

House Bill 3108

Sponsored by Representative KOTEK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Secretary of State to conduct performance and program audits on tax expenditures. Requires secretary to adopt rules establishing criteria for audits of tax expenditures.

Requires interim committees of Legislative Assembly having principal jurisdiction over matters of taxation to review tax expenditures and prepare written findings and recommendations.

A BILL FOR AN ACT

1
2 Relating to tax expenditures; creating new provisions; and amending ORS 297.070.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 297.070 is amended to read:

5 297.070. (1) Performance and program audits of all state departments, boards, commissions, in-
6 stitutions, [*and*] state-aided institutions and agencies **and tax expenditures** shall be conducted on
7 the basis of risk assessment and on standards established by national recognized entities including,
8 but not limited to, the United States [*General Accounting Office*] **Government Accountability Of-**
9 **ice** and the National Association of State Auditors. The Secretary of State shall adopt and the Joint
10 Legislative Audit Committee shall approve rules specifying all criteria to be considered for con-
11 ducting a performance or program audit under this section. **Rules specifying criteria to be con-**
12 **sidered for conducting a performance or program audit of a tax expenditure shall establish**
13 **criteria for measuring specific economic, employment or other outcomes by which the goals**
14 **and purposes of a tax expenditure may be objectively measured.** The Secretary of State shall
15 schedule the performance and program audits as directed by the Joint Legislative Audit Committee.

16 (2) The Secretary of State may subpoena witnesses, may require the production of books and
17 papers and rendering of reports in such manner and form as the Secretary of State requires and
18 may do all things necessary to secure a full and thorough audit. The Secretary of State shall report,
19 in writing, to the Legislative Assembly as provided in ORS 192.245. The report shall include a copy
20 of the report on each performance and program audit.

21 (3) The Secretary of State, as State Auditor, shall contract with qualified private sector auditors
22 to conduct audits required by this section, unless the Secretary of State determines that it is not
23 practical or in the public interest to do so. If the Secretary of State determines that it is not prac-
24 tical or in the public interest to contract with qualified private sector auditors, after notifying the
25 Joint Legislative Audit Committee, the Secretary of State shall employ auditors for such purpose
26 and shall include in the written audit report the circumstances that rendered it impractical or not
27 in the public interest to contract with qualified private sector auditors. All contracts for conducting
28 performance and program audits under this section shall be in a form prescribed or approved by the
29 Secretary of State. A copy of each completed contract shall be furnished to the Secretary of State
30 and the Joint Legislative Audit Committee. The Secretary of State shall employ or contract with

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 auditors upon terms and for compensation as the Secretary of State determines are advantageous
 2 and advisable.

3 (4) An audit conducted under contract as provided in subsection (3) of this section shall be
 4 considered to be conducted by the Division of Audits for purposes of ORS 297.020, 297.050 and
 5 297.535.

6 (5) If a person fails to comply with any subpoena issued under subsection (2) of this section, a
 7 judge of the circuit court of any county, on application of the Secretary of State, shall compel obe-
 8 dience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena
 9 issued from the circuit court.

10 (6) The Secretary of State may enter into an agreement with the department, board, commission,
 11 institution[,] or state-aided institution or agency that is the subject of a performance or program
 12 audit, **or that is the administrator of a tax expenditure that is the subject of a performance**
 13 **or program audit**, for payment of the expenses incurred by the Secretary of State in conducting
 14 the audit. The Emergency Board may also make funds available to the Division of Audits to reim-
 15 burse it for expenses incurred under this section.

16 (7) As used in this section:

17 (a) "Performance audit" includes determining:

18 (A) Whether an entity described in subsection (1) of this section that is the subject of the audit
 19 is acquiring, protecting and using its resources economically and efficiently;

20 **(B) Whether an entity described in subsection (1) of this section that is charged with**
 21 **administering a tax expenditure is administering the tax expenditure to economically and**
 22 **efficiently achieve the goals and purposes of the tax expenditure;**

23 [(B)] (C) The causes of inefficiencies or uneconomical practices; and

24 [(C)] (D) Whether the entity has complied with laws and regulations concerning matters of
 25 economy and efficiency.

26 (b) "Program audit" includes determining:

27 (A) The extent to which the desired results or benefits of a program **or tax expenditure** es-
 28 tablished by the Legislative Assembly or other authorizing body are being achieved;

29 (B) The extent to which the need for or objectives of an ongoing program **or tax expenditure**
 30 are necessary or relevant;

31 (C) Whether the program **or tax expenditure** complements, duplicates, overlaps or conflicts
 32 with other related programs;

33 (D) The effectiveness of organizations, programs, activities, [or] functions **or tax expenditures;**
 34 and

35 (E) Whether the entity described in subsection (1) of this section that is the subject of the audit
 36 has complied with laws and regulations applicable to the program.

37 (c) "Tax expenditure" has the meaning given that term in ORS 291.201.

38 **SECTION 2. (1) At least once every six years, the interim committees of the Senate and**
 39 **House of Representatives that have principal jurisdiction over matters of taxation shall re-**
 40 **view each tax expenditure that has been enacted and is in effect. The review shall consider:**

41 (a) **The purpose of the tax expenditure;**

42 (b) **The effectiveness of the tax expenditure in achieving the purpose of the tax expendi-**
 43 **ture;**

44 (c) **The efficiency of the tax expenditure in achieving the purpose of the tax expenditure;**
 45 **and**

1 **(d) The revenue impact of the tax expenditure.**

2 **(2) The committees shall jointly prepare a written report setting forth committee**
3 **findings following review and recommendations on whether the tax expenditure should con-**
4 **tinue in effect. The report may set forth Senate and House committee findings or recom-**
5 **mendations separately or as joint findings and recommendations.**

6 **(3) The committees shall prepare the report before September 1 of each even-numbered**
7 **year.**

8 **(4) As used in this section, "tax expenditure" has the meaning given that term in ORS**
9 **291.201.**

10 **SECTION 3.** **The Legislative Revenue Officer shall:**

11 **(1) For the biennium beginning July 1, 2007, identify one-third of all tax expenditures in**
12 **effect during that biennium and submit those tax expenditures for review under section 2**
13 **of this 2007 Act.**

14 **(2) For the biennium beginning July 1, 2009, identify one-half of all tax expenditures in**
15 **effect during that biennium that were not reviewed under section 2 of this 2007 Act during**
16 **the biennium beginning July 1, 2007, and submit those tax expenditures for review under**
17 **section 2 of this 2007 Act.**

18 **(3) For the biennium beginning July 1, 2011, identify all tax expenditures in effect during**
19 **that biennium that were not previously reviewed under section 2 of this 2007 Act, and submit**
20 **those tax expenditures for review under section 2 of this 2007 Act.**

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