

HOUSE BILL 1120

State of Washington

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By Representatives Backlund, Chappell, Sheldon, Campbell, Sherstad, Mielke, Schoesler, McMorris, Hickel, D. Schmidt, Elliot, Robertson, Goldsmith, Honeyford, L. Thomas, Basich, Hymes, Huff, Lambert, Crouse, Foreman, Blanton, Johnson, Casada, Smith, Mulliken, McMahan, Boldt, Buck, Stevens, Thompson, Hargrove, Mitchell, Kremen and Benton

Read first time 01/13/95. Referred to Committee on Government Operations.

1 AN ACT Relating to performance audits conducted by the state
2 auditor; amending RCW 43.88.160 and 43.88.090; creating new sections;
3 and providing for submission of this act to a vote of the people.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature seeks to achieve efficiency
6 and effectiveness in state government in order to make the state of
7 Washington the most effective and best-performing state government in
8 the United States, measured in terms of quality of customer service,
9 accountability for cost-effective services, and productivity. This act
10 is an initial step toward this goal.

11 NEW SECTION. **Sec. 2.** (1) The state auditor shall undertake a
12 comprehensive, state-wide performance audit of state agencies and
13 programs, services, and activities operated by those agencies. For the
14 purposes of this section, "state agency" includes a board, commission,
15 department, committee, institution, agency, or office within the
16 legislative or executive branch of state government, including any
17 institution of higher education.

18 (2) The audit must include:

1 (a) An evaluation of the efficiency with which state agencies
2 operate the programs under their jurisdictions and fulfill the duties
3 assigned to them by law;

4 (b) A determination of methods to maximize the amount of federal
5 funds received by the state in order to better ensure that the people
6 of Washington receive a greater share of the taxes levied on them by
7 the federal government;

8 (c) Identification of potential cost savings and of any state
9 agency or any program or service now offered by an agency that can be
10 eliminated or transferred to the private sector without injury to the
11 public good and well-being;

12 (d) Recommendations for the elimination of or reduction in funding
13 to various agencies, programs, or services based on the results of the
14 performance audit; and

15 (e) Analysis of gaps and overlaps in programs offered by state
16 agencies and recommendations for improving, dropping, blending, or
17 separating functions to correct gaps or overlaps.

18 (3) The state auditor may require any state agency to provide
19 information required for completion of the audit, and each state agency
20 shall fully and completely cooperate with the state auditor for the
21 purposes of this section.

22 (4) The office of the state auditor shall provide the staff
23 necessary for the audit. The state auditor shall involve private-
24 sector professional and technical experts in conducting the audit, and
25 may contract with private-sector professionals and technical experts
26 for that purpose.

27 (5) The state auditor shall solicit suggestions for improving
28 government performance from both front-line public employees and
29 government service recipients in the conduct of the audit. The state
30 auditor shall establish a toll-free telephone number at which the
31 public may make suggestions and report government waste, in order to
32 aid the identification of both waste and innovation.

33 (6) The state auditor shall present an audit work plan to the
34 legislative budget committee within sixty days of the effective date of
35 this act. The state auditor shall present the audit report to the
36 legislature, the governor, and citizens by one year from the effective
37 date of this act.

1 **Sec. 3.** RCW 43.88.160 and 1994 c 184 s 11 are each amended to read
2 as follows:

3 This section sets forth the major fiscal duties and
4 responsibilities of officers and agencies of the executive branch. The
5 regulations issued by the governor pursuant to this chapter shall
6 provide for a comprehensive, orderly basis for fiscal management and
7 control, including efficient accounting and reporting therefor, for the
8 executive branch of the state government and may include, in addition,
9 such requirements as will generally promote more efficient public
10 management in the state.

11 (1) Governor; director of financial management. The governor,
12 through the director of financial management, shall devise and
13 supervise a modern and complete accounting system for each agency to
14 the end that all revenues, expenditures, receipts, disbursements,
15 resources, and obligations of the state shall be properly and
16 systematically accounted for. The accounting system shall include the
17 development of accurate, timely records and reports of all financial
18 affairs of the state. The system shall also provide for central
19 accounts in the office of financial management at the level of detail
20 deemed necessary by the director to perform central financial
21 management. The director of financial management shall adopt and
22 periodically update an accounting procedures manual. Any agency
23 maintaining its own accounting and reporting system shall comply with
24 the updated accounting procedures manual and the rules of the director
25 adopted under this chapter. An agency may receive a waiver from
26 complying with this requirement if the waiver is approved by the
27 director. Waivers expire at the end of the fiscal biennium for which
28 they are granted. The director shall forward notice of waivers granted
29 to the appropriate legislative fiscal committees. The director of
30 financial management may require such financial, statistical, and other
31 reports as the director deems necessary from all agencies covering any
32 period.

33 (2) The director of financial management is responsible for
34 quarterly reporting of primary operating budget drivers such as
35 applicable workloads, caseload estimates, and appropriate unit cost
36 data. These reports shall be transmitted to the legislative fiscal
37 committees or by electronic means to the legislative evaluation and
38 accountability program committee. Quarterly reports shall include
39 actual monthly data and the variance between actual and estimated data

1 to date. The reports shall also include estimates of these items for
2 the remainder of the budget period.

3 (3) The director of financial management shall report at least
4 annually to the appropriate legislative committees regarding the status
5 of all appropriated capital projects, including transportation
6 projects, showing significant cost overruns or underruns. If funds are
7 shifted from one project to another, the office of financial management
8 shall also reflect this in the annual variance report. Once a project
9 is complete, the report shall provide a final summary showing estimated
10 start and completion dates of each project phase compared to actual
11 dates, estimated costs of each project phase compared to actual costs,
12 and whether or not there are any outstanding liabilities or unsettled
13 claims at the time of completion.

14 (4) In addition, the director of financial management, as agent of
15 the governor, shall:

16 (a) Develop and maintain a system of internal controls and internal
17 audits comprising methods and procedures to be adopted by each agency
18 that will safeguard its assets, check the accuracy and reliability of
19 its accounting data, promote operational efficiency, and encourage
20 adherence to prescribed managerial policies for accounting and
21 financial controls. The system developed by the director shall include
22 criteria for determining the scope and comprehensiveness of internal
23 controls required by classes of agencies, depending on the level of
24 resources at risk.

25 Each agency head or authorized designee shall be assigned the
26 responsibility and authority for establishing and maintaining internal
27 audits following the standards of internal auditing of the institute of
28 internal auditors;

29 (b) Make surveys and analyses of agencies with the object of
30 determining better methods and increased effectiveness in the use of
31 manpower and materials; and the director shall authorize expenditures
32 for employee training to the end that the state may benefit from
33 training facilities made available to state employees;

34 (c) Establish policies for allowing the contracting of child care
35 services;

36 (d) Report to the governor with regard to duplication of effort or
37 lack of coordination among agencies;

38 (e) Review any pay and classification plans, and changes
39 thereunder, developed by any agency for their fiscal impact: PROVIDED,

1 That none of the provisions of this subsection shall affect merit
2 systems of personnel management now existing or hereafter established
3 by statute relating to the fixing of qualifications requirements for
4 recruitment, appointment, or promotion of employees of any agency. The
5 director shall advise and confer with agencies including appropriate
6 standing committees of the legislature as may be designated by the
7 speaker of the house and the president of the senate regarding the
8 fiscal impact of such plans and may amend or alter said plans, except
9 that for the following agencies no amendment or alteration of said
10 plans may be made without the approval of the agency concerned:
11 Agencies headed by elective officials;

12 (f) Fix the number and classes of positions or authorized man years
13 of employment for each agency and during the fiscal period amend the
14 determinations previously fixed by the director except that the
15 director shall not be empowered to fix said number or said classes for
16 the following: Agencies headed by elective officials;

17 (g) Provide for transfers and repayments between the budget
18 stabilization account and the general fund as directed by appropriation
19 (~~((and RCW 43.88.525 through 43.88.540))~~);

20 (h) Adopt rules to effectuate provisions contained in (a) through
21 (g) of this subsection.

22 (5) The treasurer shall:

23 (a) Receive, keep, and disburse all public funds of the state not
24 expressly required by law to be received, kept, and disbursed by some
25 other persons: PROVIDED, That this subsection shall not apply to those
26 public funds of the institutions of higher learning which are not
27 subject to appropriation;

28 (b) Receive, disburse, or transfer public funds under the
29 treasurer's supervision or custody;

30 (c) Keep a correct and current account of all moneys received and
31 disbursed by the treasurer, classified by fund or account;

32 (d) Coordinate agencies' acceptance and use of credit cards and
33 other payment methods, if the agencies have received authorization
34 under RCW 43.41.180;

35 (e) Perform such other duties as may be required by law or by
36 regulations issued pursuant to this law.

37 It shall be unlawful for the treasurer to disburse public funds in
38 the treasury except upon forms or by alternative means duly prescribed
39 by the director of financial management. These forms or alternative

means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than three months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official or employee charged with the receipt, custody or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a

1 section on recommendations to the legislature as provided in (c) of
2 this subsection.

3 (b) Give information to the legislature, whenever required, upon
4 any subject relating to the financial affairs of the state.

5 (c) Make the auditor's official report on or before the thirty-
6 first of December which precedes the meeting of the legislature. The
7 report shall be for the last complete fiscal period and shall include
8 determinations as to whether agencies, in making expenditures, complied
9 with the laws of this state. The state auditor is authorized to
10 perform or participate in performance ~~((verifications only as expressly~~
11 ~~authorized by the legislature in the omnibus biennial appropriations~~
12 ~~acts)) audits. A performance audit for the purpose of this section is~~
13 an audit that determines the following: Whether a government entity is
14 acquiring, protecting, and using its resources economically and
15 efficiently; the causes of inefficiencies or uneconomical practices;
16 whether the entity has complied with laws and rules in acquiring,
17 protecting, and using its resources; the extent to which the desired
18 results or benefits established by the legislature are being achieved;
19 the causes for not achieving intended outcomes or results; and
20 compliance with significant laws and rules applicable to the program.
21 The state auditor, upon completing an audit for legal and financial
22 compliance under chapter 43.09 RCW ~~((or a performance verification))~~,
23 may report to the legislative budget committee or other appropriate
24 committees of the legislature, in a manner prescribed by the
25 legislative budget committee, on facts relating to the management or
26 performance of governmental programs ~~((where such facts are discovered~~
27 ~~incidental to the legal and financial audit or performance~~
28 ~~verification. The auditor may make such a report to a legislative~~
29 ~~committee only if the auditor has determined that the agency has been~~
30 ~~given an opportunity and has failed to resolve the management or~~
31 ~~performance issues raised by the auditor. If the auditor makes a~~
32 ~~report to a legislative committee, the agency may submit to the~~
33 ~~committee a response to the report. This subsection (6) shall not be~~
34 ~~construed to authorize the auditor to allocate other than de minimis~~
35 ~~resources to performance audits except as expressly authorized in the~~
36 ~~appropriations acts))~~.

37 (d) Be empowered to take exception to specific expenditures that
38 have been incurred by any agency or to take exception to other
39 practices related in any way to the agency's financial transactions and

1 to cause such exceptions to be made a matter of public record,
2 including disclosure to the agency concerned and to the director of
3 financial management. It shall be the duty of the director of
4 financial management to cause corrective action to be taken promptly,
5 such action to include, as appropriate, the withholding of funds as
6 provided in RCW 43.88.110.

7 (e) Promptly report any irregularities to the attorney general.

8 (f) Investigate improper governmental activity under chapter 42.40
9 RCW.

10 (7) The legislative budget committee may:

11 (a) Make post audits of the financial transactions of any agency
12 and management surveys and program reviews as provided for in RCW
13 44.28.085 as well as performance audits and program evaluations. To
14 this end the committee may in its discretion examine the books,
15 accounts, and other records of any agency, official, or employee.

16 (b) Give information to the legislature or any legislative
17 committee whenever required upon any subject relating to the
18 performance and management of state agencies.

19 (c) Make a report to the legislature which shall include at least
20 the following:

21 (i) Determinations as to the extent to which agencies in making
22 expenditures have complied with the will of the legislature and in this
23 connection, may take exception to specific expenditures or financial
24 practices of any agencies; and

25 (ii) Such plans as it deems expedient for the support of the
26 state's credit, for lessening expenditures, for promoting frugality and
27 economy in agency affairs and generally for an improved level of fiscal
28 management.

29 **Sec. 4.** RCW 43.88.090 and 1994 c 184 s 10 are each amended to read
30 as follows:

31 (1) For purposes of developing budget proposals to the legislature,
32 the governor shall have the power, and it shall be the governor's duty,
33 to require from proper agency officials such detailed estimates and
34 other information in such form and at such times as the governor shall
35 direct. The estimates for the legislature and the judiciary shall be
36 transmitted to the governor and shall be included in the budget without
37 revision. The estimates for state pension contributions shall be based
38 on the rates provided in chapter 41.45 RCW. Copies of all such

1 estimates shall be transmitted to the standing committees on ways and
2 means of the house and senate at the same time as they are filed with
3 the governor and the office of financial management.

4 The estimates shall include statements or tables which indicate, by
5 agency, the state funds which are required for the receipt of federal
6 matching revenues. The estimates shall be revised as necessary to
7 reflect legislative enactments and adopted appropriations and shall be
8 included with the initial biennial allotment submitted under RCW
9 43.88.110. The estimates shall include consideration of
10 recommendations made by the state auditor pursuant to a performance
11 audit of the agency.

12 (2) In the year of the gubernatorial election, the governor shall
13 invite the governor-elect or the governor-elect's designee to attend
14 all hearings provided in RCW 43.88.100; and the governor shall furnish
15 the governor-elect or the governor-elect's designee with such
16 information as will enable the governor-elect or the governor-elect's
17 designee to gain an understanding of the state's budget requirements.
18 The governor-elect or the governor-elect's designee may ask such
19 questions during the hearings and require such information as the
20 governor-elect or the governor-elect's designee deems necessary and may
21 make recommendations in connection with any item of the budget which,
22 with the governor-elect's reasons therefor, shall be presented to the
23 legislature in writing with the budget document. Copies of all such
24 estimates and other required information shall also be submitted to the
25 standing committees on ways and means of the house and senate.

26 NEW SECTION. **Sec. 5.** This act shall be submitted to the people
27 for their adoption and ratification, or rejection, at the next
28 succeeding general election to be held in this state, in accordance
29 with Article II, section 1 of the state Constitution, as amended, and
30 the laws adopted to facilitate the operation thereof.

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