

Opinion No. 60-04

January 14, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. David F. Boyd, Jr. Attorney for Sandia Conservancy District Petroleum Building
515-517 Central Avenue, N.E. Albuquerque, New Mexico

QUESTION

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What is the affect of §§ 4-4-2.1 through 4-4-2.3, N.M.S.A., 1953 Compilation (P.S.), relating to the annual audit of local public bodies by the State Auditor, upon § 75-28-47 permitting audits of conservancy districts at least once every two years by a private auditor approved by the State Comptroller.

CONCLUSION

See analysis.

OPINION

{*337} ANALYSIS

It is clear that the Sandia Conservancy District is a "local public body", as defined by § 4-4-2.1, N.M.S.A., 1953 Compilation (P.S.), subject to annual audit by the State Auditor, members of his staff, or independent auditors approved by him. See §§ 4-4-2.2 and 2.3. Therefore, under these statutes, the financial affairs of the District must be audited annually by the State Auditor's Office or an independent auditor approved by the State Auditor.

The Conservancy Act, at § 75-28-47, states that not less than once every two years the board of directors of a conservancy district shall have an audit of the records and books of said district and shall levy and collect assessments for that purpose. The section further states that the audit is to be made {*338} by a private firm or auditor approved by the State Comptroller.

The Office of the State Comptroller no longer exists, having been abolished by Chapter 251, Section 9, Laws of 1957. The duties of the State Comptroller regarding audits have been taken over by the State Auditor.

The above cited sections relating to audits of local public bodies are a compilation of Chapter 248, Sections 1 through 3, Laws of 1957. On the other hand, § 75-28-47 is a compilation of Chapter 126, Section 15, Laws of 1943. Keeping in mind that the State

Auditor now performs the duties formerly performed by the State Comptroller regarding audits, it seems clear that § 75-28-47 is no longer controlling and that audits of the conservancy district must be conducted in accordance with §§ 4-4-2.1 through 2.3. Accordingly, although repeals by implication are not favored, we must of necessity come to the conclusion that § 75-28-47 was repealed by the enactment of Chapter 248, Sections 1 through 3, Laws of 1957, now compiled as §§ 4-4-2.1 through 2.3.

By: Philip R. Ashby

Assistant Attorney General