten dollars (\$10) each hour for not more than fifty hours to audit the accounts of any public official who handles public funds when a vacancy occurs in the office of the public official.

(c) Each auditor shall be reimbursed for travel costs incurred in the performance of the auditing duties at the rate established by the board of supervisors under the act of July 20, 1979 (P.L.156, No.51), referred to as the Uniform Mileage Fee Law, and for other expenses, including postage, notary fees or publication costs, incurred during the audit.

(902 amended June 22, 1999, P.L.114. No.17)

Section 903. Subpoenas; Oaths; Perjury.--The board of auditors may issue subpoenas to obtain the attendance of the officers whose accounts they are required to audit or adjust, of their executors and administrators and of any person whom it may be necessary to

examine as a witness and to compel their attendance, by attachment, the same as any court of common pleas may in cases pending before them and may also compel the production of all books, vouchers and papers relative to township accounts. The subpoena and attachment shall be issued by a district justice. The board of auditors may administer oaths and affirmations to all persons brought or appearing before them, whether accountants, witnesses or otherwise. All persons swearing or affirming falsely upon examination are guilty of perjury.

Compiler's Note: Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Section 904. Completion, Filing and Publication of Annual Township Report and Financial Statement.--(a) The board of auditors shall complete their audit, settlement and adjustment before the first day of April of each year. ((a) amended Apr. 14, 2016, P.L.81, No.14)

(b) The board of auditors shall make a report of the affairs of the township, executed copies of which report shall be filed not later than ninety days after the close of the fiscal year by the secretary of the board of auditors with the township secretary, the clerk of the court of the county or the prothonotary under local rules of court, the Department of Community Affairs and the Department of Transportation. Each copy of the report shall be signed by at least a majority of the board of auditors and duly verified by the oath of the secretary of the board of auditors. Any secretary of the board of auditors who fails to file the township report or to publish the required financial statement commits a summary offense.

(c) The township report shall be presented on a uniform form prepared and furnished under section 3203.

(d) The township report shall contain the names and addresses of the chairman and members of the board of supervisors, the township secretary and the township treasurer, a statement of the receipts of the township from all sources and of all accounts and revenue which may be due and uncollected at the close of the fiscal year, a statement of the disbursements of the township during the fiscal year, a statement of the balance in the township treasury at the beginning of the fiscal year, a statement of the resources and liabilities of the township at the end of the fiscal year, a detailed statement of the indebtedness of the township at the close of the fiscal year and the provisions made for the payment thereof together with the purposes for which it was incurred, a statement of the cost of ownership and operation of each public service industry owned, maintained or operated by the township and other information as may be required in this act.

(e) On or before the fifteenth day of April of each year, the secretary of the township shall publish, once in one newspaper of general circulation in the township, concise financial information prepared or approved by the auditors and consistent with the audited financial statements, for total assets, total liabilities and total net position at year end and total revenue, expenses and changes in net position for the year just ended and a reference to a place within the township where copies of the financial statements and accompanying auditor's report may be examined. If the full financial statements and accompanying auditor's report are not published, copies shall be supplied to the publishing newspaper when the request for publication is submitted. ((e) amended Apr. 14, 2016, P.L.81, No.14)

(f) If any township has a population of less than two hundred, as shown by the latest official census, the board of auditors may

post five copies of the financial statement in public places in the township in lieu of publication in a newspaper.

Compiler's Note: Section 301(a)(16) of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that all other powers and duties delegated to the Department of Community Affairs not otherwise expressly transferrred elsewhere by Act 58 and currently performed by the Department of Community Affairs under section 904 are transferred to the Department of Community and Economic Development.

Section 905. Penalty for Failure to Perform Duty.--Any auditor who fails to comply with this article commits a summary offense.

Section 906. Employment and Compensation of Attorney.--If a disagreement occurs with the board of auditors and any official it is required to audit, the board of auditors may petition the court of common pleas to appoint an attorney to represent or advise the board of auditors on the matter. The court shall not appoint an attorney unless reasonable effort to reach an agreement has been made and only after the board of auditors has given notice to the official or the board of supervisors of its intent to petition the court for the appointment. The board of auditors, with the agreement of the board of supervisors, shall determine the compensation of the attorney. If the dispute results in litigation or if the board of auditors and the board of supervisors cannot agree upon the compensation to be paid to the attorney, the court shall establish the compensation for the attorney appointed for the board of auditors. The compensation for the attorney shall be paid out of the general township fund.

Section 907. Surcharge by Auditors.--(a) The board of auditors shall surcharge any elected or appointed officer for the amount of any loss to the township caused in whole or in part by the officer's act or omission in violation of law or beyond the scope of the officer's authority. If the auditors find an absence of intent to violate the law or exceed the scope of authority and find the result of the officer's act could have been achieved by legal means and authorized procedures, the surcharge imposed shall be limited to the difference between the costs actually incurred by the township and the costs that would have been incurred had legal means and authorized procedures been employed. Provisions of this section which limit the amount of surcharge do not apply to cases involving fraud or collusion on the part of the officers or to any penalty ensuing to the benefit of or payable to the Commonwealth.

(b) Any balance in any report of the board of auditors against any officer of the township constitutes a surcharge against the officer as fully as if expressly stated in the report to be a surcharge. The board of auditors shall direct the clerk of court of common pleas to certify the amount of every balance or surcharge from which no appeal has been taken under sections 909 and 910 to the court of common pleas, and the prothonotary shall enter the balance or surcharge as a judgment against the officer in favor of the township.

Section 908. Collection of Surcharge; Bond.--Any auditor, elector or taxpayer of the township may enforce the collection of a judgment entered for a surcharge for the benefit of the township, by any appropriate action or execution, upon filing in the court of common pleas a bond (in the case of an elector or taxpayer), with one or more sureties, conditioned to indemnify the township for all costs which may accrue in the proceedings undertaken, subject, however, to all rights of appeal from the report of the board of auditors.

Section 909. Appeals from Report.--The board of supervisors or any elector or taxpayer of the township or any officer whose account is settled or audited by the board of auditors may appeal from any settlement or audit of the board of auditors to the court of common pleas within forty-five days after the settlement has been filed in the court of common pleas.

Section 910. Taxpayer's Appeal; Bond.--No appeal by an elector, taxpayer or officer shall be allowed unless the appellant enters into recognizance to prosecute the appeal with effect, and to pay all costs accruing thereon, in case, if the appellant is an elector or taxpayer, he fails to obtain a final decision more favorable to the township than that awarded by the board of auditors or, if the appellant is an officer, he fails to obtain a final decision more favorable to the officer than that awarded by the board of auditors.

Section 911. Consolidation of Appeals.--When more than one appeal from the report of the board of auditors is taken, whether by the board of supervisors, by an officer thereof or by an elector or taxpayer, the court may direct that the several appeals be consolidated.

Section 912. Report; Prima Facie Evidence; Burden of Proof.--The accounts of the officer in question may be investigated de novo. The figures and facts found and stated by the auditors in their report of audit shall be taken as prima facie correct as against any officer, and the burden shall be upon each officer whose accounts are in question to establish the validity of the credits which he claims.

Section 913. Findings; Judgment.--After hearing, the court shall file findings of fact and law and enter judgment, and the judgment so entered may be enforced by appropriate proceedings by any auditor, officer, elector or taxpayer of the township.

Section 914. Costs.--In all cases of appeal from the report or audit of the board of auditors to the court of common pleas, the costs shall be determined by the court.

Section 915. Attorney Fees.--Upon final determination of an appeal taken under section 909 from any report, audit or settlement of the account of any township officer, attorney fees shall be awarded as follows:

(1) If in the opinion of the court the final determination is more favorable to the township officer involved than that awarded by the board of auditors, the township shall pay reasonable attorney fees, or under paragraph (3) a portion of reasonable attorney fees, incurred by the officer in connection with the surcharge proceeding.

(2) In the case of an appeal taken by the township, an elector or a taxpayer, if in the opinion of the court the final determination is more favorable to the township than that awarded by the board of auditors, the township officer who is the subject of the surcharge proceeding shall pay reasonable attorney fees, or under paragraph (3) a portion of reasonable attorney fees, incurred by the township, elector or taxpayer in connection with the surcharge proceeding.

(3) If in the opinion of the court the final determination is in part more favorable to the township and in part more favorable to the township officer involved in the surcharge proceeding than that awarded by the board of auditors, the court may order the township to pay a portion of reasonable attorney fees incurred by the officer in connection with the surcharge proceeding, or it may order the township officer who is the subject of the surcharge proceeding to pay a portion of reasonable attorney fees incurred by the township, elector or taxpayer in connection with the surcharge proceeding.

Section 916. Interest in Township Transactions.--Any auditor who is financially interested, directly or indirectly, in any township transaction commits a summary offense. The auditor shall forfeit the office and forfeit to the township any financial benefit derived from the transaction.

Section 917. Appointment of Accountant.--(a) The board of supervisors may contract with a certified or competent public accountant or a firm of certified or competent public accountants, either of which shall be registered in this Commonwealth, to be appointed by the court of common pleas at least thirty days before the close of the fiscal year to audit the accounts of the township and the township officers if a petition has been presented to the supervisors by at least twenty-five taxpayers of the township asking for the appointment. The amount paid to the accountant or firm in any year shall not exceed the maximum allowed by law to be paid to the board of auditors in any year unless the payment of an additional amount is approved by the court.

(b) (1) Subject to the provisions of paragraph (2), at its annual organization meeting, or anytime thereafter, the board of supervisors may by resolution appoint a certified or competent public accountant or a firm of certified or competent public accountants, either of which shall be registered in this Commonwealth, to make an examination of all the accounts of the township for the fiscal year stated in the resolution. The board of supervisors shall determine the compensation of the appointed accountant.

(2) At least thirty days prior to the organizational meeting or thirty days prior to any vote to appoint a certified or competent public accountant or a firm of certified or competent public accountants to replace the elected auditors, the board of supervisors shall advertise in a newspaper of general circulation the intent to appoint a certified or competent public accountant or a firm of certified or competent public accountants to replace the elected auditors.

((b) amended Dec. 18, 1996, P.L.1142, No.172)

(c) When an accountant or firm is appointed under subsection (a) or (b), the board of auditors shall not audit, settle or adjust the accounts audited by the appointee but shall perform the other duties of the office. The accountant or firm has the powers given to the board of auditors under this act, except the audit shall be made in accordance with generally accepted auditing standards, and further provide that the accountant or firm appointed under subsection (a) or (b) shall not have the power to determine compensations, and they are subject to the same penalties as the elected auditors under this act. The report of the accountant or firm is subject to appeals the same as reports of the board of auditors under this act.

(d) For the purposes of meeting Federal or State requirements, the board of supervisors may contract with an independent certified or competent public accountant to audit the fiscal affairs of the township, independent of that conducted by the elected or appointed auditors.