

# Enrolled Senate Bill 1099

Sponsored by Senators MORSE, WALKER; Senators DEVLIN, FERRIOLI, G GEORGE, GIROD, JOHNSON, METSGER, NELSON, PROZANSKI, SCHRADER, STARR, WESTLUND, WHITSETT, WINTERS, Representatives BARKER, BARNHART, BONAMICI, BOONE, BUCKLEY, CLEM, C EDWARDS, D EDWARDS, FLORES, GELSER, HANNA, HUNT, KOMP, NATHANSON, RILEY, ROSENBAUM, THATCHER, TOMEI, WHISNANT (Presession filed.)

CHAPTER .....

## AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

**(B) One member from representable employees not represented by the employee representative unit described in subparagraph (A) of this paragraph.**

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

(b) If a legislative member of the committee ceases to be a legislator, the legislator's position on the committee becomes vacant. If an executive department member of the committee ceases to be an employee of the executive department, the member's position on the committee becomes vacant.

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

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

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

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

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

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

(A) Customer and market focus.

(B) Human resources.

(C) Leadership.

(D) Measurement, analysis and knowledge management.

(E) Process management.

(F) Results.

(G) Strategic planning.

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

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

(A) Statewide performance management improvement efforts;

(B) Statewide performance measurement processes;

(C) Training designed to enhance the performance management and continuous improvement abilities of state agency managers;

(D) Coordination efforts that advance state agency access to external resources, including universities and performance consultants;

(E) Recognition programs for continuous improvement efforts; and

(F) Other performance or continuous improvement efforts suggested by state agencies for review and feedback.

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

(b) The committee shall:

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

(B) Work with the Legislative Fiscal Office to establish a process for submitting recommendations to the Legislative Assembly or Emergency Board for grant funding consideration, including maximum grant award amounts and reporting requirements.

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

(4) The committee shall make periodic public reports on achievement of performance excellence. The reports shall be in a form and manner determined by the committee and may

include, but need not be limited to, press releases. The reports shall be delivered to the Governor and to each member of the Legislative Assembly and made available to the general public.

**SECTION 3.** (1) Each state agency that is audited by the Secretary of State under ORS 297.070 or 297.210 shall review the audit report issued by the secretary and identify any audit recommendations that present an opportunity for continuous improvement for the agency.

(2) Not later than three months after the date the secretary issues the audit report, the state agency shall report in writing to the Committee on Performance Excellence. The report shall describe the opportunities for continuous improvement identified by the agency.

(3) Not later than six months after the date the secretary issues the audit report, the state agency shall report in writing to the committee. The report shall describe a plan for addressing the opportunities for continuous improvement identified by the agency under subsection (2) of this section.

**SECTION 4.** (1) The Oregon Department of Administrative Services shall provide administrative support to the Committee on Performance Excellence.

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

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

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

(2) "Performance management" means a formal, comprehensive set of business processes, including strategic planning, performance measurement, leadership, process management and human resources, that help ensure more efficient and effective management operations and practices.

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

**SECTION 6.** (1) Notwithstanding the term of office specified by section 1 of this 2008 Act, of the members first appointed to the Committee on Performance Excellence:

(a) One executive department member, the member from the largest employee representative unit and two public members shall each serve for a term ending July 1, 2009.

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

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

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

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

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

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

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

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

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

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

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

(7) As used in this section:

(a) "Performance audit" includes determining:

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

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

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

(b) "Program audit" includes determining:

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

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

(C) Whether the program complements, duplicates, overlaps or conflicts with other related programs;

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

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

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

**Passed by Senate February 22, 2008**

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Secretary of Senate

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President of Senate

**Passed by House February 22, 2008**

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Speaker of House

**Received by Governor:**

.....M,....., 2008

**Approved:**

.....M,....., 2008

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2008

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Secretary of State