
**State Government & Tribal
Affairs Committee**

HB 1952

Brief Description: Requiring recovery audits for government overpayments.

Sponsors: Representative Anderson.

Brief Summary of Bill

- Requires the Director of Financial Management to contract with a private consultant to conduct recovery audits of payments made by state agencies to individuals, vendors, and other entities.
- Provides that a private consultant who discloses confidential information may be subject to prosecution for a gross misdemeanor.

Hearing Date: 2/20/07

Staff: Jasmine Vasavada (786-5793) and Alison Hellberg 786-7152.

Background:

Various state agencies and programs address government efficiency and accountability. The Joint Legislative Audit and Review Committee (JLARC) employs the Legislative Auditor and conducts performance audits, program evaluations, sunset reviews, and other studies. The State Auditor audits public accounts in state agencies and local governments. In addition, the State Auditor may conduct performance audits or performance verifications, which may include identification of potential cost savings in a state agency, its programs, and its services. The State Auditor also conducts more detailed fiscal audits under the Federal Single Audit Act for programs receiving significant federal funds, such as Medicaid, pursuant to federal requirements. In these audits, a statistical sample of disbursements is used to determine programmatic implementation errors.

These high-level performance or fiscal audits are different from a recovery audit that looks in-depth to search out specific errors at the level of disbursements. Recovery audits are a financial management technique used to find, confirm, and collect refunds from overpayments. Recovery

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audits can be conducted in-house or contracted out to recovery audit firms. Overpayments occur when government funds go to the wrong recipient, the recipient receives an incorrect amount of funds, the vendor neglects to apply relevant discounts, or the recipient uses the funds in an improper manner.

Some federal agencies and state and local governments have implemented recovery audit programs. Section 831 of the National Defense Authorization Act for Fiscal Year 2002 requires all federal executive branch agencies entering into contracts with a cumulative total value exceeding \$500 million in a fiscal year to have cost-effective programs using recovery audits to identify errors in paying contractors and recover amounts erroneously paid. A number of states conduct specialized audits that involve electronic analysis of disbursement files and the physical examination of contractual and procurement records related to payment transactions involving state funds. Texas and Virginia have enacted laws requiring centralized cost recovery audits of payments to vendors. Washington does not have a centralized cost recovery audit system.

Summary of Bill:

The Director of the Office of Financial Management (Director) must contract with private consultants (contractor) to conduct recovery audits of overpayments made by state agencies.

Definition of Recovery Audit

"Recovery audit" is defined as a financial management technique used to identify overpayments made by a state agency with respect to individuals, vendors, and other entities in connection with a payment activity.

Overpayments include:

- failure to meet eligibility requirements;
- failure to apply relevant discounts;
- failure to comply with purchasing agreements; or
- receiving an erroneous payment due to duplication, invoice and pricing errors, or any other inadvertent error.

State Agencies For Which a Recovery Audit is Required

Recovery audits apply to overpayments by a "state agency," which is broadly defined to include individual state programs, programs crossing agency lines, all statewide elected offices, and the Legislature.

The Director must require recovery audits of: (1) any agency with total expenditures during a state fiscal biennium exceeding \$50 million; and (2) any state agency that receives an audit finding by the state auditor for internal control weaknesses concerning agency payments and contracts. Of these, the Director may only exempt an agency that makes relatively few or small payments to vendors, according to criteria adopted by rule that helps determine the likely costs and benefits of performance of a recovery audit.

Reporting Requirement

The Director must provide copies of any audit reports received from the contractor to the Governor, the State Auditor's office, and the legislative fiscal committees within seven days of receipt, and shall provide a summary report to the Legislature each year.

The Contract

The Director has discretion to determine the level of reasonable compensation for a contractor's services based on a specified percentage of the total amount recovered by the audit activities. In the contract, the Director may authorize the consultant to pursue a judicial action to recover overpayments. The contract may not permit recovery of payments until 90 days after the government payment was made, to allow time for the performance of existing state audit procedures.

The Duty of Confidentiality

The Director or state agency whose payments are being audited shall provide information necessary to perform the audit to the contractor, including confidential information. The contractor shall be subject to all prohibitions against the disclosure of confidential information that applied to the original agency, and shall face criminal penalties if it discloses confidential information in violation of applicable law.

Appropriation: None.

Fiscal Note: Requested on February 16, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.