

# HOUSE BILL REPORT

## E2SHB 2222

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### As Passed Legislature

**Title:** An act relating to legislative oversight of state and local government programs.

**Brief Description:** Strengthening legislative oversight of government programs.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Backlund, Huff, Foreman, B. Thomas, Smith, Horn, Hymes, Honeyford, Fuhrman, Lambert, Thompson and McMahan).

**Brief History:**

**Committee Activity:**

Government Operations: 1/17/96, 1/19/96 [DPS];  
Appropriations: 2/3/96 [DP2S(w/o sub GOVT)].

**Floor Activity:**

Passed House: 2/10/96, 66-31.  
Senate Amended.  
House refused to concur.  
Conference committee relieved.  
Senate Amended.  
House Concurred.  
Passed Legislature.

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### HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Goldsmith, Vice Chairman; Hargrove; Honeyford; Hymes; Mulliken; D. Schmidt and Van Luven.

**Minority Report:** Without recommendation. Signed by 6 members: Representatives Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Conway; R. Fisher; Scheuerman and Wolfe.

**Staff:** Bill Lynch (786-7092).

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Government Operations. Signed by 17 members: Representatives Huff, Chairman; Clements, Vice Chairman; Pelesky, Vice Chairman; Beeksma; Brumsickle; Carlson; Cooke; Crouse; Dyer; Foreman; Hargrove; Hickel; Lambert; McMorris; Reams; Sheahan and Talcott.

**Minority Report:** Do not pass. Signed by 13 members: Representatives H. Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Chappell; Dellwo; Grant; Jacobsen; Kessler; Linville; Poulsen; Rust; Sehlin and Wolfe.

**Staff:** Kristen Reiber (786-7148).

**Background:** The Legislative Budget Committee (LBC) is composed of eight members of the Senate and eight members of the House of Representatives. No more than four members from each house may be from the same political party. The members appoint the chair, vice chair, and other officers of the committee.

The LBC is authorized to conduct examinations and make reports concerning the efficiency and effectiveness of state government, to make management surveys and program reviews of state agencies, and to perform other studies. The LBC is also authorized to make management surveys and program reviews of school districts and other units of local governments receiving state funds. The LBC may establish a biennial work plan that identifies state agency programs for which formal evaluation appears necessary as part of the program evaluation process.

The LBC hires the Legislative Auditor to act as the executive director of the committee and sets the Legislative Auditor's salary. The LBC hires and sets the salary for the other staff.

The Legislative Auditor is responsible for making recommendations to the LBC concerning revenues and expenditures of the state, as well as the organization and functions of the state; assisting the standing committees in considering legislation affecting state agencies and their efficiency; providing information to the Legislature under the direction of the LBC; and maintaining a record of all work performed under the direction of the LBC by the Legislative Auditor.

The State Auditor is authorized to conduct performance verifications when expressly authorized by the Legislature in the operating budget. The State Auditor may allocate no more than de minimus resources to performance audits except when expressly authorized in the operating budget.

During the 1996 Session, the Legislature authorized the creation of the Legislative Committee on Performance Review to conduct performance reviews of state agencies and programs.

## **Summary of Bill:**

### **I. Joint Legislative Audit and Review Committee**

The Legislative Budget Committee is renamed the Joint Legislative Audit and Review Committee. The joint committee is still composed of eight members from the Senate and eight members from the House of Representatives. The members of the joint committee form an executive committee consisting of one member from each of the four caucuses, including a chair and a vice-chair for terms not to exceed two years. The chair and vice-chair must be from different political parties. These two positions must alternate between members of the House and the Senate.

The executive committee is responsible for performing administrative and personnel duties assigned by the joint committee. The joint committee may delegate other duties to the executive committee. The executive committee recommends applicants for the position of Legislative Auditor to the membership of the joint committee. A majority vote of the joint committee's membership is necessary to hire the Legislative Auditor. The executive committee sets the Legislative Auditor's salary.

The Legislative Auditor hires the staff after consulting with and obtaining the approval of the executive committee. The Legislative Auditor sets the salaries of the staff with the approval of the executive committee.

The joint committee is required to develop and approve a performance audit work plan for the subsequent 16 to 24 months during the regular session of each odd-numbered year, beginning with 1997. Performance audits may be conducted on state agencies or on a unit of local government receiving state funds. A performance audit conducted on a unit of local government is limited to whether the local government is using the state funds for their intended purpose in an efficient and effective manner.

The joint committee must also develop internal tracking procedures that will allow the Legislature to measure the effectiveness of performance audits conducted by the joint committee. The internal tracking procedures must measure, where appropriate, cost-savings and increases in the effectiveness and efficiencies in how state agencies deliver their services. In agencies and programs where effective systems for performance measurement already exist, the measurements incorporated into those systems must be the basis for performance audits conducted.

Subject to the joint committee's approval, the office of the joint committee must undergo a quality control review at least once every three years by an independent

organization that has experience in conducting performance audits. The quality control review must include an evaluation of the quality of the audits conducted by the joint committee, an assessment of the audit procedures used, and an assessment of the qualifications of the staff to conduct performance audits.

## **II. Role of the Legislative Auditor**

The Legislative Auditor's duties include establishing and managing the Office of the Joint Legislative Audit and Review Committee and ensuring that all audits are performed in accordance with the government auditing standards prescribed by the Comptroller General.

The Legislative Auditor is required to work closely with the standing committees when conducting performance audits. The Legislative Auditor may consult with the State Auditor, the Director of Financial Management, and the appropriate legislative committees when developing the performance audit work plan for the joint committee. Among the factors to be considered in the development of the work plan is whether a follow-up audit would help ensure that previously identified recommendations for improvements were being implemented.

The Legislative Auditor is required to contract with and consult with public and private independent professional and technical experts as necessary when conducting performance audits, and should involve front-line employees and internal auditors to the highest possible degree.

## **III. Items included as part of a performance audit**

A performance audit is defined as an objective and systematic assessment of an activity performed by a state agency or a unit of local government receiving state funds, by an independent evaluator in order to help improve efficiency, effectiveness, and accountability. A performance audit includes economy and efficiency audits and program audits.

Performance audits may also include, subject to the requirements of the annual performance audit work plan of the joint committee, an examination of the costs and benefits of agency programs, functions, and activities; identification of viable alternatives for reducing costs or improving service delivery; identification of gaps and overlaps in service delivery and recommendations for corrective action; and comparison with other states whose agencies perform similar functions.

When conducting a performance audit, the Legislative Auditor may review the costs of programs recently implemented by the Legislature to compare actual agency costs with appropriations and the costs estimates contained in the fiscal note.

#### **IV. Performance audit process**

When the Legislative Auditor completes a performance audit, the Legislative Auditor must transmit the preliminary audit report to the affected state agency or local government, and the Office of Financial Management for comment. The agency or local government and the Office of Financial Management have 30 days to respond. Any response of the agency or local government or the Office of Financial Management is incorporated into the final performance audit report. The Legislative Auditor must also submit the preliminary performance audit report to the joint committee for its review, comments, and recommendations. Any comments or recommendations by the joint committee are included as a separate addendum to the final performance audit report. After the joint committee adopts the final performance audit report, it is transmitted to the affected agency or local government, the Director of Financial Management, the leadership and the appropriate standing committees of the House and Senate. The results of the final performance audit report must be published and the report made available to the public.

Within nine months after the final performance audit report has been transmitted to the appropriate standing committees, the joint committee in consultation with the standing committees may produce a preliminary compliance report. This report is based upon the agency's or local government's compliance with the recommendations contained in the final performance audit report. The agency or local government may attach its comments to the joint committee's preliminary compliance report as a separate addendum.

Within three months after the issuance of the preliminary compliance report, the joint committee may hold at least one public hearing in which public testimony is received regarding the findings and recommendations contained in the preliminary compliance report. The joint committee must issue a final compliance report within four weeks after the public hearings. The final compliance report is issued in the same manner as a final performance audit. The results of the final compliance report must be published and the report made available to the public.

The detailed estimates provided by agencies to the Governor for the purpose of developing budget proposals must include consideration of performance audit findings made by the Legislative Auditor.

The performance audit revolving fund is created in the state treasury. The Legislative Auditor must assess agencies all or a portion of the cost of the performance audits; moneys in the fund may be spent only after appropriation. The costs of performance audits may also be paid from appropriations.

#### **V. Role of the State Auditor**

The State Auditor may conduct performance audits when expressly authorized by the operating budget or the performance audit work plan of the joint committee. The results of any performance audit conducted by the State Auditor at the request of the joint committee must be transmitted only to the joint committee.

## **VI. Performance Reviews**

The Legislative Committee on Performance Reviews may consider alternatives to service delivery, compliance with legislative intent, and results achieved in a program when conducting a performance review.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** (Government Operations) Confidence in government is low, and the public wants to know that their money is well spent. The compliance review process is modeled after South Carolina's program, which has good follow-up on audits. The bill contains independent and professional audits, a peer review process, involves public employees and private citizens, and follow standards prescribed by the Comptroller General.

(Appropriations) The bill's emphasis on performance audits, including the compliance review process, will result in quality control for government. Performance reviews are a good idea, but OFM should be included in the process. Performance audits are a wise use of state resources, which is good for state employees. Performance audits should focus on the input of front-line employees.

**Testimony Against:** (Government Operations) This bill appears to advocate contracting out. If contracting out is desired, it should be part of a collective bargaining package. LBC can perform performance audits now if we just give them the money.

(Appropriations) The issue of contracting out should be addressed by collective bargaining reform, not performance audits.

**Testified:** (Government Operations) Representative Backlund, prime sponsor; Linda Sheler, State Auditors Office; Blair Witt, citizen; and Greg Devereux, Washington Federation of State Employees.

(Appropriations) Gary Robinson, Office of Financial Management; Linda Sheler, State Auditor's Office; Eugene St. John, Washington Public Employees Association; and Greg Devereux, Washington Federation of State Employees.