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SENATE BILL 6076

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State of Washington                      59th Legislature                      2005 Regular Session

By Senators Roach, Swecker, Mulliken, Benson, Stevens, McCaslin, Johnson and Honeyford

Read first time 03/03/2005.      Referred to Committee on Government Operations & Elections.

1            AN ACT Relating to improving government performance and  
2      accountability; amending RCW 43.88.160; adding new sections to chapter  
3      43.09 RCW; adding a new section to chapter 2.56 RCW; and creating a new  
4      section.

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

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

7            (1) Citizens demand and deserve accountability of public programs.  
8      Public programs must continuously improve in quality, efficiency, and  
9      effectiveness in order to increase public trust;

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

13           (3) Fair, independent, professional performance audits of state  
14      agencies by the state auditor are essential to improving the efficiency  
15      and effectiveness of government.

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

18           For purposes of sections 3 through 6 of this act:

1 (1) "Board" means the citizen accountability advisory board created  
2 in section 4 of this act.

3 (2) "Performance audit" means an objective and systematic  
4 assessment of a state agency or agencies or any of their programs,  
5 functions, or activities by an independent auditor in order to help  
6 improve agency efficiency, effectiveness, and accountability.  
7 Performance audits include economy and efficiency audits and program  
8 audits.

9 (3) "State agency" or "agency" means a state agency, department,  
10 office, officer, board, commission, bureau, division, institution, or  
11 institution of higher education. "State agency" includes all elective  
12 offices in the executive branch state government. This includes state  
13 agencies and programs as well as those programs and activities that  
14 cross agency lines.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.09 RCW  
16 to read as follows:

17 The state auditor may conduct performance audits under the  
18 provisions of sections 1 through 7, 9, and 10 of this act. The state  
19 auditor may contract for performance audits as he or she may determine.

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

22 (1) A citizen accountability advisory board is created to provide  
23 advice to the state auditor on performance audits of state government.

24 (2) The board shall consist of eight members as follows:

25 (a) One member shall be selected by the state auditor;

26 (b) One member shall be selected by the chair of the joint  
27 legislative audit and review committee;

28 (c) One member shall be selected by the director of the office of  
29 financial management;

30 (d) Four of the members shall be selected by the governor as  
31 follows: Each major caucus of the house of representatives and the  
32 senate shall submit a list of three names. The lists may not include  
33 the names of members of the legislature. The governor shall select a  
34 person from each list provided by each caucus; and

35 (e) One member shall be selected by the governor.

36 (3) The board shall elect a chair.

1 (4) Appointees shall be individuals who have a basic understanding  
2 of state government operations with knowledge and expertise in  
3 performance management, quality management, strategic planning,  
4 performance assessments, or closely related fields.

5 (5) Members shall serve for terms of four years, with the terms  
6 expiring on June 30th on the fourth year of the term. However, in the  
7 case of the initial members, two members shall serve four-year terms,  
8 two members shall serve three-year terms, and one member shall serve a  
9 two-year term, with each of the terms expiring on June 30th of the  
10 applicable year. Appointees may be reappointed to serve more than one  
11 term.

12 (6) The state auditor's office shall provide staff assistance to  
13 the board.

14 (7) The board shall meet at least once a quarter and may hold  
15 additional meetings at the call of the chair or by a majority vote of  
16 the members of the board. Meetings are subject to chapter 42.30 RCW.

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

20 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.09 RCW  
21 to read as follows:

22 The board shall establish an annual assessment and performance  
23 grading program. The program shall consist of conducting annual  
24 performance assessments and grading state agency performance.  
25 Assessments shall be implemented on a phased-in schedule. Initial  
26 areas to be assessed shall include quality management, productivity and  
27 fiscal efficiency, program effectiveness, contract management and  
28 oversight, internal audit, internal and external customer satisfaction,  
29 statutory and regulatory compliance, and technology systems and on-line  
30 services. As part of this program, the board shall:

31 (1) Consult with and seek input from elected officials, state  
32 employees, and professionals with a background in performance  
33 management for establishing the grading standards. In developing the  
34 criteria, the board shall consider already developed best practices and  
35 audit criteria used by government or nongovernment organizations.  
36 Before the assessment, the agencies shall be given the criteria for the  
37 assessment and the standards for grading;

1 (2) Contract or partner with public or private entities that have  
2 expertise in public sector reviews and/or technical expertise in  
3 individual assessment areas to perform the assessments and grading of  
4 all state agencies. The board may contract or partner with more than  
5 one entity for different assessment areas; and

6 (3) Submit the results of the assessment and grading program to the  
7 governor, the office of financial management, appropriate legislative  
8 committees, and the public by December 15th of each year. The results  
9 of the annual assessments and performance grading shall be posted on  
10 the internet.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.09 RCW  
12 to read as follows:

13 (1) The state auditor shall establish criteria and protocols for  
14 performance audits. Agencies shall be audited using criteria that  
15 include generally accepted government auditing standards as well as  
16 legislative mandates and performance objectives established by state  
17 agencies. Mandates include, but are not limited to, agency strategies,  
18 timelines, program objectives, and mission and goals as required in RCW  
19 43.88.090.

20 (2) Using the criteria developed in subsection (1) of this section,  
21 the state auditor shall complete a statewide performance review as a  
22 preliminary to a work plan for conducting performance audits. The  
23 state auditor shall develop a schedule and common methodology for  
24 conducting these performance audits.

25 (3) In developing the work plan, the state auditor shall consider  
26 input from the board, citizens, state employees, state managers, the  
27 joint legislative audit and review committee, public officials, and  
28 others. The work plan may include a list of agencies, programs, or  
29 systems to be audited on a timeline decided by the state auditor based  
30 on a number of factors including risk, importance, and citizen  
31 concerns. All audits shall be designed to be completed within a six-  
32 month period.

33 (4) Before adopting the final work plan, the state auditor shall  
34 consult with the legislative auditor and other appropriate oversight  
35 and audit entities to coordinate work plans and avoid duplication of  
36 effort in their planned performance audits of state government. The

1 state auditor shall defer to the joint legislative audit and review  
2 committee work plan if a similar audit is included on both work plans  
3 for auditing.

4 (5) In conducting the audits, agency front-line employees and  
5 internal auditors should be involved. The audits may include:

6 (a) Identification of programs and services that can be eliminated,  
7 reduced, consolidated, or enhanced;

8 (b) Identification of funding sources to the state agency, to  
9 programs, and to services that can be eliminated, reduced,  
10 consolidated, or enhanced;

11 (c) Analysis of gaps and overlaps in programs and services and  
12 recommendations for improving, dropping, blending, or separating  
13 functions to correct gaps or overlaps;

14 (d) Analysis and recommendations for pooling information technology  
15 systems used within the state agency, and evaluation of information  
16 processing and telecommunications policy, organization, and management;

17 (e) Analysis of the roles and functions of the state agency, its  
18 programs, and its services and their compliance with statutory  
19 authority and recommendations for eliminating or changing those roles  
20 and functions and ensuring compliance with statutory authority;

21 (f) Recommendations for eliminating or changing statutes, rules,  
22 and policy directives as may be necessary to ensure that the agency  
23 carry out reasonably and properly those functions vested in the agency  
24 by statute;

25 (g) Verification of the reliability and validity of agency  
26 performance data, self-assessments, and performance measurement systems  
27 as required under RCW 43.88.090;

28 (h) Identification of potential cost savings in the state agency,  
29 its programs, and its services;

30 (i) Identification and recognition of best practices;

31 (j) Evaluation of planning, budgeting, and program evaluation  
32 policies and practices;

33 (k) Evaluation of personnel systems operation and management;

34 (l) Evaluation of state purchasing operations and management  
35 policies and practices; and

36 (m) Evaluation of organizational structure and staffing levels,  
37 particularly in terms of the ratio of managers and supervisors to  
38 nonmanagement personnel.

1 (6) The state auditor's performance audit work plan shall be  
2 updated at least annually.

3 (7) The state auditor must provide the preliminary performance  
4 audit reports to the audited state agency for comment. The auditor  
5 also may seek input on the preliminary report from other appropriate  
6 officials. Comments must be received within thirty days after receipt  
7 of the preliminary performance audit report unless a different time  
8 period is approved by the state auditor. The final performance audit  
9 report shall include the objectives, scope, and methodology; the audit  
10 results, including findings and recommendations; the agency's response  
11 and conclusions; and identification of best practices.

12 (8) The state auditor shall provide final performance audit reports  
13 to the citizens of Washington, the governor, the board, the joint  
14 legislative audit and review committee, the appropriate legislative  
15 committees, and other appropriate officials. Final performance audit  
16 reports shall be posted on the internet.

17 (9) The state auditor may conduct performance audits for  
18 transportation-related agencies as defined under RCW 44.75.020.

19 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.09 RCW  
20 to read as follows:

21 The audited agency is responsible for follow-up and corrective  
22 action on all performance audit findings and recommendations. The  
23 audited agency's plan for addressing each audit finding and  
24 recommendation shall be included in the final audit report. The plan  
25 shall provide the name of the contact person responsible for each  
26 action, the action planned, and the anticipated completion date. If  
27 the audited agency does not agree with the audit findings and  
28 recommendations or believes action is not required, then the action  
29 plan shall include an explanation and specific reasons.

30 The office of financial management shall require periodic progress  
31 reports from the audited agency until all resolution has occurred. The  
32 office of financial management is responsible for achieving audit  
33 resolution. The office of financial management shall annually report  
34 by December 31st the status of performance audit resolution to the  
35 appropriate legislative committees and the state auditor. The  
36 legislature shall consider the performance audit results in connection  
37 with the state budget process.

1 The auditor may request status reports on specific audits or  
2 findings.

3 **Sec. 8.** RCW 43.88.160 and 2002 c 260 s 1 are each amended to read  
4 as follows:

5 This section sets forth the major fiscal duties and  
6 responsibilities of officers and agencies of the executive branch. The  
7 regulations issued by the governor pursuant to this chapter shall  
8 provide for a comprehensive, orderly basis for fiscal management and  
9 control, including efficient accounting and reporting therefor, for the  
10 executive branch of the state government and may include, in addition,  
11 such requirements as will generally promote more efficient public  
12 management in the state.

13 (1) Governor; director of financial management. The governor,  
14 through the director of financial management, shall devise and  
15 supervise a modern and complete accounting system for each agency to  
16 the end that all revenues, expenditures, receipts, disbursements,  
17 resources, and obligations of the state shall be properly and  
18 systematically accounted for. The accounting system shall include the  
19 development of accurate, timely records and reports of all financial  
20 affairs of the state. The system shall also provide for central  
21 accounts in the office of financial management at the level of detail  
22 deemed necessary by the director to perform central financial  
23 management. The director of financial management shall adopt and  
24 periodically update an accounting procedures manual. Any agency  
25 maintaining its own accounting and reporting system shall comply with  
26 the updated accounting procedures manual and the rules of the director  
27 adopted under this chapter. An agency may receive a waiver from  
28 complying with this requirement if the waiver is approved by the  
29 director. Waivers expire at the end of the fiscal biennium for which  
30 they are granted. The director shall forward notice of waivers granted  
31 to the appropriate legislative fiscal committees. The director of  
32 financial management may require such financial, statistical, and other  
33 reports as the director deems necessary from all agencies covering any  
34 period.

35 (2) Except as provided in chapter 43.88C RCW, the director of  
36 financial management is responsible for quarterly reporting of primary  
37 operating budget drivers such as applicable workloads, caseload

1 estimates, and appropriate unit cost data. These reports shall be  
2 transmitted to the legislative fiscal committees or by electronic means  
3 to the legislative evaluation and accountability program committee.  
4 Quarterly reports shall include actual monthly data and the variance  
5 between actual and estimated data to date. The reports shall also  
6 include estimates of these items for the remainder of the budget  
7 period.

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

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

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

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

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



1 (c) Establish policies for allowing the contracting of child care  
2 services;

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

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

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

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

25 (5) The treasurer shall:

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

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

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

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

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

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

35 (6) The state auditor shall:

36 (a) Report to the legislature the results of current post audits  
37 that have been made of the financial transactions of each agency; to  
38 this end the auditor may, in the auditor's discretion, examine the

1 books and accounts of any agency, official, or employee charged with  
2 the receipt, custody, or safekeeping of public funds. Where feasible  
3 in conducting examinations, the auditor shall utilize data and findings  
4 from the internal control system prescribed by the office of financial  
5 management. The current post audit of each agency may include a  
6 section on recommendations to the legislature as provided in (c) of  
7 this subsection.

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

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

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

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

18 (f) Investigate improper governmental activity under chapter 42.40  
19 RCW.

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 this  
33 connection, may take exception to specific expenditures or financial  
34 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 and  
37 economy in agency affairs, and generally for an improved level of  
38 fiscal management.

1        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 43.09 RCW  
2 to read as follows:

3        Each biennium the legislature shall appropriate an amount equal to  
4 two one-hundredths of one percent of the total general fund state  
5 appropriation in that biennium's omnibus operating appropriations act  
6 for purposes of the performance audits conducted by the state auditor  
7 as authorized by sections 2 through 7 and 10 of this act.

8        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 43.09 RCW  
9 to read as follows:

10       If the legislative authority of a local jurisdiction requests a  
11 performance audit of programs under its jurisdiction, the state auditor  
12 has the discretion to conduct such a review under separate contract and  
13 funded by local funds.

14       NEW SECTION.    **Sec. 11.**    A new section is added to chapter 2.56 RCW  
15 to read as follows:

16       The office of the administrator for the courts is encouraged to  
17 conduct performance audits of courts under the authority of the supreme  
18 court, in conformity with criteria and methods developed by the board  
19 for judicial administration that have been approved by the supreme  
20 court. In developing criteria and methods for conducting performance  
21 audits, the board for judicial administration is encouraged to consider  
22 quality improvement programs, audits, and scoring. The judicial branch  
23 is encouraged to submit the results of these efforts to the chief  
24 justice of the supreme court or his or her designee, and with any other  
25 applicable boards or committees established under the authority of the  
26 supreme court to oversee government accountability.

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