

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5748

Chapter 362, Laws of 2003

58th Legislature
2003 Regular Session

TRANSPORTATION PERFORMANCE AUDITS

EFFECTIVE DATE: 5/19/03

Passed by the Senate March 11, 2003
YEAS 49 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 26, 2003
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 19, 2003.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
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

FILED

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

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5748

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Highways & Transportation (originally sponsored by Senators Finkbeiner, Haugen, Horn, Spanel, Jacobsen, Swecker, Benton, Hale, Kohl-Welles, Oke, Rasmussen, Esser, Schmidt and Shin)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to transportation-related performance audits;
2 amending RCW 44.28.088; adding a new section to chapter 44.28 RCW;
3 adding a new section to chapter 44.40 RCW; adding a new chapter to
4 Title 44 RCW; creating new sections; and declaring an emergency.

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

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

16 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
17 section apply throughout this chapter.

1 (1) "Economy and efficiency audit" has the meaning contained in
2 chapter 44.28 RCW.

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

5 (3) "Legislative auditor" has the meaning contained in chapter
6 44.28 RCW.

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

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

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

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

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

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

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

27 (2) The board will consist of four legislative members, five
28 citizen members with transportation-related expertise, one ex officio
29 member, and one at large member. The legislative auditor is the ex
30 officio member. The majority and minority leaders of the house and
31 senate transportation committees are the legislative members. The
32 governor shall appoint the at large member to serve for a term of four
33 years. The citizen members must be nominated by professional
34 associations chosen by the board's legislative members and appointed by
35 the governor for terms of four years, except that at least half the
36 initial appointments will be for terms of two years. The citizen

1 members may not be currently, or within one year, employed by the
2 Washington state department of transportation. The citizen members
3 will consist of:

4 (a) One member with expertise in construction project planning,
5 including permitting and assuring regulatory compliance;

6 (b) One member with expertise in construction means and methods and
7 construction management, crafting and implementing environmental
8 mitigation plans, and administration;

9 (c) One member with expertise in construction engineering services,
10 including construction management, materials testing, materials
11 documentation, contractor payments, inspection, surveying, and project
12 oversight;

13 (d) One member with expertise in project management, including
14 design estimating, contract packaging, and procurement; and

15 (e) One member with expertise in transportation planning and
16 congestion management.

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

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

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

30 (2) Each member of the transportation performance audit board will
31 be compensated from the general appropriation for the legislative
32 transportation committee in accordance with RCW 43.03.250 and
33 reimbursed for actual necessary traveling and other expenses in going
34 to, attending, and returning from meetings of the board or that are
35 incurred in the discharge of duties requested by the chair. However,
36 in no event may a board member be compensated in any year for more than
37 one hundred twenty days, except the chair may be compensated for not

1 more than one hundred fifty days. Service on the board does not
2 qualify as a service credit for the purposes of a public retirement
3 system.

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

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

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

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

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

33 NEW SECTION. **Sec. 6.** REVIEW METHODOLOGY. The performance and

34 outcome measures and benchmarks of each agency or department may be
35 reviewed at the discretion of the transportation performance audit
36 board. In setting the schedule and the extent of performance reviews,

1 the board shall consider the timing and results of other recent state,
2 federal, and independent reviews and audits, the seriousness of past
3 findings, any inadequate remedial action taken by an agency or
4 department, whether an agency or department lacks performance and
5 outcome measures, and the desirability to include a diverse range of
6 agencies or programs each year.

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

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

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

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

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

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

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

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

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

33 (9) Recommendations as necessary or appropriate.

34 NEW SECTION. **Sec. 8.** PERFORMANCE AUDITS--DETERMINATION OF
35 NECESSITY. After reviewing the performance or outcome measures and
36 benchmarks of an agency or department, or at any time it so determines,

1 the transportation performance audit board shall recommend to the
2 executive committee of the legislative transportation committee whether
3 a full performance or functional audit of the agency or department, or
4 a specific program within the agency or department, is appropriate.
5 Upon the request of the legislative transportation committee or its
6 executive committee, the joint legislative audit and review committee
7 shall add the full performance or functional audit to its biennial
8 performance audit work plan. If the request duplicates or overlaps
9 audits already in the work plan, or was performed under the previous
10 biennial work plan, the executive committees of the legislative
11 transportation committee and the joint legislative audit and review
12 committee shall meet to discuss and resolve the duplication or overlap.

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

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

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

32 NEW SECTION. **Sec. 10.** PRESENTATION AND PUBLICATION OF PERFORMANCE
33 AUDITS. Completed performance audits must be presented to the
34 transportation performance audit board and the legislative
35 transportation committee. Published performance audits must be made
36 available to the public through the legislative transportation

1 committee and the joint legislative audit and review committee's web
2 site and through customary public communications. Final reports must
3 also be transmitted to the appropriate policy and fiscal standing
4 committees of the legislature.

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

15 (1) Identification of potential cost savings in the agency, its
16 programs, and its services;

17 (2) Identification and recognition of best practices;

18 (3) Identification of funding to the agency, to programs, and to
19 services that can be eliminated or reduced;

20 (4) Identification of programs and services that can be eliminated,
21 reduced, or transferred to the private sector;

22 (5) Analysis of gaps and overlaps in programs and services and
23 recommendations for improving, dropping, blending, or separating
24 functions to correct gaps or overlaps;

25 (6) Analysis and recommendations for pooling information technology
26 systems;

27 (7) Analysis of the roles and functions of the agency, its
28 programs, and its services and their compliance with statutory
29 authority and recommendations for eliminating or changing those roles
30 and functions and ensuring compliance with statutory authority;

31 (8) Recommendations for eliminating or changing statutes, rules,
32 and policy directives as may be necessary to ensure that the agency
33 carry out reasonably and properly those functions expressly vested in
34 the department by statute; and

35 (9) Verification of the reliability and validity of department
36 performance data, self-assessments, and performance measurement systems
37 as required under RCW 43.88.090.

1 NEW SECTION. **Sec. 12.** CONTENTS OF AUDIT REPORT. When conducting
2 a full performance audit of an agency or department, or a specific
3 program within an agency or department, or multiple agencies, in
4 accordance with section 11 of this act, the legislative auditor shall
5 solicit input from appropriate industry representatives or experts.
6 The audit report must make recommendations regarding the continuation,
7 abolition, consolidation, or reorganization of each affected agency,
8 department, or program. The audit report must identify opportunities
9 to develop government partnerships, and eliminate program redundancies
10 that will result in increased quality, effectiveness, and efficiency of
11 state agencies.

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

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

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

25 (1) When the legislative auditor has completed a performance audit
26 authorized in the performance audit work plan, the legislative auditor
27 shall transmit the preliminary performance audit report to the affected
28 state agency or local government and the office of financial management
29 for comment. The agency or local government and the office of
30 financial management shall provide any response to the legislative
31 auditor within thirty days after receipt of the preliminary performance
32 audit report unless a different time period is approved by the joint
33 committee. The legislative auditor shall incorporate the response of
34 the agency or local government and the office of financial management
35 into the final performance audit report.

1 (2) Except as provided in subsection (3) of this section, before
2 releasing the results of a performance audit to the legislature or the
3 public, the legislative auditor shall submit the preliminary
4 performance audit report to the joint committee for its review,
5 comments, and final recommendations. Any comments by the joint
6 committee must be included as a separate addendum to the final
7 performance audit report. Upon consideration and incorporation of the
8 review, comments, and recommendations of the joint committee, the
9 legislative auditor shall transmit the final performance audit report
10 to the affected agency or local government, the director of financial
11 management, the leadership of the senate and the house of
12 representatives, and the appropriate standing committees of the house
13 of representatives and the senate and shall publish the results and
14 make the report available to the public. For purposes of this section,
15 "leadership of the senate and the house of representatives" means the
16 speaker of the house, the majority leaders of the senate and the house
17 of representatives, the minority leaders of the senate and the house of
18 representatives, the caucus chairs of both major political parties of
19 the senate and the house of representatives, and the floor leaders of
20 both major political parties of the senate and the house of
21 representatives.

22 (3) Before releasing the results of a performance audit originally
23 requested by the executive committee of the legislative transportation
24 committee to the legislature or the public, the legislative auditor
25 shall submit the preliminary performance audit report to the executive
26 committee of the joint committee and the executive committee of the
27 legislative transportation committee for review and comments solely on
28 the management of the audit. Any comments by the executive committee
29 of the joint committee and executive committee of the legislative
30 transportation committee must be included as a separate addendum to the
31 final performance audit report. Upon consideration and incorporation
32 of the review and comments of the executive committee of the joint
33 committee and executive committee of the legislative transportation
34 committee, the legislative auditor shall transmit the final performance
35 audit report to the affected agency or local government, the director
36 of financial management, the leadership of the senate and the house of
37 representatives, and the appropriate standing committees of the house

1 of representatives and the senate and shall publish the results and
2 make the report available to the public.

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

7 NEW SECTION. **Sec. 16.** A new section is added to chapter 44.40 RCW
8 to read as follows:

9 The executive committee of the legislative transportation committee
10 or its successor may work with the joint legislative audit and review
11 committee to review and audit transportation-related agencies, as
12 directed in chapter 44.-- RCW (sections 1 through 12 of this act).

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

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

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

Passed by the Senate March 11, 2003.

Passed by the House April 26, 2003.

Approved by the Governor May 19, 2003.

Filed in Office of Secretary of State May 19, 2003.