

SENATE BILL REPORT

SB 5446

As Passed Senate, March 5, 2013

Title: An act relating to state auditor applications for investigative subpoenas.

Brief Description: Providing a process for the state auditor's office to apply for investigative subpoenas.

Sponsors: Senators Hobbs, Schoesler, Hatfield and Tom; by request of State Auditor.

Brief History:

Committee Activity: Law & Justice: 2/08/13, 2/11/13 [DP].

Passed Senate: 3/05/13, 49-0.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Sharon Swanson (786-7447)

Background: Article I, section 7 of the Washington State Constitution provides that, no person be disturbed in private affairs, or have the person's home invaded, without authority of law.

The state auditor's office is authorized to issue subpoenas and compulsory process, compel the attendance of witnesses, and compel the production of books and papers before them at any designated time and place, and may also administer oaths.

If a person is summoned to appear and give testimony and that person either fails to appear or refuses to provide the requested information, the person requesting the information must apply to a superior court judge to issue a subpoena for the person to appear and give testimony. If the person fails to appear before the court or provide the requested information, the court may then hold that person in contempt.

Summary of Bill: The state auditor or authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The

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application may be made in the county where the subpoenaed person resides or is found; the county where the subpoenaed records or documents are located; or in Thurston county.

The application must:

- state that an order is sought;
- adequately specify the records, documents, or testimony; and
- declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the state auditor's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the state auditor's authority.

When the application is satisfactory to the court, the court must issue an order approving the subpoena.

The auditor may seek and the court may issue an order approving a subpoena without prior notice to any person.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The state Auditor's office is requesting this change is law because a court case impaired agency subpoena power a few years ago. Several state agencies have already come before the Legislature and had their subpoena power restored. In 2010 and 2011 bills were passed granting subpoena power to other agencies. This bill will give the state auditor the power and authority needed to successfully fulfill his duties.

Persons Testifying: PRO: Senator Hobbs, prime sponsor; Matt Miller, Jan Jutte, Office of the State Auditor; Jim King, Independent Business Assn.