
HOUSE BILL 1672

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By Representatives Reams, Dellwo, Backlund, Huff, Campbell, Chappell, Ebersole, L. Thomas, Dyer, Wolfe, Kessler, Valle, B. Thomas, Patterson, Conway, Kremen, Cody, Horn, Mastin and Romero; by request of State Auditor

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1 AN ACT Relating to performance audits of state government; amending
2 RCW 43.88.160; and adding a new chapter to Title 43 RCW.

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

4 NEW SECTION. **Sec. 1.** Public officials, legislators, and citizens
5 want and need to know whether public funds are handled properly and in
6 compliance with the law. They also want and need to know whether state
7 agencies, programs, and activities are achieving their purposes and
8 whether they are operating economically and efficiently. The
9 legislature and governor are committed to providing state employees the
10 resources and tools they need to demonstrate accountability.

11 Public officials and state employees entrusted with public
12 resources are responsible for establishing and maintaining effective
13 controls to ensure that appropriate goals and objectives are met;
14 resources are safeguarded; laws are followed; and reliable data are
15 obtained, maintained, and fairly disclosed. Public officials and state
16 employees entrusted with public resources are accountable both to the
17 public and to other levels and branches of government for the resources
18 provided to carry out government programs and services.

1 Public officials and employees who manage state programs need to be
2 accountable for their activities to the public. This need for
3 accountability has caused a demand for better information about the
4 performance of state government and its agencies and programs.

5 The legislature, governor, state auditor, and other state-wide
6 elected officials recognize state employees as their most valued
7 resource. We further recognize that state employees share the vision
8 established under the Washington performance partnership to make state
9 government the most effective and best performing state government in
10 the United States, as measured in terms of quality of customer service,
11 accountability for cost-effective services, and productivity.

12 Performance auditing of state government or any of its agencies,
13 programs, or activities is an essential element of public
14 accountability. Performance auditing provides credibility to
15 information reported by or obtained from public officials.

16 It is the intent of the legislature and governor to authorize the
17 state auditor to provide reliable, independent performance audits of
18 state government and any of its agencies, programs, or activities. The
19 state auditor's costs in carrying out this chapter shall be considered
20 a fundamental stewardship responsibility and shall be paid from the
21 general fund.

22 NEW SECTION. **Sec. 2.** The purpose of this chapter is to provide
23 independent, regular performance audits of state government.

24 NEW SECTION. **Sec. 3.** Unless the context clearly requires
25 otherwise, the definitions in this section apply throughout this
26 chapter.

27 (1) "Performance measures" mean realistic estimates, generally in
28 quantifiable terms, of what the state or any of its agencies or
29 programs is expected to achieve.

30 (2) "Performance audits" mean an objective and systematic
31 assessment of state government or any of its agencies, programs,
32 functions, or activities by an independent auditor in order to help
33 public officials demonstrate public accountability. Performance audits
34 include economy and efficiency audits, program audits, and performance
35 verification.

36 (3) "Economy and efficiency audits" mean performance audits that
37 establish: (a) Whether the state or any of its agencies is acquiring,

1 protecting, and using its resources such as personnel, property, and
2 space economically and efficiently; (b) the causes of inefficiencies or
3 uneconomical practices; and (c) whether the state or any of its
4 agencies has complied with significant laws and rules in acquiring,
5 protecting, and using its resources.

6 (4) "Program audits" mean performance audits that determine: (a)
7 The extent to which desired outcomes or results are being achieved; (b)
8 the causes for not achieving intended outcomes or results; and (c)
9 compliance with significant laws and rules applicable to the program.

10 (5) "Performance verification" means an analysis that verifies:
11 (a) The accuracy of data used by state agencies in quantifying intended
12 results and measuring performance toward those results; and (b)
13 whether the reported results were achieved.

14 NEW SECTION. **Sec. 4.** The state auditor shall:

15 (1) Use professional judgment in establishing his or her
16 performance audit plans and conduct the full range of performance
17 audits, including economy and efficiency audits, program audits, and
18 performance verification. The issues that these performance audits may
19 consider include, but are not limited to, compliance with applicable
20 laws, rules, and other authoritative and relevant standards; the
21 efficient allocation and use of resources; the cost-effectiveness of
22 alternative methods of service delivery and goal attainment; the
23 reliability of information provided by public officials; the
24 administrative and organizational design of programs; the results of
25 programs and activities and their impact on recipients; and the
26 achievement of state-wide and agency goals and objectives;

27 (2) Employ personnel and other resources necessary to conduct
28 performance audits. Performance auditing is not the domain of a single
29 profession or discipline. It is an activity that draws on the tools
30 and skills of many disciplines, particularly economics and the social
31 sciences;

32 (3) Use private sector, independent professional and technical
33 experts necessary in conducting performance audits;

34 (4) Involve front-line employees and internal auditors to the
35 degree possible in the performance audit process;

36 (5) Determine whether personnel and other professional and
37 technical experts conducting performance audits have organizational and

1 personal independence from the agency, program, and people being
2 audited;

3 (6) Solicit suggestions for improving government performance from
4 legislators, the governor, front-line employees, government service
5 recipients, and citizens;

6 (7) Establish effective avenues for the public to make suggestions
7 for improving state government performance and operations;

8 (8) Determine whether public officials have involved legislators,
9 the governor, citizens, front-line employees, and government service
10 recipients in the process of developing and updating performance
11 measures;

12 (9) Determine whether cost-effective, useful, reliable, and valid
13 performance measures are being produced and used in state government
14 planning, budgeting, and managing. For performance measures to lead to
15 improvements in decision making and service delivery, they must be an
16 integral part of all three activities;

17 (10) Design performance audits to be timely and useful by the
18 legislature, governor, citizens, public officials, and front-line state
19 employees;

20 (11) Present a performance audit work plan to the audit committee
21 established under section 5 of this act by September 30 annually and to
22 the legislature and governor at least sixty days prior to each odd-year
23 session. Nothing precludes the state auditor from consulting more
24 frequently with the audit committee, legislature, and governor
25 regarding the performance audit work plan;

26 (12) Report the results of performance audits to the governor,
27 legislators, the audit committee, and the director of financial
28 management within thirty days of the completion of field work;

29 (13) Report the results of performance audits directly and
30 effectively to the public, using modern technology and in writing.
31 Recipients of the reports shall include, but not be limited to,
32 citizens, media, and applicable agency public officials and state
33 employees;

34 (14) Contract for a national state auditors association peer review
35 at least every three years;

36 (15) Establish clear expectations and measures of performance
37 regarding implementation of the intent and purpose of this chapter;

38 (16) Establish a performance audit impact tracking system to assess
39 what impact these audits have and to continuously improve the

1 performance audit function. The state auditor should see the reports
2 being used in executive and legislative processes and should see a
3 significant number of his or her recommendations implemented, either
4 through legislation or executive action. Performance audits must be
5 relevant, objective, and timely and their results must be communicated
6 effectively;

7 (17) Coordinate planned performance audit work with the work
8 performed by the legislative budget committee, internal auditors, and
9 others with authority to conduct performance audits; and

10 (18) Use the state and agency strategic plans in conducting
11 performance audits.

12 NEW SECTION. **Sec. 5.** The audit committee is created and its
13 members consist of private and public sector Washington residents as
14 follows:

15 (1) The chairs of the following committees:

16 (a) Senate ways and means;

17 (b) House of representatives appropriations;

18 (c) Senate government operations; and

19 (d) House of representatives government operations;

20 (2) Attorney general;

21 (3) Director of financial management;

22 (4) At least two state employees; and

23 (5) At least two private sector representatives from the following
24 groups:

25 (a) Eastern Washington;

26 (b) Western Washington;

27 (c) Labor; and

28 (d) Business.

29 NEW SECTION. **Sec. 6.** (1) The state employee members of the audit
30 committee will be appointed by, and serve at the pleasure of, the state
31 auditor.

32 (2) The state auditor will appoint the private sector members of
33 the audit committee. They will serve staggered three-year, renewable
34 terms as follows:

35 (a) One-third of the private sector representatives, or as many as
36 the state auditor deems reasonable will be appointed to an initial one-
37 year term;

1 (b) One-third of the private sector representatives or as many as
2 the state auditor deems reasonable, will be appointed to an initial
3 two-year term; and

4 (c) One-third of the private sector representatives, or as many as
5 the state auditor deems reasonable, will be appointed to an initial
6 three-year term.

7 (3) Vacancies among the private sector representatives will be
8 filled by appointment of the state auditor for the duration of the
9 term.

10 NEW SECTION. **Sec. 7.** (1) The audit committee shall from time to
11 time elect a chair from among its members.

12 (2) The audit committee shall meet at the call of the chair.

13 (3) The audit committee may adopt rules to govern its procedures.

14 (4) A majority of the members of the audit committee constitutes a
15 quorum for the transaction of any business but no proceeding of the
16 committee is valid unless carried by the vote of a majority of the
17 members present.

18 NEW SECTION. **Sec. 8.** Members of the audit committee shall be
19 reimbursed for travel expenses as provided in RCW 43.03.050 and
20 43.03.060. Legislative members shall receive allowances provided for
21 in RCW 44.04.120.

22 NEW SECTION. **Sec. 9.** The audit committee shall facilitate the
23 performance audit process by providing advice to the state auditor on
24 audit policy and plans.

25 NEW SECTION. **Sec. 10.** The state auditor may contract for the
26 services of those independent professional and technical experts as
27 deemed necessary to carry out this chapter.

28 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act
29 constitute a new chapter in Title 43 RCW.

30 **Sec. 12.** RCW 43.88.160 and 1994 c 184 s 11 are each amended to
31 read as follows:

32 This section sets forth the major fiscal duties and
33 responsibilities of officers and agencies of the executive branch. The

1 regulations issued by the governor pursuant to this chapter shall
2 provide for a comprehensive, orderly basis for fiscal management and
3 control, including efficient accounting and reporting therefor, for the
4 executive branch of the state government and may include, in addition,
5 such requirements as will generally promote more efficient public
6 management in the state.

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

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

38 (3) The director of financial management shall report at least
39 annually to the appropriate legislative committees regarding the status

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

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

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

21 Each agency head or authorized designee shall be assigned the
22 responsibility and authority for establishing and maintaining internal
23 audits following the standards of internal auditing of the institute of
24 internal auditors;

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

30 (c) Establish policies for allowing the contracting of child care
31 services;

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

34 (e) Review any pay and classification plans, and changes
35 thereunder, developed by any agency for their fiscal impact: PROVIDED,
36 That none of the provisions of this subsection shall affect merit
37 systems of personnel management now existing or hereafter established
38 by statute relating to the fixing of qualifications requirements for
39 recruitment, appointment, or promotion of employees of any agency. The

1 director shall advise and confer with agencies including appropriate
2 standing committees of the legislature as may be designated by the
3 speaker of the house and the president of the senate regarding the
4 fiscal impact of such plans and may amend or alter said plans, except
5 that for the following agencies no amendment or alteration of said
6 plans may be made without the approval of the agency concerned:

7 Agencies headed by elective officials;

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

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

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

18 (5) The treasurer shall:

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

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

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

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

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

33 It shall be unlawful for the treasurer to disburse public funds in
34 the treasury except upon forms or by alternative means duly prescribed
35 by the director of financial management. These forms or alternative
36 means shall provide for authentication and certification by the agency
37 head or the agency head's designee that the services have been rendered
38 or the materials have been furnished; or, in the case of loans or
39 grants, that the loans or grants are authorized by law; or, in the case

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

27 (6) The state auditor shall:

28 (a) Report to the legislature the results of current post audits
29 that have been made of the financial transactions of each agency; to
30 this end the auditor may, in the auditor's discretion, examine the
31 books and accounts of any agency, official or employee charged with the
32 receipt, custody or safekeeping of public funds. Where feasible in
33 conducting examinations, the auditor shall utilize data and findings
34 from the internal control system prescribed by the office of financial
35 management. The current post audit of each agency may include a
36 section on recommendations to the legislature as provided in (c) of
37 this subsection.

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

1 (c) Make the auditor's official report on or before the thirty-
2 first of December which precedes the meeting of the legislature. The
3 report shall be for the last complete fiscal period and shall include
4 determinations as to whether agencies, in making expenditures, complied
5 with the laws of this state. (~~The state auditor is authorized to
6 perform or participate in performance verifications only as expressly
7 authorized by the legislature in the omnibus biennial appropriations
8 acts. The state auditor, upon completing an audit for legal and
9 financial compliance under chapter 43.09 RCW or a performance
10 verification, may report to the legislative budget committee or other
11 appropriate committees of the legislature, in a manner prescribed by
12 the legislative budget committee, on facts relating to the management
13 or performance of governmental programs where such facts are discovered
14 incidental to the legal and financial audit or performance
15 verification. The auditor may make such a report to a legislative
16 committee only if the auditor has determined that the agency has been
17 given an opportunity and has failed to resolve the management or
18 performance issues raised by the auditor. If the auditor makes a
19 report to a legislative committee, the agency may submit to the
20 committee a response to the report. This subsection (6) shall not be
21 construed to authorize the auditor to allocate other than de minimis
22 resources to performance audits except as expressly authorized in the
23 appropriations acts.~~)

24 (d) Be empowered to take exception to specific expenditures that
25 have been incurred by any agency or to take exception to other
26 practices related in any way to the agency's financial transactions and
27 to cause such exceptions to be made a matter of public record,
28 including disclosure to the agency concerned and to the director of
29 financial management. It shall be the duty of the director of
30 financial management to cause corrective action to be taken promptly,
31 such action to include, as appropriate, the withholding of funds as
32 provided in RCW 43.88.110.

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

34 (f) Investigate improper governmental activity under chapter 42.40
35 RCW.

36 (g) Conduct performance audits under chapter 43.-- RCW (sections 1
37 through 10 of this act).

38 (7) The legislative budget committee may:

1 (a) Make post audits of the financial transactions of any agency
2 and management surveys and program reviews as provided for in RCW
3 44.28.085 as well as performance audits and program evaluations. To
4 this end the committee may in its discretion examine the books,
5 accounts, and other records of any agency, official, or employee.

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

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

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

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

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