CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5748

Chapter 362, Laws of 2003

58th Legislature
2003 Regular Session

TRANSPORTATION PERFORMANCE AUDITS

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YEAS 49  NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 26, 2003
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FRANK CHOPP
Speaker of the House of Representatives

Certified as

SUBSTITUTE SENATE BILL 5748
as passed by the Senate and the House of Representatives on the dates hereon set forth.

MILTON H. DOUMIT JR.
Secretary

Approved May 19, 2003.

FILED
May 19, 2003 - 10:32 a.m.

GARY F. LOCKE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
AN ACT Relating to transportation-related performance audits; amending RCW 44.28.088; adding a new section to chapter 44.28 RCW; adding a new section to chapter 44.40 RCW; adding a new chapter to Title 44 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. INTENT. It is essential that the legislature improve the accountability and efficiency of transportation-related agencies and measure transportation system performance against benchmarks established in chapter 5, Laws of 2002. Taxpayers must know that their tax dollars are being well spent to deliver critically needed transportation projects and services. To accomplish this, the transportation performance audit board is created and a system of transportation functional and performance audits is established to provide oversight and accountability of transportation-related agencies.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter.
(1) "Economy and efficiency audit" has the meaning contained in chapter 44.28 RCW.

(2) "Joint legislative audit and review committee" means the agency created in chapter 44.28 RCW, or its statutory successor.

(3) "Legislative auditor" has the meaning contained in chapter 44.28 RCW.

(4) "Legislative transportation committee" means the agency created in chapter 44.40 RCW, or its statutory successor.

(5) "Performance audit" has the meaning contained in chapter 44.28 RCW.

(6) "Performance review" means an outside evaluation of how a state agency uses its performance measures to assess the outcomes of its legislatively authorized activities.

(7) "Program audit" has the meaning contained in chapter 44.28 RCW.

(8) "Transportation performance audit board" or "board" means the board created in section 3 of this act.

(9) "Transportation-related agencies" means any state agency, board, or commission that receives funding primarily for transportation-related purposes. At a minimum, the department of transportation, the Washington state patrol, the department of licensing, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies.

NEW SECTION. Sec. 3. BOARD CREATED. (1) The transportation performance audit board is created.

(2) The board will consist of four legislative members, five citizen members with transportation-related expertise, one ex officio member, and one at large member. The legislative auditor is the ex officio member. The majority and minority leaders of the house and senate transportation committees are the legislative members. The governor shall appoint the at large member to serve for a term of four years. The citizen members must be nominated by professional associations chosen by the board's legislative members and appointed by the governor for terms of four years, except that at least half the initial appointments will be for terms of two years. The citizen
members may not be currently, or within one year, employed by the
Washington state department of transportation. The citizen members
will consist of:

(a) One member with expertise in construction project planning,
including permitting and assuring regulatory compliance;
(b) One member with expertise in construction means and methods and
construction management, crafting and implementing environmental
mitigation plans, and administration;
(c) One member with expertise in construction engineering services,
including construction management, materials testing, materials
documentation, contractor payments, inspection, surveying, and project
oversight;
(d) One member with expertise in project management, including
design estimating, contract packaging, and procurement; and
(e) One member with expertise in transportation planning and
congestion management.

(3) The governor may not remove members from the board before the
expiration of their terms unless for cause based upon a determination
of incapacity, incompetence, neglect of duty, of malfeasance in office
by the Thurston county superior court, upon petition and show cause
proceedings brought for that purpose in that court and directed to the
board member in question.

(4) No member may be appointed for more than three consecutive
terms.

NEW SECTION. Sec. 4. PROCEDURES, COMPENSATION, SUPPORT. (1) The
board shall meet periodically. It may adopt its own rules and may
establish its own procedures. It shall act collectively in harmony
with recorded resolutions or motions adopted by a majority vote of the
members.

(2) Each member of the transportation performance audit board will
be compensated from the general appropriation for the legislative
transportation committee in accordance with RCW 43.03.250 and
reimbursed for actual necessary traveling and other expenses in going
to, attending, and returning from meetings of the board or that are
incurred in the discharge of duties requested by the chair. However,
in no event may a board member be compensated in any year for more than
one hundred twenty days, except the chair may be compensated for not
more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The transportation performance audit board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) Staff support to the transportation performance audit board must be provided by the legislative transportation committee, which shall provide professional support for the duties, functions, responsibilities, and activities of the board, including but not limited to information technology systems; data collection, processing, analysis, and reporting; project management; and office space, equipment, and secretarial support. The legislative evaluation and accountability program will provide data and information technology support consistent with the support currently supplied to existing legislative committees.

NEW SECTION. Sec. 5. REVIEWS OF TRANSPORTATION-RELATED AGENCIES.

(1) The transportation performance audit board may review the performance and outcome measures of transportation-related agencies. The purpose of these reviews is to ensure that the legislature has the means to adequately and accurately assess the performance and outcomes of those agencies and departments. Where two or more agencies have shared responsibility for functions or priorities of government, these reviews can also determine whether effective interagency cooperation and collaboration occurs in areas such as program coordination, administrative structures, information systems, and administration of grants and loans.

(2) In conducting these reviews, the transportation performance audit board may work in consultation with the legislative transportation committee, the joint legislative audit and review committee, the office of financial management, and other state agencies.

NEW SECTION. Sec. 6. REVIEW METHODOLOGY. The performance and outcome measures and benchmarks of each agency or department may be reviewed at the discretion of the transportation performance audit board. In setting the schedule and the extent of performance reviews,
the board shall consider the timing and results of other recent state,
federal, and independent reviews and audits, the seriousness of past
findings, any inadequate remedial action taken by an agency or
department, whether an agency or department lacks performance and
outcome measures, and the desirability to include a diverse range of
agencies or programs each year.

NEW SECTION. Sec. 7. SCOPE OF REVIEWS. The reviews may include,
but are not limited to:

(1) A determination of whether the performance and outcome measures
are consistent with legislative mandates, strategic plans, mission
statements, and goals and objectives, and whether the legislature has
established clear mandates, strategic plans, mission statements, and
goals and objectives that lend themselves to performance and outcome
measurement;

(2) An examination of how agency management uses the measures to
manage resources in an efficient and effective manner;

(3) An assessment of how performance benchmarks are established for
the purpose of assessing overall performance compared to external
standards and benchmarks;

(4) An examination of how an analysis of the measurement data is
used to make planning and operational improvements;

(5) A determination of how performance and outcome measures are
used in the budget planning, development, and allotment processes and
the extent to which the agency is in compliance with its
responsibilities under RCW 43.88.090;

(6) A review of how performance data are reported to and used by
the legislature both in policy development and resource allocation;

(7) An assessment of whether the performance measure data are
reliable and collected in a uniform and timely manner;

(8) A determination whether targeted funding investments and
established priorities of government actually produce the intended and
expected services and benefits; and

(9) Recommendations as necessary or appropriate.

NEW SECTION. Sec. 8. PERFORMANCE AUDITS--DETERMINATION OF
NECESSITY. After reviewing the performance or outcome measures and
benchmarks of an agency or department, or at any time it so determines,
the transportation performance audit board shall recommend to the executive committee of the legislative transportation committee whether a full performance or functional audit of the agency or department, or a specific program within the agency or department, is appropriate. Upon the request of the legislative transportation committee or its executive committee, the joint legislative audit and review committee shall add the full performance or functional audit to its biennial performance audit work plan. If the request duplicates or overlaps audits already in the work plan, or was performed under the previous biennial work plan, the executive committees of the legislative transportation committee and the joint legislative audit and review committee shall meet to discuss and resolve the duplication or overlap.

NEW SECTION. Sec. 9. PROFESSIONAL EXPERTS. (1) To the greatest extent possible, or when requested by the executive committee of the legislative transportation committee, the legislative auditor shall contract with and consult with private independent professional and technical experts to optimize the independence of the reviews and performance audits. In determining the need to contract with private experts, the legislative auditor shall consider the degree of difficulty of the review or audit, the relative cost of contracting for expertise, and the need to maintain auditor independence from the subject agency or program.

(2) After consultation with the executive committee of the legislative transportation committee on the appropriateness of costs, the legislative transportation committee shall reimburse the joint legislative audit and review committee or the legislative auditor for the costs of carrying out any requested performance audits, including the cost of contracts and consultant services.

(3) The executive committee of the legislative transportation committee must review and approve the methodology for performance audits recommended by the transportation performance audit board.

NEW SECTION. Sec. 10. PRESENTATION AND PUBLICATION OF PERFORMANCE AUDITS. Completed performance audits must be presented to the transportation performance audit board and the legislative transportation committee. Published performance audits must be made available to the public through the legislative transportation
committee and the joint legislative audit and review committee's web
site and through customary public communications. Final reports must
also be transmitted to the appropriate policy and fiscal standing
committees of the legislature.

NEW SECTION. Sec. 11. SCOPE OF PERFORMANCE AUDIT. The
legislative auditor shall determine in writing the scope of any
performance audit requested by the legislative transportation committee
or its executive committee, subject to the review and approval of the
final scope of the audit by the transportation performance audit board,
and the legislative transportation committee or its executive
committee. In doing so, the legislative auditor, the transportation
performance audit board, and the legislative transportation committee
or its executive committee shall consider inclusion of the following
elements in the scope of the audit:

(1) Identification of potential cost savings in the agency, its
programs, and its services;
(2) Identification and recognition of best practices;
(3) Identification of funding to the agency, to programs, and to
services that can be eliminated or reduced;
(4) Identification of programs and services that can be eliminated,
reduced, or transferred to the private sector;
(5) Analysis of gaps and overlaps in programs and services and
recommendations for improving, dropping, blending, or separating
functions to correct gaps or overlaps;
(6) Analysis and recommendations for pooling information technology
systems;
(7) Analysis of the roles and functions of the agency, its
programs, and its services and their compliance with statutory
authority and recommendations for eliminating or changing those roles
and functions and ensuring compliance with statutory authority;
(8) Recommendations for eliminating or changing statutes, rules,
and policy directives as may be necessary to ensure that the agency
carry out reasonably and properly those functions expressly vested in
the department by statute; and
(9) Verification of the reliability and validity of department
performance data, self-assessments, and performance measurement systems
as required under RCW 43.88.090.
NEW SECTION. Sec. 12. CONTENTS OF AUDIT REPORT. When conducting a full performance audit of an agency or department, or a specific program within an agency or department, or multiple agencies, in accordance with section 11 of this act, the legislative auditor shall solicit input from appropriate industry representatives or experts. The audit report must make recommendations regarding the continuation, abolition, consolidation, or reorganization of each affected agency, department, or program. The audit report must identify opportunities to develop government partnerships, and eliminate program redundancies that will result in increased quality, effectiveness, and efficiency of state agencies.

NEW SECTION. Sec. 13. A new section is added to chapter 44.28 RCW to read as follows:

In addition to any other audits developed or included in the audit work plan under this chapter, the legislative auditor shall manage audits directed by the executive committee of the legislative transportation committee under section 8 of this act. If directed to perform or contract for audit services under section 8 of this act, the legislative auditor or joint legislative audit and review committee will receive from the legislative transportation committee an interagency reimbursement equal to the cost of the contract or audit services.

Sec. 14. RCW 44.28.088 and 1996 c 288 s 13 are each amended to read as follows:

(1) When the legislative auditor has completed a performance audit authorized in the performance audit work plan, the legislative auditor shall transmit the preliminary performance 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 shall provide any response to the legislative auditor within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the joint committee. The legislative auditor shall incorporate the response of the agency or local government and the office of financial management into the final performance audit report.
(2) Except as provided in subsection (3) of this section, before releasing the results of a performance audit to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the joint committee for its review, comments, and final recommendations. Any comments by the joint committee must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review, comments, and recommendations of the joint committee, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public. For purposes of this section, "leadership of the senate and the house of representatives" means the speaker of the house, the majority leaders of the senate and the house of representatives, the minority leaders of the senate and the house of representatives, the caucus chairs of both major political parties of the senate and the house of representatives, and the floor leaders of both major political parties of the senate and the house of representatives.

(3) Before releasing the results of a performance audit originally requested by the executive committee of the legislative transportation committee to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the executive committee of the joint committee and the executive committee of the legislative transportation committee for review and comments solely on the management of the audit. Any comments by the executive committee of the joint committee and executive committee of the legislative transportation committee must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review and comments of the executive committee of the joint committee and executive committee of the legislative transportation committee, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house.
of representatives and the senate and shall publish the results and
make the report available to the public.

NEW SECTION. Sec. 15. The transportation performance audit board
shall take steps to ensure that the department of transportation is the
first agency subject to the performance review and audit process
established in this act.

NEW SECTION. Sec. 16. A new section is added to chapter 44.40 RCW
to read as follows:
   The executive committee of the legislative transportation committee
or its successor may work with the joint legislative audit and review
committee to review and audit transportation-related agencies, as
directed in chapter 44.-- RCW (sections 1 through 12 of this act).

NEW SECTION. Sec. 17. Sections 1 through 12 of this act
constitute a new chapter in Title 44 RCW.

NEW SECTION. Sec. 18. Captions used in this act are not part of
the law.

NEW SECTION. Sec. 19. This act is necessary for the immediate
preservation of the public peace, health, or safety, or support of the
state government and its existing public institutions, and takes effect
immediately.

Passed by the Senate March 11, 2003.
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