
SENATE BILL 5748

State of Washington

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2003 Regular Session

By Senators Finkbeiner, Haugen, Horn, Spanel, Jacobsen, Swecker, Benton, Hale, Kohl-Welles, Oke, Rasmussen, Esser, Schmidt and Shin

Read first time 02/10/2003. Referred to Committee on Highways & Transportation.

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

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

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

13 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter.

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

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

1 (3) "Legislative auditor" has the meaning contained in chapter
2 44.28 RCW.

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

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

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

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

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

13 (9) "Transportation-related agencies" means any agency, board, or
14 commission that receives funding for transportation-related purposes.

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

17 (2) The board will consist of four legislative members, four
18 citizen members with transportation-related expertise, one ex officio
19 member, and one at large member. The legislative auditor is the ex
20 officio member. The majority and minority leaders of the house and
21 senate transportation committees are the legislative members. The
22 governor shall appoint the at large member to serve for a term of four
23 years. The citizen members must be nominated by professional
24 associations chosen by the board's legislative members and appointed by
25 the governor for terms of four years, except that at least half the
26 initial appointments will be for terms of two years. The citizen
27 members will consist of:

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

30 (b) One member with expertise in construction means and methods and
31 construction management and administration;

32 (c) One member with expertise in construction engineering services,
33 including construction management, materials testing, materials
34 documentation, contractor payments, inspection, surveying, and project
35 oversight; and

36 (d) One member with expertise in project management, including
37 design estimating, contract packaging, and procurement.

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

7 (4) No member may be appointed for more than three consecutive
8 terms.

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

14 (2) Each member of the board will be compensated from the general
15 appropriation for the legislative transportation committee in
16 accordance with RCW 43.03.250 and reimbursed for actual necessary
17 traveling and other expenses in going to, attending, and returning from
18 meetings of the board or that are incurred in the discharge of duties
19 requested by the chair. However, in no event may a board member be
20 compensated in any year for more than one hundred twenty days, except
21 the chair may be compensated for not more than one hundred fifty days.
22 Service on the board does not qualify as a service credit for the
23 purposes of a public retirement system.

24 (3) The board shall keep proper records and is subject to audit by
25 the state auditor or other auditing entities.

26 (4) Staff support to the board must be provided by the legislative
27 transportation committee, which shall provide professional support for
28 the duties, functions, responsibilities, and activities of the board,
29 including but not limited to information technology systems; data
30 collection, processing, analysis, and reporting; project management;
31 and office space, equipment, and secretarial support. The legislative
32 evaluation and accountability program will provide data and information
33 technology support consistent with the support currently supplied to
34 existing legislative committees.

35 NEW SECTION. **Sec. 5.** REVIEWS OF TRANSPORTATION-RELATED AGENCIES.
36 (1) The board may review the performance and outcome measures of

1 transportation-related agencies. The purpose of these reviews is to
2 ensure that the legislature has the means to adequately and accurately
3 assess the performance and outcomes of those agencies and departments.
4 Where two or more agencies have shared responsibility for functions or
5 priorities of government, these reviews can also determine whether
6 effective interagency cooperation and collaboration occurs in areas
7 such as program coordination, administrative structures, information
8 systems, and administration of grants and loans.

9 (2) In conducting these reviews, the board may work in consultation
10 with the legislative transportation committee, the joint legislative
11 audit and review committee, the office of financial management, and
12 other state agencies.

13 NEW SECTION. **Sec. 6.** PROFESSIONAL EXPERTS. (1) To the greatest
14 extent possible, or when directed by the legislative transportation
15 committee, the legislative auditor shall contract with and consult with
16 private independent professional and technical experts to optimize the
17 independence of the reviews and performance audits. In determining the
18 need to contract with private experts, the legislative auditor shall
19 consider the degree of difficulty of the review or audit, the relative
20 cost of contracting for expertise, and the need to maintain auditor
21 independence from the subject agency or program.

22 (2) If directed to contract for performance audit services, the
23 legislative auditor or joint legislative audit and review committee
24 will receive from the legislative transportation committee an
25 interagency reimbursement equal to the cost of the contract.

26 (3) The legislative transportation committee must review and
27 approve the methodology for performance audits recommended by the
28 board.

29 NEW SECTION. **Sec. 7.** REVIEW METHODOLOGY. The performance and
30 outcome measures of each agency or department may be reviewed at the
31 discretion of the board. In setting the schedule and the extent of
32 performance reviews, the board shall consider the timing and results of
33 other recent state, federal, and independent reviews and audits, the
34 seriousness of past findings, any inadequate remedial action taken by
35 an agency or department, whether an agency or department lacks

1 performance and outcome measures, and the desirability to include a
2 diverse range of agencies or programs each year.

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

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

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

13 (3) An assessment of how performance benchmarks are established for
14 the purpose of assessing overall performance compared to external
15 standards and benchmarks;

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

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

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

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

26 (8) A determination whether targeted funding investments and
27 established priorities of government actually produce the intended and
28 expected services and benefits; and

29 (9) Recommendations as necessary or appropriate.

30 NEW SECTION. **Sec. 9.** PRESENTATION AND PUBLICATION OF PERFORMANCE
31 AUDITS. Completed performance audits must be presented to the board,
32 the legislative transportation committee, and the joint legislative
33 audit and review committee, and published in the same manner as
34 prescribed for performance audits in RCW 44.28.088. Published
35 performance audits must be made available to the public through the
36 joint legislative audit and review committee's web site and through

1 customary public communications. Final reports must also be
2 transmitted to the appropriate policy and fiscal standing committees of
3 the legislature.

4 NEW SECTION. **Sec. 10.** PERFORMANCE AUDITS--DETERMINATION OF
5 NECESSITY. After reviewing the performance or outcome measures of an
6 agency or department, or at any time it so determines, the board shall
7 recommend to the legislative transportation committee whether a full
8 performance audit of the agency or department, or a specific program
9 within the agency or department, is appropriate. If the legislative
10 transportation committee decides by a majority vote that a full
11 performance audit of an agency or department, a specific program within
12 an agency or department, or multiple agencies is appropriate, the
13 legislative transportation committee shall direct the joint legislative
14 audit and review committee to add that audit to its biennial
15 performance audit work plan under RCW 44.28.080 and 44.28.083.

16 NEW SECTION. **Sec. 11.** CONTENTS OF AUDIT REPORT. When conducting
17 a full performance audit of an agency or department, or a specific
18 program within an agency or department, or multiple agencies, in
19 accordance with section 12 of this act, the legislative auditor shall
20 solicit input from appropriate industry representatives or experts.
21 The audit report must make recommendations regarding the continuation,
22 abolition, consolidation, or reorganization of each affected agency,
23 department, or program. The audit report must identify opportunities
24 to develop government partnerships, and eliminate program redundancies
25 that will result in increased quality, effectiveness, and efficiency of
26 state agencies.

27 NEW SECTION. **Sec. 12.** SCOPE OF PERFORMANCE AUDIT. Under the
28 direction of the board, the legislative auditor shall determine in
29 writing the scope of the performance audit. The board and the
30 legislative transportation committee must review and approve the final
31 scope of the audit. Before approving the final scope of the
32 performance audit, the legislative auditor, the board, and the
33 legislative transportation committee shall consider inclusion of the
34 following elements in the scope of the audit:

- 1 (1) Identification of potential cost savings in the agency, its
2 programs, and its services;
- 3 (2) Identification and recognition of best practices;
- 4 (3) Identification of funding to the agency, to programs, and to
5 services that can be eliminated or reduced;
- 6 (4) Identification of programs and services that can be eliminated,
7 reduced, or transferred to the private sector;
- 8 (5) Analysis of gaps and overlaps in programs and services and
9 recommendations for improving, dropping, blending, or separating
10 functions to correct gaps or overlaps;
- 11 (6) Analysis and recommendations for pooling information technology
12 systems;
- 13 (7) Analysis of the roles and functions of the agency, its
14 programs, and its services and their compliance with statutory
15 authority and recommendations for eliminating or changing those roles
16 and functions and ensuring compliance with statutory authority;
- 17 (8) Recommendations for eliminating or changing statutes, rules,
18 and policy directives as may be necessary to ensure that the agency
19 carry out reasonably and properly those functions expressly vested in
20 the department by statute; and
- 21 (9) Verification of the reliability and validity of department
22 performance data, self-assessments, and performance measurement systems
23 as required under RCW 43.88.090.

24 NEW SECTION. **Sec. 13.** The board shall take steps to ensure that
25 the department of transportation is the first agency subject to the
26 performance review and audit process established in this chapter.

27 NEW SECTION. **Sec. 14.** A new section is added to chapter 44.40 RCW
28 to read as follows:

29 The legislative transportation committee or its successor shall
30 work with the joint legislative audit and review committee to review
31 and audit transportation-related agencies, as directed in chapter 44.--
32 RCW (sections 1 through 13 of this act).

33 NEW SECTION. **Sec. 15.** Sections 1 through 13 of this act
34 constitute a new chapter in Title 44 RCW.

1 NEW SECTION. **Sec. 16.** Section captions used in this act are not
2 part of the law.

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

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