

# Senate Bill 822

Sponsored by Senator GEORGE; Senators ATKINSON, BOQUIST, FERRIOLI, KRUSE, MORSE, STARR, TELFER, WHITSETT, WINTERS

## 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 Joint Legislative Audit Committee to select Legislative Auditor to serve as director of Government Accountability Office. Authorizes Legislative Auditor to conduct performance and management audits of state agencies and programs and other state-funded programs.

Modifies membership of Joint Legislative Audit Committee.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to audits; creating new provisions; amending ORS 171.580, 171.585, 171.590, 184.360, 244.050, 291.100, 291.272 and 297.050; and declaring an emergency.

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

## LEGISLATIVE AUDITOR

### **SECTION 1. As used in sections 1 to 6 of this 2009 Act:**

(1) "Committee" means the Joint Legislative Audit Committee.

(2) "State agency" has the meaning given that term in ORS 291.272.

**SECTION 2. (1) The Joint Legislative Audit Committee shall select a Legislative Auditor, who shall serve as the director of the Government Accountability Office. The Legislative Auditor shall serve at the pleasure of the committee and under the committee's direction.**

(2) A person selected as Legislative Auditor must have a degree from an accredited college or university with a major in accounting or an allied field, and have at least two years experience in the field of governmental accounting and auditing.

(3) Pursuant to the policies and directions of the committee, the Legislative Auditor shall conduct performance and management audits of state agencies and programs and other state-funded programs. During sessions of the Legislative Assembly, the Government Accountability Office shall assist members and committees in gathering and analyzing information relating to the performance and management of state agencies.

(4) Pursuant to the policies and directions of the committee, the Legislative Auditor may enter into contracts to carry out the functions of the Government Accountability Office.

**SECTION 3. (1) Subject to the approval of the Joint Legislative Audit Committee, the Legislative Auditor may employ and fix the compensation of such professional assistants and clerical and other employees as the Legislative Auditor finds necessary for the operation of the Government Accountability Office.**

(2) The committee shall fix the salary of the Legislative Auditor.

(3) Subject to the limitations otherwise provided by law for expenses of state officers, the

**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 Legislative Auditor and employees of the Government Accountability Office shall be reim-  
2 bursed for all actual and necessary expenses incurred in performing their duties.

3 **SECTION 4.** (1) Every biennium, the Legislative Auditor shall conduct audits of at least  
4 two agencies identified by the Joint Legislative Audit Committee. One of the agencies shall  
5 be a large agency, and one of the agencies shall be a small agency, as described by committee  
6 rules.

7 (2) The committee may not audit an agency more than once every four years, unless the  
8 committee approves a special audit under subsection (3) of this section.

9 (3) The committee may require the Legislative Auditor to conduct a special audit at any  
10 time that the committee determines that circumstances exist that require the audit.

11 (4) The Legislative Auditor shall make a written report on each audit conducted by the  
12 Legislative Auditor. The Legislative Auditor shall provide a copy of the report to the audited  
13 state agency, to the Oregon Department of Administrative Services and to each member of  
14 the committee. The reports may include comments and recommendations. If a report con-  
15 tains recommendations that have a fiscal impact, the Legislative Auditor shall provide an  
16 estimate of the fiscal impact.

17 (5) If at any time the Legislative Auditor has reason to believe that an officer or em-  
18 ployee of a state agency has engaged in malfeasance, has failed to perform required duties  
19 or has violated a law, the Legislative Auditor shall immediately give written notice to the  
20 Attorney General, to the Governor and to the members of committee, and shall provide the  
21 Attorney General with all information that the Legislative Auditor has relating to the mat-  
22 ter.

23 **SECTION 5.** (1) In conducting an audit under sections 1 to 6 of this 2009 Act:

24 (a) The Legislative Auditor may examine and inspect all accounts, books, records, files,  
25 papers and documents of any public body as defined in ORS 174.109.

26 (b) The Legislative Auditor may cause a search to be made of and extracts to be taken  
27 from any account, book, record, file, paper or document in the custody of any public officer  
28 without paying any fee for the search or extract. Any public officer having the custody of  
29 the account, book, record, file, paper or document shall make any search requested by the  
30 Legislative Auditor and furnish the extracts as requested.

31 (c) The Legislative Auditor may issue subpoenas compelling at a specified time and place  
32 the appearance and sworn testimony of any person whom the Legislative Auditor reasonably  
33 believes may be able to provide information relating to any audit or other investigation being  
34 undertaken under this section.

35 (d) The Legislative Auditor may issue subpoenas duces tecum compelling the production  
36 of any account, book, record, file, paper, document or other evidence that the Legislative  
37 Auditor reasonably believes may relate to an audit or other investigation being undertaken  
38 under this section.

39 (2) If a person fails to comply with any subpoena issued under subsection (1) of this  
40 section, a judge of the circuit court of any county, on application of the Legislative Auditor,  
41 shall compel obedience by proceedings for contempt as in the case of disobedience of the  
42 requirements of a subpoena issued from the circuit court.

43 **SECTION 6.** Working papers of the Legislative Auditor and of employees of the Govern-  
44 ment Accountability Office, including notes, internal memoranda and records of work per-  
45 formed by the Legislative Auditor or the employees on audits and other investigations

1 **undertaken under sections 1 to 6 of this 2009 Act, are not subject to disclosure under ORS**  
 2 **192.410 to 192.505.**

3 **SECTION 7.** ORS 244.050 is amended to read:

4 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon  
 5 Government Ethics Commission a verified statement of economic interest as required under this  
 6 chapter:

7 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the  
 8 Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and mem-  
 9 bers of the Legislative Assembly.

10 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem  
 11 judicial officer who does not otherwise serve as a judicial officer.

12 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

13 (d) The Deputy Attorney General.

14 (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, **the**  
 15 **Legislative Auditor**, the Secretary of the Senate and the Chief Clerk of the House of Represen-  
 16 tatives.

17 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and  
 18 vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the  
 19 State Board of Higher Education.

20 (g) The following state officers:

21 (A) Adjutant General.

22 (B) Director of Agriculture.

23 (C) Manager of State Accident Insurance Fund Corporation.

24 (D) Water Resources Director.

25 (E) Director of Department of Environmental Quality.

26 (F) Director of Oregon Department of Administrative Services.

27 (G) State Fish and Wildlife Director.

28 (H) State Forester.

29 (I) State Geologist.

30 (J) Director of Human Services.

31 (K) Director of the Department of Consumer and Business Services.

32 (L) Director of the Department of State Lands.

33 (M) State Librarian.

34 (N) Administrator of Oregon Liquor Control Commission.

35 (O) Superintendent of State Police.

36 (P) Director of the Public Employees Retirement System.

37 (Q) Director of Department of Revenue.

38 (R) Director of Transportation.

39 (S) Public Utility Commissioner.

40 (T) Director of Veterans' Affairs.

41 (U) Executive Director of Oregon Government Ethics Commission.

42 (V) Director of the State Department of Energy.

43 (W) Director and each assistant director of the Oregon State Lottery.

44 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.

45 (i) Every elected city or county official.

- 1 (j) Every member of a city or county planning, zoning or development commission.
- 2 (k) The chief executive officer of a city or county who performs the duties of manager or prin-  
3 cipal administrator of the city or county.
- 4 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 5 (m) Every member of a governing body of a metropolitan service district and the executive of-  
6 ficer thereof.
- 7 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 8 (o) The chief administrative officer and the financial officer of each common and union high  
9 school district, education service district and community college district.
- 10 (p) Every member of the following state boards and commissions:
- 11 (A) Board of Geologic and Mineral Industries.
- 12 (B) Oregon Economic and Community Development Commission.
- 13 (C) State Board of Education.
- 14 (D) Environmental Quality Commission.
- 15 (E) Fish and Wildlife Commission of the State of Oregon.
- 16 (F) State Board of Forestry.
- 17 (G) Oregon Government Ethics Commission.
- 18 (H) Oregon Health Policy Commission.
- 19 (I) State Board of Higher Education.
- 20 (J) Oregon Investment Council.
- 21 (K) Land Conservation and Development Commission.
- 22 (L) Oregon Liquor Control Commission.
- 23 (M) Oregon Short Term Fund Board.
- 24 (N) State Marine Board.
- 25 (O) Mass transit district boards.
- 26 (P) Energy Facility Siting Council.
- 27 (Q) Board of Commissioners of the Port of Portland.
- 28 (R) Employment Relations Board.
- 29 (S) Public Employees Retirement Board.
- 30 (T) Oregon Racing Commission.
- 31 (U) Oregon Transportation Commission.
- 32 (V) Wage and Hour Commission.
- 33 (W) Water Resources Commission.
- 34 (X) Workers' Compensation Board.
- 35 (Y) Oregon Facilities Authority.
- 36 (Z) Oregon State Lottery Commission.
- 37 (AA) Pacific Northwest Electric Power and Conservation Planning Council.
- 38 (BB) Columbia River Gorge Commission.
- 39 (CC) Oregon Health and Science University Board of Directors.
- 40 (q) The following officers of the State Treasurer:
- 41 (A) Chief Deputy State Treasurer.
- 42 (B) Chief of staff for the office of the State Treasurer.
- 43 (C) Director of the Investment Division.
- 44 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725  
45 or 777.915 to 777.953.

1 (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

2 (2) By April 15 next after the date an appointment takes effect, every appointed public official  
3 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-  
4 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070  
5 and 244.090.

6 (3) By April 15 next after the filing deadline for the primary election, each candidate for public  
7 office described in subsection (1) of this section shall file with the commission a statement of eco-  
8 nomic interest as required under ORS 244.060, 244.070 and 244.090.

9 (4) Within 30 days after the filing deadline for the general election, each candidate for public  
10 office described in subsection (1) of this section who was not a candidate in the preceding primary  
11 election, or who was nominated for public office described in subsection (1) of this section at the  
12 preceding primary election by write-in votes, shall file with the commission a statement of economic  
13 interest as required under ORS 244.060, 244.070 and 244.090.

14 (5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or  
15 appointed public officials as of April 15 and to persons who are candidates for public office on April  
16 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until  
17 30 days after the filing deadline for the statewide general election.

18 (6) If a statement required to be filed under this section has not been received by the commis-  
19 sion within five days after the date the statement is due, the commission shall notify the public of-  
20 ficial or candidate and give the public official or candidate not less than 15 days to comply with the  
21 requirements of this section. If the public official or candidate fails to comply by the date set by the  
22 commission, the commission may impose a civil penalty as provided in ORS 244.350.

## 23 JOINT LEGISLATIVE AUDIT COMMITTEE

24  
25  
26 **SECTION 8.** ORS 171.580 is amended to read:

27 171.580. [(1) *There is created a Joint Legislative Audit Committee consisting of the cochairs of the*  
28 *Joint Committee on Ways and Means, members of the House of Representatives appointed by the*  
29 *Speaker and members of the Senate appointed by the President.*]

30 **(1) There is created a Joint Legislative Audit Committee, consisting of:**

31 **(a) Three members of the Senate appointed by the Senate Majority Leader;**

32 **(b) Three members of the Senate appointed by the Senate Minority Leader;**

33 **(c) Three members of the House of Representatives appointed by the House Majority**  
34 **Leader; and**

35 **(d) Three members of the House of Representatives appointed by the House Minority**  
36 **Leader.**

37 **(2) Not more than three of the appointees made from each chamber of the Legislative**  
38 **Assembly may be from the same political party.**

39 [(2)] **(3)** The committee has a continuing existence and may meet, act and conduct its business  
40 during sessions of the Legislative Assembly or any recess thereof and in the interim between ses-  
41 sions.

42 [(3)] **(4)** The term of a member shall expire upon the convening of the Legislative Assembly in  
43 regular session next following the commencement of the member's term. When a vacancy occurs in  
44 the membership of the committee in the interim between sessions, until such vacancy is filled, the  
45 membership of the committee shall be considered not to include the vacant position for the purpose

1 of determining whether a quorum is present and a quorum is a majority of the remaining members.

2 [(4)] (5) Members of the committee shall receive an amount equal to that authorized under ORS  
3 171.072 from funds appropriated to the Legislative Assembly for each day spent in the performance  
4 of their duties as members of the committee or any subcommittee thereof in lieu of reimbursement  
5 for in-state travel expenses. However, when engaged in out-of-state travel, members shall be entitled  
6 to receive their actual and necessary expenses therefor in lieu of the amount authorized by this  
7 subsection. Payment shall be made from funds appropriated to the [*Legislative Assembly*] **Govern-**  
8 **ment Accountability Office.**

9 [(5)] (6) The committee may not transact business unless a quorum is present. A quorum consists  
10 of a majority of committee members from the House of Representatives and a majority of committee  
11 members from the Senate.

12 [(6)] (7) Action by the committee requires the affirmative vote of a majority of committee mem-  
13 bers from the House of Representatives and a majority of committee members from the Senate.

14 [(7)] (8) The [*Legislative Fiscal*] **Government Accountability Office** shall furnish to the com-  
15 mittee such services of personnel and such other facilities as are necessary to enable the committee  
16 to carry out its functions as directed by law, with such assistance as the Division of Audits and  
17 Oregon Department of Administrative Services can provide.

18 **SECTION 9.** ORS 171.585 is amended to read:

19 171.585. The Joint Legislative Audit Committee shall:

20 (1) Review all audits and make recommendations for change or remediation by the agency or  
21 other organization under review to the Emergency Board, the Joint Ways and Means Committee and  
22 other persons receiving the audit report under ORS 192.245.

23 (2) Accept requests for performance and [*program*] **management** audits from individual legisla-  
24 tors, legislative committees, the Division of Audits, the Budget and Management Division and the  
25 Legislative Fiscal Office.

26 [(3)] *In conjunction with the Director of the Division of Audits, set priorities on the basis of risk*  
27 *assessment for performance and program audits and program evaluations.*

28 [(4)] (3) With the advice and assistance of the [*Legislative Fiscal Officer, the Administrator of the*  
29 *Budget and Management Division and the Director of the Division of Audits*] **Legislative Auditor**,  
30 determine the type of audit, evaluation or review utilizing criteria to include but not be limited to  
31 the nature and scope of the task, the time frame involved, necessary professional guidelines, econ-  
32 omy, efficiency, cost and cost responsibility.

33 [(5)] (4) Not later than 12 months after the issuance of an audit report, review the actions of  
34 an agency or other government organization for compliance with the recommendations of the audit  
35 report.

36 [(6)] (5) Assign tasks to the [*Legislative Fiscal Office, the Budget and Management Division, the*  
37 *Division of Audits or a special task force*] **Legislative Auditor.**

38 [(7)] (6) Review state agency performance measures and make recommendations for change.

39 **SECTION 10.** ORS 291.272 is amended to read:

40 291.272. As used in ORS 291.272 to 291.278, unless the context requires otherwise:

41 (1) "Administrative expenses" has the meaning defined by ORS 291.305.

42 (2) "Department" means the Oregon Department of Administrative Services.

43 (3) "Governmental service expenses" means the expenses of state government that are attribut-  
44 able to the operation, maintenance, administration and support of state government generally, and  
45 includes the following:

1 (a) Administrative expenses of the Oregon Department of Administrative Services supported out  
2 of the General Fund.

3 (b) Sixty percent of the expenditures of the Legislative Assembly out of moneys appropriated  
4 from the General Fund, and all of the expenditures incurred in the administration of the duties of  
5 the Emergency Board.

6 (c) Sixty percent of the expenditures incurred in the administration of the duties of the Joint  
7 Committee on Ways and Means and the Emergency Board.

8 **(d) Sixty percent of the expenditures incurred in the administration of the duties of the**  
9 **Joint Legislative Audit Committee.**

10 [(d)] (e) Sixty percent of the expenditures incurred out of moneys appropriated from the General  
11 Fund in the administration of the duties of the Legislative Counsel Committee.

12 [(e)] (f) Expenditures of the Secretary of State in the administration of the office of the State  
13 Archivist, of historic properties programs, and of the administrative rules publication program.

14 [(f)] (g) Seventy-five percent of the administrative expenses of the Office of the Governor in-  
15 curred out of moneys appropriated from the General Fund.

16 (4) "State agency" means every state officer, board, commission, department, institution, branch  
17 or agency of the state government, whose costs are paid wholly or in part from funds held in the  
18 State Treasury, and includes the Legislative Assembly, the courts and their officers and committees.

19  
20 **MISCELLANEOUS**

21  
22 **SECTION 11.** ORS 171.590 is amended to read:

23 171.590. (1) In carrying out specific program evaluations and reviews, the Legislative Fiscal Of-  
24 fice may utilize the services of the Division of Audits, the Budget and Management Division, other  
25 statutory agencies of the Legislative Assembly and staff of the substantive committees as necessary.  
26 [*The Division of Audits shall undertake a performance audit at the direction of the Joint Legislative*  
27 *Audit Committee and report to the committee.*]

28 (2) The Emergency Board shall make funds available to the Division of Audits to reimburse it  
29 for expenses incurred under this section for a performance audit.

30 **SECTION 12.** ORS 184.360 is amended to read:

31 184.360. (1) As used in this section, "state government" has the meaning given that term in ORS  
32 174.111.

33 (2) It is the policy of this state that internal audit activities within state government be coor-  
34 dinated to promote effectiveness.

35 (3) The Oregon Department of Administrative Services shall adopt rules setting standards and  
36 policies for internal audit functions within state government. The rules shall include, but are not  
37 limited to:

38 (a) Standards for internal audits that are consistent with and incorporate commonly recognized  
39 industry standards and practices; and

40 (b) Policies and procedures that ensure the integrity of the internal audit process.

41 (4) Not later than December 31 of each calendar year, the department shall prepare and submit  
42 a report to the Joint Legislative Audit Committee. [*In the absence of the Joint Legislative Audit*  
43 *Committee, the department shall submit the report to the Joint Committee on Ways and Means or the*  
44 *Emergency Board.*] The report shall describe internal audit activities that have occurred in state  
45 government during the calendar year in which the report is prepared.

1        **SECTION 13.** ORS 291.100 is amended to read:

2        291.100. (1) It is the intent of the Legislative Assembly, in funding the development and imple-  
3        mentation of a new statewide financial management system, that statewide financial management  
4        systems and policies support program-driven budget planning and execution, based on timely and  
5        accurate statewide managerial cost accounting information and that such systems support legislative  
6        program evaluation and performance auditing of statewide programs and services.

7        (2) The Oregon Department of Administrative Services shall devise and supervise statewide fi-  
8        nancial management systems for all state agencies by preparing policies and procedures for imple-  
9        menting and operating financial management systems for all agencies in state government and  
10       measuring implementation. In order to assure that the state's investment in a modern and complete  
11       statewide financial management system is fully implemented, every agency and unit of state gov-  
12       ernment shall:

13       (a) Cooperate and comply fully with policies and procedures and deadlines prepared by the  
14       Oregon Department of Administrative Services for establishing a database for the financial man-  
15       agement system.

16       (b) Comply fully with policies and procedures prepared by the Oregon Department of Adminis-  
17       trative Services for operation of the financial management system.

18       (3) The Oregon Department of Administrative Services shall report to the Legislative Assembly  
19       no later than December 1 of even-numbered years:

20       (a) Progress in implementing the financial management system as to preparation of financial  
21       statements, nonfinancial management information and the ability of the system to support legislative  
22       program evaluation and performance auditing.

23       (b) Compliance by each agency and unit of state government with policies and procedures of the  
24       Oregon Department of Administrative Services for implementation of the financial management  
25       system.

26       (4) After a review of the Oregon Department of Administrative Services report by the [*Legisla-*  
27       *tive Fiscal Officer*] **Legislative Auditor**, the Joint Legislative Audit Committee may schedule a  
28       hearing for any agency or unit of state government to review compliance with this section and  
29       policies and procedures of the Oregon Department of Administrative Services, prior to any appro-  
30       priation approval by the Legislative Assembly, as provided in ORS 171.585 (1).

31       **SECTION 14.** ORS 297.050, as amended by section 7, chapter 7, Oregon Laws 2008, is amended  
32       to read:

33       297.050. The Division of Audits of the office of the Secretary of State shall supply the Joint  
34       Legislative Audit Committee[,] **and** the Committee on Performance Excellence established in section  
35       1, chapter 7, Oregon Laws 2008, [*and the Legislative Fiscal Officer*] with a copy of each audit report  
36       made by or for the Division of Audits.

37       **SECTION 15.** **The unit captions used in this 2009 Act are provided only for the conven-**  
38       **ience of the reader and do not become part of the statutory law of this state or express any**  
39       **legislative intent in the enactment of this 2009 Act.**

40       **SECTION 16.** **This 2009 Act being necessary for the immediate preservation of the public**  
41       **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
42       **on its passage.**