

ESHB 1064 - S AMD TO WM COMM AMD (S3093.1) **443**

By Senators Roach, Esser, Pflug, Stevens, Benton, Parlette

PULLED 04/07/2005

1 On page 1, beginning on line 10 of the amendment, strike all of
2 subsections (3) and (4) and insert "and

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

6 Beginning on page 1, line 16 of the amendment, strike all of
7 sections 2 and 3 and insert the following:

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

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

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

13 (2) "Performance audit" means an objective and systematic
14 assessment of a state agency or agencies or any of their programs,
15 functions, or activities by an independent auditor in order to help
16 improve agency efficiency, effectiveness, and accountability.
17 Performance audits include economy and efficiency audits and program
18 audits.

19 (3) "State agency" or "agency" means a state agency, department,
20 office, officer, board, commission, bureau, division, institution, or
21 institution of higher education. "State agency" includes all elective
22 offices in the executive branch state government. This includes state
23 agencies and programs as well as those programs and activities that
24 cross agency lines.

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

27 The state auditor may conduct performance audits under the

1 provisions of sections 1 through 7, 9, and 10 of this act. The state
2 auditor may contract for performance audits as he or she may determine.

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

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

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

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

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

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

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

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

19 (3) The board shall elect a chair.

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

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

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

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

36 (8) The members of the board shall be compensated in accordance

1 with RCW 43.03.220 and reimbursed for travel expenses in accordance
2 with RCW 43.03.050 and 43.03.060."

3 Renumber the remaining sections consecutively and correct any
4 internal references accordingly.

5 On page 3, line 26 of the amendment, after "an" insert "annual"

6 On page 3, line 27 of the amendment, after "conducting" insert
7 "annual"

8 On page 3, at the beginning of line 36 of the amendment, after
9 "employees" strike "including front-line employees"

10 On page 4, line 14 of the amendment, after "of the" insert "annual"

11 Beginning on page 4, line 16 of the amendment, strike all of
12 sections 5 through 11 and insert the following:

13 "NEW SECTION. **Sec. 5.** A new section is added to chapter 43.09 RCW
14 to read as follows:

15 (1) The state auditor shall establish criteria and protocols for
16 performance audits. Agencies shall be audited using criteria that
17 include generally accepted government auditing standards as well as
18 legislative mandates and performance objectives established by state
19 agencies. Mandates include, but are not limited to, agency strategies,
20 timelines, program objectives, and mission and goals as required in RCW
21 43.88.090.

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

27 (3) In developing the work plan, the state auditor shall consider
28 input from the board, citizens, state employees, state managers, the
29 joint legislative audit and review committee, public officials, and
30 others. The work plan may include a list of agencies, programs, or
31 systems to be audited on a timeline decided by the state auditor based

1 on a number of factors including risk, importance, and citizen
2 concerns. All audits shall be designed to be completed within a six-
3 month period.

4 (4) Before adopting the final work plan, the state auditor shall
5 consult with the legislative auditor and other appropriate oversight
6 and audit entities to coordinate work plans and avoid duplication of
7 effort in their planned performance audits of state government. The
8 state auditor shall defer to the joint legislative audit and review
9 committee work plan if a similar audit is included on both work plans
10 for auditing.

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

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

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

18 (c) Analysis of gaps and overlaps in programs and services and
19 recommendations for improving, dropping, blending, or separating
20 functions to correct gaps or overlaps;

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

24 (e) Analysis of the roles and functions of the state agency, its
25 programs, and its services and their compliance with statutory
26 authority and recommendations for eliminating or changing those roles
27 and functions and ensuring compliance with statutory authority;

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

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

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

37 (i) Identification and recognition of best practices;

1 (j) Evaluation of planning, budgeting, and program evaluation
2 policies and practices;

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

4 (l) Evaluation of state purchasing operations and management
5 policies and practices; and

6 (m) Evaluation of organizational structure and staffing levels,
7 particularly in terms of the ratio of managers and supervisors to
8 nonmanagement personnel.

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

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

20 (8) The state auditor shall provide final performance audit reports
21 to the citizens of Washington, the governor, the board, the joint
22 legislative audit and review committee, the appropriate legislative
23 committees, and other appropriate officials. Final performance audit
24 reports shall be posted on the internet.

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

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

29 The audited agency is responsible for follow-up and corrective
30 action on all performance audit findings and recommendations. The
31 audited agency's plan for addressing each audit finding and
32 recommendation shall be included in the final audit report. The plan
33 shall provide the name of the contact person responsible for each
34 action, the action planned, and the anticipated completion date. If
35 the audited agency does not agree with the audit findings and
36 recommendations or believes action is not required, then the action
37 plan shall include an explanation and specific reasons.

1 The office of financial management shall require periodic progress
2 reports from the audited agency until all resolution has occurred. The
3 office of financial management is responsible for achieving audit
4 resolution. The office of financial management shall annually report
5 by December 31st the status of performance audit resolution to the
6 appropriate legislative committees and the state auditor. The
7 legislature shall consider the performance audit results in connection
8 with the state budget process.

9 The auditor may request status reports on specific audits or
10 findings.

11 **Sec. 7.** RCW 43.88.160 and 2002 c 260 s 1 are each amended to read
12 as follows:

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

21 (1) Governor; director of financial management. The governor,
22 through the director of financial management, shall devise and
23 supervise a modern and complete accounting system for each agency to
24 the end that all revenues, expenditures, receipts, disbursements,
25 resources, and obligations of the state shall be properly and
26 systematically accounted for. The accounting system shall include the
27 development of accurate, timely records and reports of all financial
28 affairs of the state. The system shall also provide for central
29 accounts in the office of financial management at the level of detail
30 deemed necessary by the director to perform central financial
31 management. The director of financial management shall adopt and
32 periodically update an accounting procedures manual. Any agency
33 maintaining its own accounting and reporting system shall comply with
34 the updated accounting procedures manual and the rules of the director
35 adopted under this chapter. An agency may receive a waiver from
36 complying with this requirement if the waiver is approved by the
37 director. Waivers expire at the end of the fiscal biennium for which

1 they are granted. The director shall forward notice of waivers granted
2 to the appropriate legislative fiscal committees. The director of
3 financial management may require such financial, statistical, and other
4 reports as the director deems necessary from all agencies covering any
5 period.

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

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

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

29 (a) Develop and maintain a system of internal controls and internal
30 audits comprising methods and procedures to be adopted by each agency
31 that will safeguard its assets, check the accuracy and reliability of
32 its accounting data, promote operational efficiency, and encourage
33 adherence to prescribed managerial policies for accounting and
34 financial controls. The system developed by the director shall include
35 criteria for determining the scope and comprehensiveness of internal
36 controls required by classes of agencies, depending on the level of
37 resources at risk.

1 Each agency head or authorized designee shall be assigned the
2 responsibility and authority for establishing and maintaining internal
3 audits following the standards of internal auditing of the institute of
4 internal auditors;

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

10 (c) Establish policies for allowing the contracting of child care
11 services;

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

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

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

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

34 (5) The treasurer shall:

35 (a) Receive, keep, and disburse all public funds of the state not
36 expressly required by law to be received, kept, and disbursed by some
37 other persons: PROVIDED, That this subsection shall not apply to those

1 public funds of the institutions of higher learning which are not
2 subject to appropriation;

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

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

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

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

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

1 under this section shall lie with the agency head or the agency head's
2 designee in accordance with regulations issued pursuant to this
3 chapter. Nothing in this section shall be construed to permit a public
4 body to advance funds to a private service provider pursuant to a grant
5 or loan before services have been rendered or material furnished.

6 (6) The state auditor shall:

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

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

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

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

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

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

26 (f) Investigate improper governmental activity under chapter 42.40
27 RCW.

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

29 (a) Make post audits of the financial transactions of any agency
30 and management surveys and program reviews as provided for in chapter
31 44.28 RCW as well as performance audits and program evaluations. To
32 this end the joint committee may in its discretion examine the books,
33 accounts, and other records of any agency, official, or employee.

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

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

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

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

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

11 Each biennium the legislature shall appropriate an amount equal to
12 two one-hundredths of one percent of the total general fund state
13 appropriation in that biennium's omnibus operating appropriations act
14 for purposes of the performance audits conducted by the state auditor
15 as authorized by sections 2 through 6 and 9 of this act.

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

18 If the legislative authority of a local jurisdiction requests a
19 performance audit of programs under its jurisdiction, the state auditor
20 has the discretion to conduct such a review under separate contract and
21 funded by local funds.

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 2.56 RCW
23 to read as follows:

24 The office of the administrator for the courts is encouraged to
25 conduct performance audits of courts under the authority of the supreme
26 court, in conformity with criteria and methods developed by the board
27 for judicial administration that have been approved by the supreme
28 court. In developing criteria and methods for conducting performance
29 audits, the board for judicial administration is encouraged to consider
30 quality improvement programs, audits, and scoring. The judicial branch
31 is encouraged to submit the results of these efforts to the chief
32 justice of the supreme court or his or her designee, and with any other
33 applicable boards or committees established under the authority of the
34 supreme court to oversee government accountability."

ESHB 1064 - S AMD TO WM COMM AMD (S3093.1) 443

By Senators Roach, Esser, Pflug, Stevens, Benton, Parlette

PULLED 04/07/2005

1 On page 9, line 2 of the title amendment, before "adding" insert
2 "amending RCW 43.88.160;"

3 On page 9, at the beginning of line 3 of the title amendment, after
4 "RCW;" strike "adding a new section to chapter 43.88 RCW;"

5 On page 9, line 4 of the title amendment, after "creating" strike
6 "new sections" and insert "a new section"

--- END ---