

INITIATIVE 900

To the People

Chapter 1, Laws of 2006

PERFORMANCE AUDITS OF GOVERNMENT ENTITIES

EFFECTIVE DATE: 12/08/05

Approved by the
People of the State of Washington
in the General Election on
November 8, 2005

ORIGINALLY FILED

January 10, 2005

Secretary of State

1 AN ACT Relating to performance audits of governmental entities;
2 amending RCW 82.08.020 and 43.88.160; adding new sections to chapter
3 43.09 RCW; adding a new section to chapter 82.12 RCW; creating new
4 sections; and providing an effective date.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6 **POLICIES AND PURPOSES**

7 NEW SECTION. **Sec. 1.** It is essential that state and local
8 governments establish credibility with the taxpayers by implementing
9 long-overdue performance audits to ensure accountability and guarantee
10 that tax dollars are spent as cost-effectively as possible. Are
11 politicians spending our current tax revenues as cost-effectively as
12 possible? Voters don't know because politicians have repeatedly
13 blocked our state auditor from conducting independent, comprehensive
14 performance audits on state and local governments, agencies, programs,
15 and accounts. Currently, Washington is the only state in the nation
16 that prohibits the independently elected state auditor from doing the
17 job he or she was hired to do without explicit legislative permission.
18 This handicap is costing the taxpayers billions of dollars in potential

1 savings. Thankfully, this common sense initiative remedies this
2 egregious failure of politicians to enact this reform. It is absurd
3 for politicians to unilaterally impose tax increases or to seek voter
4 approval for tax increases without first learning if we're getting the
5 biggest bang for the buck from our current tax revenues. This measure
6 requires the state auditor to conduct independent, comprehensive
7 performance audits on state and local governments, agencies, programs,
8 and accounts. This act dedicates a portion of the state's existing
9 sales and use tax (1/100th of 1%) to fund these comprehensive
10 performance audits. Similar performance reviews in Texas have saved
11 taxpayers there nine billion dollars out of nineteen billion dollars in
12 identified savings over the past decade. The performance audits
13 required by this common sense initiative will identify solutions to our
14 public policy problems, saving the taxpayers billions of dollars.

15 **REQUIRING INDEPENDENT, COMPREHENSIVE PERFORMANCE AUDITS OF STATE AND**
16 **LOCAL GOVERNMENTS, AGENCIES, PROGRAMS, AND ACCOUNTS**

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.09 RCW
18 to read as follows:

19 In addition to audits authorized under RCW 43.88.160, the state
20 auditor shall conduct independent, comprehensive performance audits of
21 state government and each of its agencies, accounts, and programs;
22 local governments and each of their agencies, accounts, and programs;
23 state and local education governmental entities and each of their
24 agencies, accounts, and programs; state and local transportation
25 governmental entities and each of their agencies, accounts, and
26 programs; and other governmental entities, agencies, accounts, and
27 programs. The term "government" means an agency, department, office,
28 officer, board, commission, bureau, division, institution, or
29 institution of higher education. This includes individual agencies and
30 programs, as well as those programs and activities that cross agency
31 lines. "Government" includes all elective and nonelective offices in
32 the executive branch and includes the judicial and legislative
33 branches. The state auditor shall review and analyze the economy,
34 efficiency, and effectiveness of the policies, management, fiscal
35 affairs, and operations of state and local governments, agencies,
36 programs, and accounts. These performance audits shall be conducted in
37 accordance with the United States general accounting office government

1 auditing standards. The scope for each performance audit shall not be
2 limited and shall include nine specific elements: (1) identification
3 of cost savings; (2) identification of services that can be reduced or
4 eliminated; (3) identification of programs or services that can be
5 transferred to the private sector; (4) analysis of gaps or overlaps in
6 programs or services and recommendations to correct gaps or overlaps;
7 (5) feasibility of pooling information technology systems within the
8 department; (6) analysis of the roles and functions of the department,
9 and recommendations to change or eliminate departmental roles or
10 functions; (7) recommendations for statutory or regulatory changes that
11 may be necessary for the department to properly carry out its
12 functions; (8) analysis of departmental performance data, performance
13 measures, and self-assessment systems; and (9) identification of best
14 practices. The state auditor may contract out any performance audits.
15 For counties and cities, the audit may be conducted as part of audits
16 otherwise required by state law. Each audit report shall be submitted
17 to the corresponding legislative body or legislative bodies and made
18 available to the public on or before thirty days after the completion
19 of each audit or each follow-up audit. On or before thirty days after
20 the performance audit is made public, the corresponding legislative
21 body or legislative bodies shall hold at least one public hearing to
22 consider the findings of the audit and shall receive comments from the
23 public. The state auditor is authorized to issue subpoenas to
24 governmental entities for required documents, memos, and budgets to
25 conduct the performance audits. The state auditor may, at any time,
26 conduct a performance audit to determine not only the efficiency, but
27 also the effectiveness, of any government agency, account, or program.
28 No legislative body, officeholder, or employee may impede or restrict
29 the authority or the actions of the state auditor to conduct
30 independent, comprehensive performance audits. To the greatest extent
31 possible, the state auditor shall instruct and advise the appropriate
32 governmental body on a step-by-step remedy to whatever ineffectiveness
33 and inefficiency is discovered in the audited entity. For performance
34 audits of state government and its agencies, programs, and accounts,
35 the legislature must consider the state auditor reports in connection
36 with the legislative appropriations process. An annual report will be
37 submitted by the joint legislative audit and review committee by July
38 1st of each year detailing the status of the legislative implementation
39 of the state auditor's recommendations. Justification must be provided

1 for recommendations not implemented. Details of other corrective
2 action must be provided as well. For performance audits of local
3 governments and their agencies, programs, and accounts, the
4 corresponding legislative body must consider the state auditor reports
5 in connection with its spending practices. An annual report will be
6 submitted by the legislative body by July 1st of each year detailing
7 the status of the legislative implementation of the state auditor's
8 recommendations. Justification must be provided for recommendations
9 not implemented. Details of other corrective action must be provided
10 as well. The people encourage the state auditor to aggressively pursue
11 the largest, costliest governmental entities first but to pursue all
12 governmental entities in due course. Follow-up performance audits on
13 any state and local government, agency, account, and program may be
14 conducted when determined necessary by the state auditor. Revenues
15 from the Performance Audits of Government Account, created in section
16 5 of this act, shall be used for the cost of the audits.

17 **DEDICATING A PORTION OF THE STATE'S EXISTING SALES AND USE TAX**
18 **(1/100TH OF 1%) TO FUND THE PERFORMANCE AUDITS**

19 **Sec. 3.** RCW 82.08.020 and 2003 c 361 s 301 are each amended to
20 read as follows:

21 (1) There is levied and there shall be collected a tax on each
22 retail sale in this state equal to six and five-tenths percent of the
23 selling price.

24 (2) There is levied and there shall be collected an additional tax
25 on each retail car rental, regardless of whether the vehicle is
26 licensed in this state, equal to five and nine-tenths percent of the
27 selling price. The revenue collected under this subsection shall be
28 deposited in the multimodal transportation account created in RCW
29 47.66.070.

30 (3) Beginning July 1, 2003, there is levied and collected an
31 additional tax of three-tenths of one percent of the selling price on
32 each retail sale of a motor vehicle in this state, other than retail
33 car rentals taxed under subsection (2) of this section. The revenue
34 collected under this subsection shall be deposited in the multimodal
35 transportation account created in RCW 47.66.070.

36 (4) For purposes of subsection (3) of this section, "motor vehicle"
37 has the meaning provided in RCW 46.04.320, but does not include farm

1 tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181,
2 off-road and nonhighway vehicles as defined in RCW 46.09.020, and
3 snowmobiles as defined in RCW 46.10.010.

4 (5) Beginning on December 8, 2005, 0.16 percent of the taxes
5 collected under subsection (1) of this section shall be dedicated to
6 funding comprehensive performance audits required under section 2 of
7 this act. The revenue identified in this subsection shall be deposited
8 in the Performance Audits of Government Account created in section 5 of
9 this act.

10 (6) The taxes imposed under this chapter shall apply to successive
11 retail sales of the same property.

12 ((+6+)) (7) The rates provided in this section apply to taxes
13 imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

14 NEW SECTION. Sec. 4. A new section is added to chapter 82.12 RCW
15 to read as follows:

16 Beginning on December 8, 2005, 0.16 percent of the taxes collected
17 under RCW 82.12.020 based on the rate in RCW 82.08.020(1) shall be
18 dedicated to funding comprehensive performance audits under section 2
19 of this act. Revenue identified in this section shall be deposited in
20 the Performance Audits of Government Account created in section 5 of
21 this act.

22 **CREATING THE PERFORMANCE AUDITS OF GOVERNMENT ACCOUNT**

23 NEW SECTION. Sec. 5. A new section is added to chapter 43.09 RCW
24 to read as follows:

25 The Performance Audits of Government Account is hereby created in
26 the custody of the state treasurer. Revenue identified in RCW
27 82.08.020(5) and section 4 of this act shall be deposited in the
28 account. Money in the account shall be used to fund the performance
29 audits and follow-up performance audits under section 2 of this act and
30 shall be expended by the state auditor in accordance with this act.
31 Only the state auditor or the state auditor's designee may authorize
32 expenditures from the account. The account is subject to allotment
33 procedures under chapter 43.88 RCW, but an appropriation is not
34 required for expenditures.

1 **Sec. 6.** RCW 43.88.160 and 2002 c 260 s 1 are each amended to
2 read as follows:

3 This section sets forth the major fiscal duties and
4 responsibilities of officers and agencies of the executive branch.
5 The 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
8 the executive branch of the state government and may include, in
9 addition, such requirements as will generally promote more efficient
10 public 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
17 the development of accurate, timely records and reports of all
18 financial affairs of the state. The system shall also provide for
19 central accounts in the office of financial management at the level
20 of detail deemed necessary by the director to perform central
21 financial management. The director of financial management shall
22 adopt and periodically update an accounting procedures manual. Any
23 agency maintaining its own accounting and reporting system shall
24 comply with the updated accounting procedures manual and the rules of
25 the director adopted under this chapter. An agency may receive a
26 waiver from complying with this requirement if the waiver is approved
27 by the director. Waivers expire at the end of the fiscal biennium
28 for which they are granted. The director shall forward notice of
29 waivers granted to the appropriate legislative fiscal committees.
30 The director of financial management may require such financial,
31 statistical, and other reports as the director deems necessary from
32 all agencies covering any period.

33 (2) Except as provided in chapter 43.88C RCW, the director of
34 financial management is responsible for quarterly reporting of
35 primary operating budget drivers such as applicable workloads,
36 caseload estimates, and appropriate unit cost data. These reports
37 shall be transmitted to the legislative fiscal committees or by
38 electronic means to the legislative evaluation and accountability
39 program committee. Quarterly reports shall include actual monthly

1 data and the variance between actual and estimated data to date. The
2 reports shall also include estimates of these items for the remainder
3 of the budget period.

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

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

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

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

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

36 (c) Establish policies for allowing the contracting of child care
37 services;

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

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

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

20 (g) Adopt rules to effectuate provisions contained in (a) through
21 (f) 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
26 those public funds of the institutions of higher learning which are
27 not 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
38 in the treasury except upon forms or by alternative means duly
39 prescribed by the director of financial management. These forms or

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

31 (6) The state auditor shall:

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

1 include a section on recommendations to the legislature as provided
2 in (c) of 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,
9 complied with the laws of this state. The state auditor is
10 authorized to perform or participate in performance verifications and
11 performance audits as expressly authorized by the legislature in the
12 omnibus biennial appropriations acts or in the performance audit work
13 plan approved by the joint legislative audit and review committee.
14 The state auditor, upon completing an audit for legal and financial
15 compliance under chapter 43.09 RCW or a performance verification, may
16 report to the joint legislative audit and review committee or other
17 appropriate committees of the legislature, in a manner prescribed by
18 the joint legislative audit and review committee, on facts relating
19 to the management or performance of governmental programs where such
20 facts are discovered incidental to the legal and financial audit or
21 performance verification. The auditor may make such a report to a
22 legislative committee only if the auditor has determined that the
23 agency has been given an opportunity and has failed to resolve the
24 management or performance issues raised by the auditor. If the
25 auditor makes a report to a legislative committee, the agency may
26 submit to the committee a response to the report. This subsection
27 (6) shall not be construed to authorize the auditor to allocate other
28 than de minimis resources to performance audits except as expressly
29 authorized in the appropriations acts or in the performance audit
30 work plan. The results of a performance audit conducted by the state
31 auditor that has been requested by the joint legislative audit and
32 review committee must only be transmitted to the joint legislative
33 audit and review committee.

34 (d) Be empowered to take exception to specific expenditures that
35 have been incurred by any agency or to take exception to other
36 practices related in any way to the agency's financial transactions
37 and to cause such exceptions to be made a matter of public record,
38 including disclosure to the agency concerned and to the director of
39 financial management. It shall be the duty of the director of

1 financial management to cause corrective action to be taken within
2 six months, such action to include, as appropriate, the withholding
3 of funds as provided in RCW 43.88.110. The director of financial
4 management shall annually report by December 31st the status of audit
5 resolution to the appropriate committees of the legislature, the
6 state auditor, and the attorney general. The director of financial
7 management shall include in the audit resolution report actions taken
8 as a result of an audit including, but not limited to, types of
9 personnel actions, costs and types of litigation, and value of
10 recouped goods or services.

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

12 (f) Investigate improper governmental activity under chapter
13 42.40 RCW.

14 (g) In addition to the authority given to the state auditor in
15 this subsection (6), the state auditor is authorized to conduct
16 performance audits identified in section 2 of this act. Nothing in
17 this subsection (6) shall limit, impede, or restrict the state
18 auditor from conducting performance audits identified in section 2 of
19 this act.

20 (7) The joint legislative audit and review committee may:

21 (a) Make post audits of the financial transactions of any agency
22 and management surveys and program reviews as provided for in chapter
23 44.28 RCW as well as performance audits and program evaluations. To
24 this end the joint committee may in its discretion examine the books,
25 accounts, and other records of any agency, official, or employee.

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

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

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

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

1

CONSTRUCTION CLAUSE

2

NEW SECTION. **Sec. 7.** The provisions of this act are to be
3 liberally construed to effectuate the intent, policies, and purposes of
4 this act.

5

SEVERABILITY CLAUSE

6

NEW SECTION. **Sec. 8.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10

MISCELLANEOUS

11

NEW SECTION. **Sec. 9.** Part headings used in this act are not part
12 of the law.

13

EFFECTIVE DATE

14

NEW SECTION. **Sec. 10.** This act shall be called the Performance
15 Audits of Government Act and takes effect December 8, 2005.

Originally filed in Office of Secretary of State January 10, 2005.
Approved by the People of the State of Washington in the General
1 Election on November 8, 2005.