

A-Engrossed
House Bill 3613

Ordered by the House February 11
Including House Amendments dated February 11

Sponsored by COMMITTEE ON ELECTIONS, ETHICS AND RULES (at the request of House Interim Committee on Government Accountability and Information Technology)

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.

Establishes Committee on Performance Excellence. Authorizes committee to assist state agencies in reaching performance excellence. [*Directs*] **Authorizes** committee to recommend Legislative Assembly approval of grants for continuous improvement projects. Requires committee to make periodic public reports on achievement of performance excellence. **Directs audited state agency to review Secretary of State audit report for agency and to report to committee opportunities for agency's improvement and plans for addressing opportunities. Directs Secretary of State to file audit reports with committee.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to state agency performance excellence; creating new provisions; amending ORS 297.050
3 and 297.070; and declaring an emergency.

4 Whereas the state cannot legislate excellence, but can expect it, support it and acknowledge it
5 when it occurs; and

6 Whereas excellence is a passion, and when it exists the Legislative Assembly should support it
7 fully; and

8 Whereas innovation involves calculated risk taking that should be supported when it occurs; and

9 Whereas the purpose of this legislation is to create a process that will oversee the journey to
10 excellence and will encourage the most vital aspects of Oregon state government to be managed at
11 a world-class level; now, therefore,

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

13 **SECTION 1. (1) The Committee on Performance Excellence is established. The committee**
14 **shall consist of nine members, appointed as follows:**

15 **(a) The Speaker of the House of Representatives shall appoint one member of the House**
16 **of Representatives;**

17 **(b) The President of the Senate shall appoint one member of the Senate;**

18 **(c) The Governor shall appoint two employees of the executive department, as defined in**
19 **ORS 174.112;**

20 **(d) The Governor shall appoint three public members who have demonstrated experience**
21 **in the practice of continuous improvement in business; and**

22 **(e) The Governor shall appoint:**

23 **(A) One member from the largest employee representative unit; and**

24 **(B) One member from representable employees not represented by the employee repre-**

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 tentative unit described in subparagraph (A) of this paragraph.

2 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, the term of office
3 of each member is two years, but a member serves at the pleasure of the appointing au-
4 thority. Before the expiration of the term of a member, the appointing authority shall ap-
5 point a successor whose term begins on July 1 next following. A member is eligible for
6 reappointment. If there is a vacancy for any cause, the appointing authority shall make an
7 appointment to become immediately effective for the unexpired term.

8 (b) If a legislative member of the committee ceases to be a legislator, the legislator's
9 position on the committee becomes vacant. If an executive department member of the com-
10 mittee ceases to be an employee of the executive department, the member's position on the
11 committee becomes vacant.

12 (3) The committee shall select one of its members as chairperson and another as vice
13 chairperson. The committee may determine the duties and powers of the officers, as well as
14 the terms of office of the officers.

15 (4) A majority of the members of the committee constitutes a quorum for the transaction
16 of business.

17 (5) The committee shall meet at times and places specified by the call of the chairperson
18 or of a majority of the members of the committee.

19 (6) Except as provided in ORS 171.072 for members of the Legislative Assembly, members
20 of the committee are not entitled to compensation or reimbursement for expenses and serve
21 as volunteers on the committee.

22 **SECTION 2.** (1) The mission of the Committee on Performance Excellence is to assist
23 state agencies in reaching performance excellence by providing policy review, recognition and
24 recommendations for funding of proposals that advance performance excellence in state
25 government.

26 (2)(a) The committee shall focus on the following areas that define performance:

27 (A) Customer and market focus.

28 (B) Human resources.

29 (C) Leadership.

30 (D) Measurement, analysis and knowledge management.

31 (E) Process management.

32 (F) Results.

33 (G) Strategic planning.

34 (b) The committee may focus on other areas that define performance and may give dif-
35 ferent weights to different areas described in this subsection, according to the needs of a
36 particular state agency.

37 (c) The committee may advise state agencies with respect to:

38 (A) Statewide performance management improvement efforts;

39 (B) Statewide performance measurement processes;

40 (C) Training designed to enhance the performance management and continuous im-
41 provement abilities of state agency managers;

42 (D) Coordination efforts that advance state agency access to external resources, includ-
43 ing universities and performance consultants;

44 (E) Recognition programs for continuous improvement efforts; and

45 (F) Other performance or continuous improvement efforts suggested by state agencies

1 for review and feedback.

2 (3)(a) As part of any performance excellence effort, the committee may support state
3 agency efforts to acquire the methods, tools and skills to achieve performance improvement
4 by recommending that the Legislative Assembly or Emergency Board approve grants for
5 continuous improvement projects.

6 (b) The committee shall:

7 (A) Establish criteria for submission and review of continuous improvement projects; and

8 (B) Work with the Legislative Fiscal Office to establish a process for submitting recom-
9 mendations to the Legislative Assembly or Emergency Board for grant funding consider-
10 ation, including maximum grant award amounts and reporting requirements.

11 (c) The Legislative Assembly may appropriate money to the Emergency Board to fund
12 continuous improvement projects.

13 (4) The committee shall make periodic public reports on achievement of performance
14 excellence. The reports shall be in a form and manner determined by the committee and may
15 include, but need not be limited to, press releases. The reports shall be delivered to the
16 Governor and to each member of the Legislative Assembly and made available to the general
17 public.

18 SECTION 3. (1) Each state agency that is audited by the Secretary of State under ORS
19 297.070 or 297.210 shall review the audit report issued by the secretary and identify any audit
20 recommendations made for the agency.

21 (2) Not later than three months after the date the secretary issues the audit report, the
22 state agency shall report in writing to the Committee on Performance Excellence. The report
23 shall describe the recommendations and opportunities for improvement identified by the au-
24 dit and a plan for addressing those opportunities.

25 (3) The committee may request in writing that the state agency provide additional in-
26 formation or clarification of the agency's report. The agency shall respond within a reason-
27 able time, not to exceed three months following receipt of a written request from the
28 committee.

29 SECTION 4. (1) The Oregon Department of Administrative Services shall provide admin-
30 istrative support to the Committee on Performance Excellence.

31 (2) The Legislative Fiscal Office and the Budget and Management Division of the Oregon
32 Department of Administrative Services shall jointly provide professional support to the
33 committee and provide periodic public reports on state agency continuous improvement
34 projects and performance improvements.

35 SECTION 5. As used in sections 1 to 5 of this 2008 Act:

36 (1) "Continuous improvement" means a set of actions designed to permanently improve
37 state agency performance, either in a specific targeted area or across all levels of an agency,
38 through the use of structured process analysis and problem solving.

39 (2) "Performance management" means a formal, comprehensive set of business pro-
40 cesses, including strategic planning, performance measurement, leadership, process man-
41 agement and human resources, that help ensure more efficient and effective management
42 operations and practices.

43 (3) "State agency" or "agency" means every state officer, board, commission, depart-
44 ment, institution, branch or agency of the state government, as defined in ORS 174.111.

45 SECTION 6. (1) Notwithstanding the term of office specified by section 1 of this 2008 Act,

1 **of the members first appointed to the Committee on Performance Excellence:**

2 (a) **One executive department member, the member from the largest employee repre-**
3 **sentative unit and two public members shall each serve for a term ending July 1, 2009.**

4 (b) **The House member, the Senate member, one executive department member, the**
5 **member from representable employees not represented by the largest employee represen-**
6 **tative unit and one public member shall each serve for a term ending July 1, 2010.**

7 (2) **The terms of office for members first appointed under this section shall begin on July**
8 **1, 2008.**

9 **SECTION 7.** ORS 297.050 is amended to read:

10 297.050. The Division of Audits of the office of the Secretary of State shall supply the Joint
11 Legislative Audit Committee, **the Committee on Performance Excellence established in section**
12 **1 of this 2008 Act** and the Legislative Fiscal Officer with a copy of each audit report made by or
13 for the Division of Audits.

14 **SECTION 8.** ORS 297.070 is amended to read:

15 297.070. (1) Performance and program audits of all state departments, boards, commissions, in-
16 stitutions and state-aided institutions and agencies shall be conducted on the basis of risk assess-
17 ment and on standards established by national recognized entities including, but not limited to, the
18 United States General Accounting Office and the National Association of State Auditors. The Sec-
19 retary of State shall adopt and the Joint Legislative Audit Committee shall approve rules specifying
20 all criteria to be considered for conducting a performance or program audit under this section. The
21 Secretary of State shall schedule the performance and program audits as directed by the Joint
22 Legislative Audit Committee.

23 (2) The Secretary of State may subpoena witnesses, may require the production of books and
24 papers and rendering of reports in such manner and form as the Secretary of State requires and
25 may do all things necessary to secure a full and thorough audit. The Secretary of State shall report,
26 in writing, to the Legislative Assembly as provided in ORS 192.245 **and to the Committee on**
27 **Performance Excellence established in section 1 of this 2008 Act.** The report shall include a
28 copy of the report on each performance and program audit.

29 (3) The Secretary of State, as State Auditor, shall contract with qualified private sector auditors
30 to conduct audits required by this section, unless the Secretary of State determines that it is not
31 practical or in the public interest to do so. If the Secretary of State determines that it is not prac-
32 tical or in the public interest to contract with qualified private sector auditors, after notifying the
33 Joint Legislative Audit Committee, the Secretary of State shall employ auditors for such purpose
34 and shall include in the written audit report the circumstances that rendered it impractical or not
35 in the public interest to contract with qualified private sector auditors. All contracts for conducting
36 performance and program audits under this section shall be in a form prescribed or approved by the
37 Secretary of State. A copy of each completed contract shall be furnished to the Secretary of State
38 and the Joint Legislative Audit Committee. The Secretary of State shall employ or contract with
39 auditors upon terms and for compensation as the Secretary of State determines are advantageous
40 and advisable.

41 (4) An audit conducted under contract as provided in subsection (3) of this section shall be
42 considered to be conducted by the Division of Audits for purposes of ORS 297.020, 297.050 and
43 297.535.

44 (5) If a person fails to comply with any subpoena issued under subsection (2) of this section, a
45 judge of the circuit court of any county, on application of the Secretary of State, shall compel obe-

1 dience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena
2 issued from the circuit court.

3 (6) The Secretary of State may enter into an agreement with the department, board, commission,
4 institution, state-aided institution or agency that is the subject of a performance or program audit
5 for payment of the expenses incurred by the Secretary of State in conducting the audit. The Emer-
6 gency Board may also make funds available to the Division of Audits to reimburse it for expenses
7 incurred under this section.

8 (7) As used in this section:

9 (a) "Performance audit" includes determining:

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

12 (B) The causes of inefficiencies or uneconomical practices; and

13 (C) Whether the entity has complied with laws and regulations concerning matters of economy
14 and efficiency.

15 (b) "Program audit" includes determining:

16 (A) The extent to which the desired results or benefits of a program established by the Legis-
17 lative Assembly or other authorizing body are being achieved;

18 (B) The extent to which the need for or objectives of an ongoing program are necessary or rel-
19 evant;

20 (C) Whether the program complements, duplicates, overlaps or conflicts with other related pro-
21 grams;

22 (D) The effectiveness of organizations, programs, activities or functions; and

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

25 **SECTION 9. This 2008 Act being necessary for the immediate preservation of the public**
26 **peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect**
27 **on its passage.**

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