

HOUSE BILL REPORT

HB 2222

As Reported By House Committee On:
Government Operations
Appropriations

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

Brief Description: Strengthening legislative oversight of government programs.

Sponsors: 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)].

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).

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 Senate members are appointed by the President of the Senate and the House members are appointed by the Speaker of the House. Members are subject to confirmation by the members of their own house. 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, and to make management surveys

and program reviews of state agencies. 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 may also make examination and reports concerning the economic outlook and estimates of revenue to meet state expenditures. In addition, the LBC conducts program and fiscal reviews of state agencies and programs under the sunset review 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.

Summary of Substitute 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, but two nonvoting members of the general public are added. The President of the Senate and the Speaker of the House each appoint one of the general public members. The general public members serve without compensation but may be reimbursed for their travel expenses in connection with joint committee business.

The members of the joint committee elect a chair and a vice-chair for one-year terms. The chair and vice-chair must be from different political parties. These two positions must alternate between members of the House and the Senate and between both political parties. The general public members may not serve as the chair or vice-chair.

The chair of the joint committee appoints an executive committee consisting of two members of the Senate and two members of the House. Each of the four major caucuses must be represented on the executive committee. The main function of the executive committee is to appoint the director and set his or her salary. At least three of the four members of the executive committee must approve the hiring of the director.

The director hires the staff after consulting with and obtaining the approval of the executive committee. The director sets the salaries of the staff with the approval of the executive committee, the Secretary of the Senate, and the Chief Clerk of the House.

The joint committee is required to develop and approve a performance audit work plan for the subsequent 12 to 15 months. 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 cost-savings and increases in the effectiveness and efficiencies in how state agencies deliver their services. These internal tracking procedures must be consistent with the government auditing standards prescribed by the Comptroller General. 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.

The joint committee must undergo a quality control review at least once every three years by an organization that is not affiliated with Washington State government. 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 director of the joint committee

The director'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 director is required to consult with the State Auditor and work closely with the standing committees when conducting performance audits. The director must also consult with the State Auditor, the Director of the Office of Financial Management,

and the appropriate legislative committees when developing the 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.

In addition, the director must work with the Legislative Evaluation and Accountability Program Committee (LEAP) to develop information system capabilities necessary for performance audits. The director is also required to work with the Washington Performance Partnership and the Office of Financial Management (OFM) to facilitate the implementation of performance measures throughout state government.

The director is required to contract with and consult with public and private independent professional and technical experts as necessary when conducting performance audits, and must 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, program audits, and performance verifications.

A program audit determines the extent to which desired results are achieved, the causes for not achieving those results, and compliance with significant laws applicable to the program.

An economy and efficiency audit establishes whether the state is using its resources economically and efficiently, the causes of inefficiencies or uneconomical practices, and whether the state is complying with significant laws in using its resources.

A performance verification is an analysis that verifies the accuracy of data used by a state agency in quantifying intended results and measuring performance towards those results, and whether the reported results were achieved.

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, including eliminating functions or transferring them to the private sector; and identification of gaps and overlaps in service delivery and recommendations for corrective action.

When conducting a performance audit, the director 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

Before the end of each legislative session, the Joint Legislative Audit and Review Committee prepares a performance audit work plan for the following 12-15 month period.

When the director completes a performance audit, the director must transmit the preliminary audit report to the affected state agency or local government for comment. The agency or local government has 30 days to respond. Any response of the agency or local government is incorporated into the final performance audit report. The director 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 the Office of Financial Management, the leadership of the House and Senate, 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 produces 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 must hold at least one public hearing in which public testimony is received regarding the findings and recommendations contained in the preliminary compliance report. This hearing may be waived by the joint committee if the preliminary compliance report indicates that the agency or local government is in compliance with the audit recommendations. 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 findings made by the director of the joint committee under a performance audit.

The performance audit revolving fund is created in the state treasury. Subject to appropriation, the director must assess agencies all or a portion of the cost of the performance audits.

V. Role of the State Auditor

The State Auditor may conduct performance audits when expressly authorized by the operating budget or the work plan of the joint committee. The results of any performance audit or performance verification conducted by the State Auditor must be transmitted to the joint committee and the affected state agency for comment. The auditor may then publish the results of the performance audit and make it available to the public.

Substitute Bill Compared to Original Bill: Definitions are added for preliminary and final performance audit reports, as well as for local government. Language is added to clarify that performance audits of local governments are limited to how they use state funds. Review of the joint committee must be conducted at least once every three years instead of every three years. Additional language is added to clarify that the memberships of the executive committee and the chair and the vice chair must be bipartisan.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: 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.

Testimony Against: 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.

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

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).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Government Operations: The second substitute bill clarifies the use of the performance audit revolving fund. It also adds additional optional criteria that may be considered during a performance audit: comparison with agencies in other states; consideration of the use of an agency strategic plan; and consideration of the use of a performance improvement plan. The second substitute bill also contains technical corrections.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: 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: The issue of contracting out should be addressed by collective bargaining reform, not performance audits.

Testified: Gary Robinson, Office of Financial Management; Linda Sheler, State Auditor's Office; Eugene St. John, Washington Public Employees Association; and Greg Deveraux, Washington Federation of State Employees.