



April 10, 2017

Dr. Rod Thompson
Shakopee Public School District

Re: Petition or Formal Request for Audit by Minnesota Statute Auditor-Attorney Memo

Dear Dr. Thompson:

At your request, we have inquired of the Office of the State Auditor regarding their potential audit services for the Shakopee School District. This memo outlines our findings from research of Minnesota Statutes as well as a telephone conference with the Auditor's office.

Process:

An audit of the Shakopee Public School District's financial records by the Minnesota State Auditor can be obtained through either a formal request by the School Board (the governing body) or through a petition signed by at least ten eligible voters for each 50 resident pupils in average daily membership during the preceding school year as shown on the records in the office of the commissioner of education. If an audit is requested by the governing body, the Auditor's Office will work with the governing body to develop an audit that addresses the request made. If the audit is requested by Petition, the Auditor's Office waits until the Petition has been formally certified by the County. The Auditor's Office then sits down with the petitioners to determine the scope of the audit.

These audits are not a regular part of the work performed by the Auditor's Office. Greg Hierlinger, Deputy State Auditor, stated the Auditor's Office had not done any such audits for school districts since at least 2014. He further mentioned that such audits were not within their area of expertise.

Scope:

The scope of any audit performed by the Auditor's Office is determined after the request or Petition has been certified and received. The Auditor's Office would be willing to limit any audit to only a review of the financial shortfall currently experienced by the District. The Auditor *will not repeat any work previously performed by a private certified public accountant hired by the District*. The Auditor does not want to force the taxpayers of the District to incur additional cost for work which was already completed by a CPA. Along this same line, the Auditor will work closely with and cooperates with private CPAs. In other words, if the District has already retained a qualified CPA to audit something, the Auditor's Office would likely just defer to that work which had already been completed. Minnesota Statute section 6.71 specifically indicates these terms and permits the Auditor's Office to limit any audit as necessary to only cover "those complaints which are within the state auditor's powers and duties to investigate."

Mr. Hierlinger was asked about four different types of audits: forensic, performance, financial, and compliance. The Auditor's Office only performs forensic audits as part of investigations into potential criminal activity or willfully malfeasance. Such audits are performed by the special investigation division rather than the audit division. The audit division is the division that would perform an audit pursuant to the request of a

governing body of a school district or a petition of voters. The Auditor's Office *does not* do performance audits because they are not qualified to express an opinion about the efficiency or effectiveness of the executing the mission of the school district.¹ The Auditor would instead defer to the Department of Education to perform such a review or audit. The type of audit performed by the Auditor's Office is a financial and compliance audit. This is also the same type of audit performed by the private CPA annually that is hired by the District. It looks at providing reasonable assurances the financial information is accurate and fairly depicts the financial situation of the district. They also look to ensure compliance with laws regarding the receipt and use of federal funds. The specific aspects required of this audit can be further investigated by reviewing the Legal Compliance Audit Guide (available at: <http://www.osa.state.mn.us/default.aspx?page=20161228.007>).

Cost:

The cost of any audit performed by the Auditor's Office, either by request or pursuant to a petition, must be paid for entirely by the district. (See Minnesota Statute section 6.56, subd. 2). The statute states the School District would be responsible for "the total cost and expenses of any such examination, including the salaries paid to the examiners while actually engaged in making such examinations." Through a circuitous reference, the total costs appear to include but not be limited to "salaries, office overhead, equipment, authorized contracts, and other expenses." (Minnesota Statute section 6.581, subd. 1). There is also apparently a "schedule of charges" that has been or would have to be created for any audit. (Minn. Stat. Sec. 6.581, subd. 3). This schedule is apparently created in conjunction with the Minnesota Management and Budget Office. According to Mr. Hierlinger, no estimate of cost for an audit could be provided or created because the scope of work and experience level of the auditor assigned to the audit are presently complete unknowns. It is also likely the lack of any recent experience with this type of audit prevents any estimate of cost.

In the event an audit is conducted, the School District is authorized by statute to make payment of the expense. If the School District fails to make timely payment, there are statutorily imposed interest charges. Failure to make payment by the following July 1st results in certification to the taxing authority for imposition of a special levy. This would mean that the School District's levy to the residents of the tax area would increase to pay for the costs of the audit. In other words, it can result in an automatic increase in the property taxes to provide for payment of the audit if not otherwise paid for on a voluntary basis by the district. (See Minn. Stat. Sec. 6.62 for more information).

I hope this answers some of your questions regarding the scope of any State audit of the Shakopee School Board finances.

Very truly yours,
JASPERS, MORIARTY & WETHERILLE, P.A.

Kevin J. Wetherille
Attorney at Law

¹ This inquiry was made to Mr. Hierlinger after the Shakopee Valley News Editorial Board suggested a performance audit should be performed by the Auditor's Office.