

The Role of Auditor in Town Government – Refresher and Practical Considerations

William Hall, Senior Financial Consultant
Garrett Baxter, Senior Staff Attorney
Vermont League of Cities and Towns
Municipal Assistance Center
November 18, 2015

The Role of Auditor in Town Government

- Elections
- Duties
- Reports
- CPA audits

Election of Auditors

- Each town must have three auditors
- One auditor is elected each year, to serve for the term of three years
- No statutory requirement to be a professional accountant
- 17 VSA 2646 (6)

Incompatible Offices

- Town clerk
- Town treasurer
- Selectboard member
- First constable
- Collector of current or delinquent taxes
- Trustee of public funds
- Town manager
- Road commissioner
- Water commissioner
- Sewer commissioner
- Cemetery commissioner
- Town district school director
- Spouse of any of these officers
- Person assisting any of these officers in the discharge of their duties
- 17 VSA 2647

Vacancy in Office

- Selectboard must fill a vacancy “forthwith”
- Person must be a legally qualified voter
- Appointment is filed and recorded in town clerk’s office
- Person appointed serves until the next annual meeting unless a special meeting is held to elect a replacement
- 24 VSA 961-963

Employment Status

- Auditors are elected officials
- Auditors are treated as employees for tax and payroll purposes
- Voters may set compensation at annual meeting
- If voters do not, selectboard may set
- 24 VSA 932-933

Elimination of the Office of Elected Auditor

- May vote by ballot at an annual meeting to eliminate the office of town auditor
- Vote shall remain in effect until rescinded by majority vote at an annual meeting
- Selectboard contracts with a CPA to perform an annual financial audit
- Selectboard is responsible for all other services previously performed by the elected auditors, including production and distribution of annual report
- 17 VSA 2651b

Questions

?

Statutory Duties

- Town auditors shall meet at least 25 days before each annual town meeting to examine and adjust the accounts of all town officers and all other persons authorized by law to draw orders on the town treasurer
- Notice of said meeting shall be given by posting or publication ten days in advance of such meeting
- 24 VSA 1681

Statutory Duties

- Such auditing shall include:
 - Account the treasurer is required to keep with the collector
 - Tax accounts of the collector
 - Trust accounts where the town or any town officer is trustee, or where the town is sole beneficiary
 - Account relating to the town indebtedness
 - Accounts of any special funds in the care of any town official

Statutory Duties

- Initial meeting (official) – divide tasks to be completed by individual auditors
- Independent (informal) work by individual auditors (outside a warned meeting)
- Final meeting(s) (official) – review work and formally adopt the auditor’s report

Statutory Duties

- As a general rule, the Open Meeting Law applies to auditors
- One exception in the law applies to much of what the auditors actually do:
 - “routine day-to-day administrative matters that do not require action by the board”

Statutory Duties

- Open Meeting Law Requirements
 - Advance public notice of meetings
 - Preparation and posting of agendas
 - Conduct business in duly-warned, open meetings
 - Allow for public comment at meetings
 - Take minutes, make minutes available 5 days after the meeting, and post on a website

Statutory Duties

- Town auditors no longer serve as auditors for the town school district
- Town auditors are not responsible for audits of incorporated school districts, union school districts, or supervisory unions

Statutory Duties

- Auditor's authority is only as specifically given in statute (and what is incidental or necessary to carry out those functions)
- Not authorized to audit outside agencies – even those who receive town funds
- Auditor is independent of other elected officials

Questions

?

Report and Distribution

- Auditors shall report their findings in writing
- Auditors shall mail or otherwise distribute the report to the voters of the town at least 10 days before the annual meeting
- Auditors shall provide town clerk with copies to fulfill requirements of 24 VSA 1173

Report and Distribution

- Voters may vote to provide notice of the availability of the report to voters in lieu of mailing or otherwise distributing the report itself
 - Must specify how notice shall be given
 - Such notice must be given 30 days before the annual meeting
 - Shall mail a copy of the full report on request to a voter or resident
- 24 VSA 1682

Contents of Report

- Detailed statement of financial condition
- Classified summary of receipts and expenditures
- List of all outstanding orders and payables more than 30 days past due
- Deficit, if any, pursuant to 24 VSA 1523
- Condition of all trust funds
- Bonds and notes outstanding

CPA Audit Requirements

- Audits performed by a public accountant shall be conducted in accordance with generally accepted auditing standards
- Audits shall include the issuance of a report on internal control over financial reporting
- Report will identify any weaknesses, material weaknesses, or significant deficiencies found

CPA Audit Requirements

- If there are material weaknesses or significant deficiencies, or the opinion is qualified, adverse, or disclaimed:
 - Auditor shall present findings or opinion to legislative body with explanations
 - Legislative body will notify voters of the availability of the audit report and report on internal control
 - Next annual report shall include a summary of material weaknesses or significant deficiencies, or a statement that the audit report has an opinion that is qualified, adverse or disclaimed
 - The audit report and report on internal control shall be posted on the town's website

Practical Considerations

- Obligations of local auditors vary from town to town (size of town, experience of the auditors, whether independent auditors are used)
- Significant time is required to examine records of treasurer and other officials and preparing written report
- Workload can be made easier if procedures are conducted throughout the year

Practical Considerations

- Understanding the accounting system
 - Roles and responsibilities
 - Procedures manual
- Understand the system of internal controls
 - Survey internal control policies and procedures for effectiveness (internal control questionnaire)
 - Evaluate weaknesses in internal control

Practical Considerations

- Testing the system
 - Transactional tests determine if procedures are being followed accurately
 - Validation procedures verify account balances
 - Audit checklists will assist in these tests and provide documentation of the audit process

Practical Considerations

- Reporting the findings
 - Scope – what you did
 - Authority
 - Exceptions and modifications – list any changes you would make to the statements
 - Recommendations – list any recommendations you may have for improving the accounting and financial management system

Practical Considerations

- Disagreement with the treasurer's financial statements
 - Auditors should present to the treasurer any areas of discrepancy and attempt to correct the statements
 - Statutes allow local auditors to actually adjust the accounts they disagree with
 - From a practical standpoint, it is better to accept the treasurer's financial statements and outline exceptions in their written report

Practical Considerations

- Interim procedures
 - Monthly bank reconciliations
 - Regular reconciliation of delinquent taxes
 - Quarterly reconciliation of payroll and benefits
 - Review of invoices and account postings to verify procedures were followed and accounts are accurately presented

Questions

?

Relationship with other Officers Generally

- "The clerk and the selectmen are all elected officers of the town. Each has certain duties to perform. Those of the clerk are not made subject to the approval of the selectmen. They have general supervision of the affairs of the town, to be sure, and are charged with seeing to it that duties required of towns and school districts, and not committed to the care of any particular officer, are performed and executed. The duty of keeping the records required to be kept in the town clerk's office is, however, committed to the care of the town clerk. The selectmen have no express power to require the town clerk, who keeps his records in a lawful manner, to conform to their ideas as to what method he shall use."
Town of Bennington v. Booth, 101 Vt. 24 (1928).

Relationship with other Officers Generally

- "At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town."
24 V.S.A. § 1686(a).

Relationship with other Officers Generally

- “Town auditors shall meet at least 25 days before each annual town meeting to examine and adjust the accounts of all town officers and all other persons authorized by law to draw orders on the town treasurer...”
24 V.S.A. § 1681.
- “Not less than 25 days before each annual town meeting, all officials and other persons authorized to receive or disburse money belonging to a town shall settle their accounts with the auditors of such town, and the treasurer shall include in such settlement his accounts as town school district treasurer. When an officer refuses or neglects to make such settlement, he shall be ineligible to reelection for the year ensuing.”
24 V.S.A. § 992.

Relationship with other Officers Generally

- “Any town officer who willfully refuses or neglects to submit his or her books, accounts, vouchers, or tax bills to the auditors or the public accountant upon request, or to furnish all necessary information in relation thereto, shall be ineligible to reelection for the year ensuing and be subject to the penalties otherwise prescribed by law.”
24 V.S.A. § 1686(c).

Relationship with other Officers Selectboard

- “At any time in their discretion, town auditors may, ***and if requested by the selectboard, shall***, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town.”
24 V.S.A. § 1686(a).

Relationship with other Officers Selectboard

- “When a town does not fix the amount of the compensation to be paid such officers and town employees, the selectboard shall fix and determine the same except as to their own pay which shall be fixed by the auditors at the time of the annual audit. If the town has voted to eliminate the office of auditor and the voters fail to fix the compensation to be paid to members of the selectboard, selectboard members shall be compensated at the rate at which they were compensated during the immediately preceding year.”
24 V.S.A. § 933.

Relationship with other Officers Selectboard

- “Claims for personal services, except where compensation is fixed by law or by vote of the town or town school district, shall not be allowed to a town or town school district officer; but the auditors shall report claims and the nature and extent of the services at such meeting.”

24 V.S.A. § 931.

Relationship with other Officers Selectboard

- “In *Boyden v. Town of Brookline*, 8 Vt. 284, it is held that a town officer, as such, has no legal claim against a town for compensation for official services rendered, unless by an express vote of the town, or a uniform usage to pay that particular officer from year to year for his services. In *Barnes v. Town of Bakersfield*, 57 Vt. 375, it is held that a lister can recover only such compensation for his services as the town votes him.”

Senna v. Kennedy, 68 Vt. 172 (1896).

Relationship with other Officers Selectboard

- “The legislative body of a city, town, or incorporated village may upon its own motion contract with a public accountant, licensed in this State, to perform an annual audit of all funds of the town; or upon petition in writing of legal voters equal to five percent of the legal voters of the town or village...”
- “Audits performed by a public accountant under this section shall be conducted in accordance with generally accepted government auditing standards...”

24 V.S.A. § 1690.

Relationship with other Officers Selectboard

- “A town may vote by ballot at an annual meeting to eliminate the office of town auditor. If a town votes to eliminate the office of town auditor, the selectboard shall contract with a public accountant, licensed in this State, to perform an annual financial audit of all funds of the town...”
- “Unless otherwise provided by law, the selectboard shall provide for all other auditor duties to be performed.”
- “If the town has voted to eliminate the office of auditor, the public accountant employed by the selectboard shall perform the duties of the town auditors...upon request of the selectboard.”

17 V.S.A. § 2651b.

24 V.S.A. § 1686(b).

Relationship with other Officers Treasurer

- “Not less than 25 days before each annual town meeting, all officials and other persons authorized to receive or disburse money belonging to a town shall settle their accounts with the auditors of such town, and the treasurer shall include in such settlement his accounts as town school district treasurer. When an officer refuses or neglects to make such settlement, he shall be ineligible to reelection for the year ensuing.”

24 V.S.A. § 992.

Relationship with other Officers Treasurer

- The audit that is mandated not fewer than 25 days prior to Town Meeting shall include:
 - The account that the treasurer is required to keep with the collector;
 - Trust accounts where the town or any town officer, as such officer, is trustee or where the town is sole beneficiary;
 - Accounts relating to the town indebtedness; and
 - Accounts of any special funds in the care of any town official.

24 V.S.A. § 1681.

Relationship with other Officers Treasurer

- ***“The treasurer shall settle with the auditors five days previous to each annual town meeting, and at such other times as the selectmen may require and whenever he retires from office.*** At the close of his term of office he shall immediately pay over to his successor the funds in his hands belonging to the town and the town school district and at the same time deliver to his successor all official books and papers in his possession.”

24 V.S.A. § 1578.

Relationship with other Officers Delinquent Tax Collector

- “Annually, on or before February 5, the collector shall deliver to the auditors of each municipality for which the collector is acting all such bound volumes in which entries pertaining to such municipality have been made during the year ending January 31 next preceding, and the ***auditors shall audit*** the books forthwith and after the completion of audit shall return such books to such collector.”

32 V.S.A. § 5137.

Relationship with other Officers Delinquent Tax Collector

- “Annually, on or before January 15, the collector for a town or a municipality within it, shall make a list of the taxpayers of such municipality whose real and personal property taxes are unpaid as of December 31 next preceding, showing the amounts due and the years in which such taxes were due, certify under oath that such list is correct and deliver the same to the treasurer of such municipality.”

32 V.S.A. § 5162.

- “The lists described in section 5162 of this title shall be submitted by the collector of taxes to the auditors of such municipality for verification and if correct shall be so certified by the auditors. The lists described in sections 4646 and 5162 of this title shall be open to public inspection.”

32 V.S.A. § 5163.

Relationship with other Officers Delinquent Tax Collector

- “At the expiration of his or her term of office or when a collector removes from the town or other municipality for which he or she was appointed or elected, while a tax bill committed to him or her is uncollected in whole or in part, he or she shall lodge immediately with the treasurer of such municipality such tax bill and the moneys collected thereon. If such collector dies or is placed under guardianship, his or her administrator, executor, or guardian shall perform the same duties on demand by the selectboard, trustees of a village, or city council. **Such tax bill shall be audited** and reissued to the succeeding collector of taxes who shall receive the same and give his or her receipt therefor.”

32 V.S.A. § 4671.

Relationship with other Officers Listers

- There is generally only a loose connection between auditors and listers and the grand list. Since the listers are not "authorized by law to receive or disburse money belonging to the town" pursuant to 24 V.S.A. § 1681, the work of the listers does not technically fall within the purview of the auditors.