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ENGROSSED SUBSTITUTE HOUSE BILL 1053

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State of Washington

58th Legislature

2003 Regular Session

**By** House Committee on State Government (originally sponsored by Representatives Miloscia, Armstrong, Haigh, Simpson, Schoesler, Quall, O'Brien, Kirby, Cox, Eickmeyer, Berkey, McCoy, Ruderman, Hatfield, Sullivan, Morris, Linville, Ahern, Veloria, Bush, Conway, Dickerson, Lovick, Fromhold, Dunshee, Gombosky, Kenney, Kagi, Schual-Berke and Campbell)

READ FIRST TIME 01/27/03.

1 AN ACT Relating to government accountability; amending RCW  
2 43.88.160; adding new sections to chapter 43.41 RCW; adding a new  
3 section to chapter 43.09 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Public confidence in government is essential. Public programs  
7 must continuously improve in quality, efficiency, and effectiveness in  
8 order to increase public trust;

9 (2) Washington state government and other entities that receive tax  
10 dollars must continuously improve the way they operate and deliver  
11 services so citizens receive maximum value for their tax dollars;

12 (3) An independent citizen board is necessary to establish an  
13 annual assessment and performance grading program to ensure that  
14 government services, customer satisfaction, program efficiency, and  
15 management systems are world class in performance; and

16 (4) Fair, independent, professional performance audits of state  
17 agencies by the state auditor are essential to improving the efficiency  
18 and effectiveness of government.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 43.41 RCW  
2 to read as follows:

3        (1) The citizen oversight board is created to guide and assist  
4 agencies in developing data-driven, valid, and reliable performance  
5 standards, measures, outcomes, and goals, designed to effectively and  
6 efficiently manage the money agencies spend, the services they provide,  
7 the employees and processes they control, and the businesses, people,  
8 and resources they regulate.    The board shall seek, review, and  
9 recommend best practices for all agencies.

10        (2) The board shall consist of nine members selected as follows:

11        (a) One member shall be the chair of the joint legislative audit  
12 and review committee; and

13        (b) Eight members shall be appointed by the governor.    Four of the  
14 members shall be selected as follows:    Each major caucus of the house  
15 of representatives and the senate shall submit a list of three names.  
16 The lists may not include the names of members of the legislature.    The  
17 governor shall select a member from each list provided by each caucus.

18        (3) The governor shall appoint a chair from among the board  
19 members.

20        (4) Appointees shall be individuals from a diverse range of  
21 backgrounds who have a basic understanding of state government  
22 operations with knowledge and expertise in performance management,  
23 quality management, strategic planning, or closely related fields.

24        (5) Appointed members shall serve for terms of four years, with the  
25 terms expiring on June 30th on the fourth year of the term.    However,  
26 in the case of the initial members, four members shall serve four-year  
27 terms, three members shall serve three-year terms, and two members  
28 shall serve two-year terms, with each of the terms expiring on June  
29 30th of the applicable year.    Appointees may be reappointed to serve  
30 more than one term.

31        (6) The department of community, trade, and economic development,  
32 office of community development, shall provide clerical, technical, and  
33 management personnel to the board to serve as the board's staff.    Staff  
34 from the office of financial management and the state auditor's office  
35 shall assist the board as needed.

36        (7) The board shall meet at least once a quarter and may hold  
37 additional meetings at the call of the chair or by a majority vote of  
38 the members of the board.

1 (8) The members of the board shall be compensated in accordance  
2 with RCW 43.03.220 and reimbursed for travel expenses in accordance  
3 with RCW 43.03.050 and 43.03.060.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.41 RCW  
5 to read as follows:

6 The citizen oversight board shall:

7 (1) Review the various government performance measurement, audit,  
8 quality, and accountability systems currently in place and develop  
9 recommendations to integrate into one performance measurement system  
10 for all state government by December 15, 2004, and continually review  
11 and provide recommendations for improvement every two years;

12 (2) Establish the annual assessment and performance grading  
13 program. The program shall consist of conducting annual performance  
14 assessments and grading state agency performance. Assessments shall be  
15 implemented on a phased-in schedule. Initial areas to be assessed  
16 shall include quality management, productivity and fiscal efficiency,  
17 program effectiveness, contract management and oversight, internal  
18 audit, internal and external customer satisfaction, statutory and  
19 regulatory compliance, and technology systems and on-line services. As  
20 part of this program, the board shall:

21 (a) Consult with and seek input from elected officials, state  
22 employees, and professionals with a background in performance  
23 management for establishing the grading standards. Before the  
24 assessment, the agencies shall be given the criteria for the assessment  
25 and the standards for grading;

26 (b) Contract or partner with public or private entities that have  
27 expertise in public sector reviews and/or technical expertise in  
28 individual assessment areas to perform the assessments and grading of  
29 all state agencies. The board may contract or partner with more than  
30 one entity for different assessment areas; and

31 (c) Submit the results of the assessment and grading program to the  
32 governor, the president of the senate, and the speaker of the house of  
33 representatives by December 15th of each year. The report shall  
34 include recommendations for improved efficiency and effectiveness of  
35 state government and recognition of excellent performance. The board  
36 shall make available to the public the annual assessment and grading  
37 report on the internet;

1 (3) Review, evaluate, and comment on the state auditor's plan for  
2 performance audits of all state agencies;

3 (4) Review, evaluate, and comment on the results of the state  
4 auditor's performance audits of state agencies. The board's comments  
5 shall be included as part of the state auditor's final reports;

6 (5) Collect, disseminate, and share appropriate best practices with  
7 all state agencies; and

8 (6) Make recommendations that would improve agency efficiency and  
9 effectiveness based on findings from the annual assessment and grading  
10 program and the state auditor's performance audits to the governor, the  
11 president of the senate, and the speaker of the house of  
12 representatives.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.09 RCW  
14 to read as follows:

15 (1) The state auditor shall develop and implement a phased-in,  
16 recurring plan for conducting performance audits of state agency  
17 systems and operations. Audits shall be designed to be completed  
18 within a six-month period. In developing this plan, the state auditor  
19 shall consult with the citizen oversight board. In conducting audits,  
20 the state auditor shall seek input from employees and from the public.

21 (2) The state auditor shall conduct performance audits in  
22 accordance with generally accepted government auditing standards. The  
23 audits may include, but not be limited to:

24 (a) Planning, budgeting, and program evaluation policies and  
25 practices;

26 (b) Personnel systems operations and management;

27 (c) State purchasing operations and management policies and  
28 practices;

29 (d) Information processing and telecommunications systems policy,  
30 organization, and management; and

31 (e) Organizational structure and staffing levels, particularly in  
32 terms of the ratio of managers and supervisors to nonmanagement  
33 personnel.

34 (3) The state auditor and the citizen oversight board shall develop  
35 a grading system for the audits. The audit report shall include the  
36 agency grade, evaluation and identification of best practices, and  
37 findings and recommendations for efficiency and effectiveness of state

1 programs. The state auditor shall submit the performance audit reports  
2 to the citizen oversight board for the board's review, evaluation, and  
3 comment. The state auditor shall include the board's comments in its  
4 final reports. The reports shall be submitted to the governor, the  
5 president of the senate and the speaker of the house of  
6 representatives. The final reports shall be available to the public on  
7 the internet.

8 (4) As used in this section, "state agency" has the meaning in  
9 section 5 of this act.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.41 RCW  
11 to read as follows:

12 For purposes of sections 1 through 4 of this act, "state agency"  
13 means the executive branch of government including any board,  
14 commission, and department, and institutions of higher education.

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

17 This section sets forth the major fiscal duties and  
18 responsibilities of officers and agencies of the executive branch. The  
19 regulations issued by the governor pursuant to this chapter shall  
20 provide for a comprehensive, orderly basis for fiscal management and  
21 control, including efficient accounting and reporting therefor, for the  
22 executive branch of the state government and may include, in addition,  
23 such requirements as will generally promote more efficient public  
24 management in the state.

25 (1) Governor; director of financial management. The governor,  
26 through the director of financial management, shall devise and  
27 supervise a modern and complete accounting system for each agency to  
28 the end that all revenues, expenditures, receipts, disbursements,  
29 resources, and obligations of the state shall be properly and  
30 systematically accounted for. The accounting system shall include the  
31 development of accurate, timely records and reports of all financial  
32 affairs of the state. The system shall also provide for central  
33 accounts in the office of financial management at the level of detail  
34 deemed necessary by the director to perform central financial  
35 management. The director of financial management shall adopt and  
36 periodically update an accounting procedures manual. Any agency

1 maintaining its own accounting and reporting system shall comply with  
2 the updated accounting procedures manual and the rules of the director  
3 adopted under this chapter. An agency may receive a waiver from  
4 complying with this requirement if the waiver is approved by the  
5 director. Waivers expire at the end of the fiscal biennium for which  
6 they are granted. The director shall forward notice of waivers granted  
7 to the appropriate legislative fiscal committees. The director of  
8 financial management may require such financial, statistical, and other  
9 reports as the director deems necessary from all agencies covering any  
10 period.

11 (2) Except as provided in chapter 43.88C RCW, the director of  
12 financial management is responsible for quarterly reporting of primary  
13 operating budget drivers such as applicable workloads, caseload  
14 estimates, and appropriate unit cost data. These reports shall be  
15 transmitted to the legislative fiscal committees or by electronic means  
16 to the legislative evaluation and accountability program committee.  
17 Quarterly reports shall include actual monthly data and the variance  
18 between actual and estimated data to date. The reports shall also  
19 include estimates of these items for the remainder of the budget  
20 period.

21 (3) The director of financial management shall report at least  
22 annually to the appropriate legislative committees regarding the status  
23 of all appropriated capital projects, including transportation  
24 projects, showing significant cost overruns or underruns. If funds are  
25 shifted from one project to another, the office of financial management  
26 shall also reflect this in the annual variance report. Once a project  
27 is complete, the report shall provide a final summary showing estimated  
28 start and completion dates of each project phase compared to actual  
29 dates, estimated costs of each project phase compared to actual costs,  
30 and whether or not there are any outstanding liabilities or unsettled  
31 claims at the time of completion.

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

34 (a) Develop and maintain a system of internal controls and internal  
35 audits comprising methods and procedures to be adopted by each agency  
36 that will safeguard its assets, check the accuracy and reliability of  
37 its accounting data, promote operational efficiency, and encourage  
38 adherence to prescribed managerial policies for accounting and

1 financial controls. The system developed by the director shall include  
2 criteria for determining the scope and comprehensiveness of internal  
3 controls required by classes of agencies, depending on the level of  
4 resources at risk.

5 Each agency head or authorized designee shall be assigned the  
6 responsibility and authority for establishing and maintaining internal  
7 audits following the standards of internal auditing of the institute of  
8 internal auditors;

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

14 (c) Establish policies for allowing the contracting of child care  
15 services;

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

18 (e) Review any pay and classification plans, and changes  
19 thereunder, developed by any agency for their fiscal impact: PROVIDED,  
20 That none of the provisions of this subsection shall affect merit  
21 systems of personnel management now existing or hereafter established  
22 by statute relating to the fixing of qualifications requirements for  
23 recruitment, appointment, or promotion of employees of any agency. The  
24 director shall advise and confer with agencies including appropriate  
25 standing committees of the legislature as may be designated by the  
26 speaker of the house and the president of the senate regarding the  
27 fiscal impact of such plans and may amend or alter the plans, except  
28 that for the following agencies no amendment or alteration of the plans  
29 may be made without the approval of the agency concerned: Agencies  
30 headed by elective officials;

31 (f) Fix the number and classes of positions or authorized employee  
32 years of employment for each agency and during the fiscal period amend  
33 the determinations previously fixed by the director except that the  
34 director shall not be empowered to fix the number or the classes for  
35 the following: Agencies headed by elective officials;

36 (g) Adopt rules to effectuate provisions contained in (a) through  
37 (f) of this subsection.

38 (5) The treasurer shall:

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

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

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

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

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

15 It shall be unlawful for the treasurer to disburse public funds in  
16 the treasury except upon forms or by alternative means duly prescribed  
17 by the director of financial management. These forms or alternative  
18 means shall provide for authentication and certification by the agency  
19 head or the agency head's designee that the services have been rendered  
20 or the materials have been furnished; or, in the case of loans or  
21 grants, that the loans or grants are authorized by law; or, in the case  
22 of payments for periodic maintenance services to be performed on state  
23 owned equipment, that a written contract for such periodic maintenance  
24 services is currently in effect; and the treasurer shall not be liable  
25 under the treasurer's surety bond for erroneous or improper payments so  
26 made. When services are lawfully paid for in advance of full  
27 performance by any private individual or business entity other than  
28 equipment maintenance providers or as provided for by RCW 42.24.035,  
29 such individual or entity other than central stores rendering such  
30 services shall make a cash deposit or furnish surety bond coverage to  
31 the state as shall be fixed in an amount by law, or if not fixed by  
32 law, then in such amounts as shall be fixed by the director of the  
33 department of general administration but in no case shall such required  
34 cash deposit or surety bond be less than an amount which will fully  
35 indemnify the state against any and all losses on account of breach of  
36 promise to fully perform such services. No payments shall be made in  
37 advance for any equipment maintenance services to be performed more  
38 than twelve months after such payment. Any such bond so furnished



1 shall be conditioned that the person, firm or corporation receiving the  
2 advance payment will apply it toward performance of the contract. The  
3 responsibility for recovery of erroneous or improper payments made  
4 under this section shall lie with the agency head or the agency head's  
5 designee in accordance with regulations issued pursuant to this  
6 chapter. Nothing in this section shall be construed to permit a public  
7 body to advance funds to a private service provider pursuant to a grant  
8 or loan before services have been rendered or material furnished.

9 (6) The state auditor shall:

10 (a) Report to the legislature the results of current post audits  
11 that have been made of the financial transactions of each agency; to  
12 this end the auditor may, in the auditor's discretion, examine the  
13 books and accounts of any agency, official, or employee charged with  
14 the receipt, custody, or safekeeping of public funds. Where feasible  
15 in conducting examinations, the auditor shall utilize data and findings  
16 from the internal control system prescribed by the office of financial  
17 management. The current post audit of each agency may include a  
18 section on recommendations to the legislature as provided in (c) of  
19 this subsection.

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

22 (c) Make the auditor's official report on or before the thirty-  
23 first of December which precedes the meeting of the legislature. The  
24 report shall be for the last complete fiscal period and shall include  
25 determinations as to whether agencies, in making expenditures, complied  
26 with the laws of this state. The state auditor is authorized to  
27 perform or participate in performance verifications and performance  
28 audits, independently or as (~~expressly~~) authorized by the legislature  
29 in the omnibus biennial appropriations acts or in the performance audit  
30 work plan approved by the joint legislative audit and review committee.  
31 The state auditor, upon completing an audit for legal and financial  
32 compliance under chapter 43.09 RCW or a performance verification, may  
33 report to the joint legislative audit and review committee or other  
34 appropriate committees of the legislature, in a manner prescribed by  
35 the joint legislative audit and review committee, on facts relating to  
36 the management or performance of governmental programs where such facts  
37 are discovered incidental to the legal and financial audit or  
38 performance verification. The auditor may make such a report to a

1 legislative committee only if the auditor has determined that the  
2 agency has been given an opportunity and has failed to resolve the  
3 management or performance issues raised by the auditor. If the auditor  
4 makes a report to a legislative committee, the agency may submit to the  
5 committee a response to the report. (~~(This subsection (6) shall not be~~  
6 ~~construed to authorize the auditor to allocate other than de minimis~~  
7 ~~resources to performance audits except as expressly authorized in the~~  
8 ~~appropriations acts or in the performance audit work plan.)) The  
9 results of a performance audit conducted by the state auditor that has  
10 been requested by the joint legislative audit and review committee must  
11 only be transmitted to the joint legislative audit and review  
12 committee.~~

13 (d) Be empowered to take exception to specific expenditures that  
14 have been incurred by any agency or to take exception to other  
15 practices related in any way to the agency's financial transactions and  
16 to cause such exceptions to be made a matter of public record,  
17 including disclosure to the agency concerned and to the director of  
18 financial management. It shall be the duty of the director of  
19 financial management to cause corrective action to be taken within six  
20 months, such action to include, as appropriate, the withholding of  
21 funds as provided in RCW 43.88.110. The director of financial  
22 management shall annually report by December 31st the status of audit  
23 resolution to the appropriate committees of the legislature, the state  
24 auditor, and the attorney general. The director of financial  
25 management shall include in the audit resolution report actions taken  
26 as a result of an audit including, but not limited to, types of  
27 personnel actions, costs and types of litigation, and value of recouped  
28 goods or services.

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

30 (f) Investigate improper governmental activity under chapter 42.40  
31 RCW.

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

33 (a) Make post audits of the financial transactions of any agency  
34 and management surveys and program reviews as provided for in chapter  
35 44.28 RCW as well as performance audits and program evaluations. To  
36 this end the joint committee may in its discretion examine the books,  
37 accounts, and other records of any agency, official, or employee.

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

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

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

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

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