

The Office of the State Auditor (OSA) and the case for eliminating it

The State Auditor is an elected Constitutional Officer whose original intended function was accounting for the finances of the State; not auditing local governments. It is a professional office, not a policy making position. This means that the State Auditor does not vote on legislation and does not have the authority to sign bills into law.

In the Reorganization Act of 1973, the State Legislature created the Department of Finance and transferred the finance responsibility from the State Auditor's Office. Concurrently, the responsibility for the collection of revenues was transferred from the State Treasurer's Office to a newly created Department of Revenue. That left the State Treasurer with the sole function of reconciling the State checking account and the State Auditor was about to be left with no function whatsoever.

A perfectly functioning office called the Public Examiner's Office had its oversight of local governments given to the Office of the State Auditor (OSA). The oversight of the Executive Branch remained with the Public Examiner's Office which was renamed the Office of the Legislative Auditor. ([Read more on the history of the OLA here](#))

Because the State Auditor is an elected partisan, political official, this reorganization maneuver made the oversight of local governments political; made inappropriately, but that's the way it is today. The Legislative Auditor's Office is *appointed* by and reports to the Legislative Audit Commission, which is a bi-partisan commission with 6 members of the House of Representatives and 6 members of the Senate, equally divided between majority and minority parties and is consequently considered nonpartisan and apolitical. It is ostensibly independent, in fact. ([Read more on LAC here](#))

It is important to never lose track of the fact that 65% of the OSA is a group of CPAs and others who work collectively as the State's auditor of local governments. Yet, the head of this office, the State Auditor, is *elected* and has never been a CPA. The functions of the OSA should not only be nonpartisan and apolitical, it must also *appear* nonpartisan and apolitical. In the accounting world this standard is the *Golden Rule* of auditing. It is "*Independence in Fact and Appearance.*"

The second general auditing standard is: "*The auditor must maintain independence in mental attitude in all matters relating to the audit.*" This standard requires the OSA to be nonpartisan and apolitical. This is a Catch-22 because the State Auditor is an elected partisan, political position. The OSA cannot maintain the appearance of independence. As a result, no one takes the State Auditor seriously when he or she speaks except, of course, partisan minded individuals.

By conspicuous contrast, when the Legislative Auditor speaks he has a broad and attentive audience because the Legislative Auditor is *appointed* by and reports to the Legislative Audit Committee.

In 1998, a Constitutional Amendment was passed to abolish the Office of the State Treasurer effective January 6, 2003. The functions of the State Treasurer were transferred to the Department of Finance. A final change was made in June of 2008 when the Department of Finance was combined with the Department of Employee Relations. The resulting entity is Minnesota Management & Budget.

The OSA has an *unfunded* auditing mandate to audit all first class cities and counties. Because of budget constraints, 28 counties, including Hennepin County, were released from this unfunded auditing mandate for a three-year period and were, therefore, audited by private CPA firms for audit year 2006 to 2008. These counties have been released again for audit year 2009 to 2011. A private accounting firm has audited Hennepin County since 1970. Releasing counties from the unfunded auditing mandate means that the OSA allowed these 28 counties to privatize the auditing of their books. This free-market approach allows governmental entities to make a request for proposal (RFP), which is an invitation for competitive bids from CPA firms, instead of the unfunded OSA auditing mandate. This results in considerable savings in auditing costs and smaller government. The decision on which counties are released is subject to partisan politics by the elected State Auditor.

As noted above, the unfunded auditing mandate also includes all three first class cities (i.e, Minneapolis, St. Paul, and Duluth) but not small cities. Private CPA firms audit the small cities. Contrary to widely held belief; the OSA *does not* audit school districts. Interestingly, this exclusion includes Anoka Hennepin School District, even though this district is larger than any government entity audited by the OSA. CPA firms audit all Minnesota school districts. The State would obviously benefit from a uniform system of auditing.

The OSA has two main problems that have to be addressed and because the State Auditor is an elected partisan, political position, both political parties have not wanted to address the two problems. These are the timeliness of the audit reports and the escalating audit costs. Empowering CPA firms to audit all first class cities and counties through a well regulated, supplemental peer review process administered by the State can solve both problems.

Staffing causes the timeliness problem and the burden is placed on rural counties because preferential treatment is given to first class cities and larger counties who are members of the Government Finance Officers Association (GFOA) and apply for the GFOA Certificate of Achievement for Excellence in Financial Reporting. The GFOA requires all GFOA Certificate audits to be issued within 6 months of fiscal year-end. For fiscal year-end December 31 that deadline would be June 30. So, the OSA puts GFOA members ahead in line at the expense of smaller non-GFOA counties. This is another political decision made by the elected political official. All past elected State Auditors have not wanted to upset GFOA members because they have many constituents and legislators. By front-end loading the GFOA members, the elected political officials have been able to minimize the pressure on the unfunded OSA auditing mandate. For audit year 2007, nineteen small counties had audits issued by the OSA after 12 months of fiscal year-end with two audits, Lincoln and Pine Counties,

issued April 28, 2009, with opinion dates of April 21, 2009 and April 22, 2009, respectively. That is 16 months after fiscal year-end. If the OSA hired enough auditors to complete all audits with 6 months, which is becoming the industry standard, they would not have enough work for the auditors for the second half of the audit cycle year; therefore, they spread the audits out at the timeliness of rural county audits so that audit staff keeps busy during the entire year. As you can see, a GFOA audit of Hennepin County by the OSA would compound the staffing problem.

All government entities, which receive over \$500,000 in federal grant expenditures, are required to have a federal Single Audit. This is part of the unfunded OSA auditing mandate and the released audits performed by private CPA firms. The current Single Audit deadline is 9 months after fiscal year-end. For fiscal year-end December 31 that deadline would be September 30. There were forty county audits subjected to the unfunded OSA auditing mandate that did not meet the federal Single Audit deadline for fiscal year-end December 31, 2008. Currently, there are no consequences for missing the Single Audit deadline. All released audits performed by private CPA firms met the federal Single Audit deadline.

Conclusion:

In the Minnesota Constitution, the original intent of the State Auditor was not to represent an individual examining or inspecting the records of local governments. The word auditor in the title State Auditor was originally intended to represent an individual who would audit the claims of state business before paying the bills (i.e., act as the State's Finance Officer). The State Legislature rewrote the original intent of the State Auditor in the Reorganization Act of 1973 (Gov. Wendy Anderson - DFL) without allowing the voters to discuss the merits of an Amendment to the Constitution. The big loser in this reorganization was the taxpayer.

As a result, we can (and do) elect individuals as State Auditor who do not meet the minimum functional qualifications to do the job. Auditing Standards issued by the Comptroller General of the United States require a CPA Certificate in order to opine on a set of financial statements (express an opinion). The second general auditing standard requires the State Auditor to be nonpartisan and apolitical.

The Minnesota Constitution does not have such a requirement. If the State Legislature would have allowed the people to debate the merits of the Reorganization Act of 1973 in a Constitutional Amendment, the people may have turned down the Reorganization Act, required the State Auditor to meet the minimum qualifications set by the Comptroller General or eliminated the elected partisan, political position of State Auditor. It seems likely that if the Minnesota Constitution were to be written today, some qualifications would attend the position of State Auditor.

Since the Reorganization Act of 1973, elected officials from both political parties have used the OSA as a political springboard in order to establish statewide name recognition before advancing to a higher office. Again, the loser is the taxpayer. They unintentionally elect individuals who have to hire a Deputy State Auditor who is a CPA in order to do their job, and the Deputy State Auditor serves at the "beck and call" of

the elected partisan, political official. This is a serious internal control weakness; a taxpayer does not have to be an auditor to understand it, and it must be debated in the public.