

Senate Bill 1052

Sponsored by JOINT COMMITTEE ON LEGISLATIVE AUDITS

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**.

Modifies laws relating to audits.

A BILL FOR AN ACT

Relating to government oversight; creating new provisions; and amending ORS 171.585, 171.590, 297.020, 297.030, 297.050, 297.065 and 297.070.

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

SECTION 1. ORS 171.585 is amended to read:

171.585. **(1)** The Joint Legislative Audit Committee shall:

[(1)] **(a)** *[Review all audits]* **Select audit reports for review** and make recommendations for change or remediation by the *[agency or other organization under review]* **audited entity** to the Emergency Board, *[or to]* the Joint Interim Committee on Ways and Means, the Joint Committee on Ways and Means **or other appropriate legislative committees** and to other persons receiving the audit report under ORS 192.245.

(b) Review requests for performance audits and proposed legislation relating to audits.

(c) Recommend audits and audit follow-up reviews to be conducted by the Division of Audits.

(d)(A) Review audit follow-up reviews completed by legislative staff.

(B) Select audit follow-up reviews completed by the Division of Audits for review.

[(2) Accept requests for performance and program audits from individual legislators, legislative committees, the Division of Audits, the Budget and Management Division and the Legislative Fiscal Office.]

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

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

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

[(6)] (e) Assign tasks **related to the duties of the Joint Legislative Audit Committee** to the Legislative Fiscal Office, *[the Budget and Management Division, the Division of Audits or a special task force.]* **including directing staff to conduct performance assessments of state agency programs and management, reviews of agency or statewide processes, sunset reviews,**

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 **change of director reviews, reviews of audits conducted by the Secretary of State or contract**
 2 **auditors and audit follow-up reviews. The Legislative Fiscal Officer shall notify the Division**
 3 **of Audits before conducting a review directed by the committee.**

4 [(7)] (f) At the request of the standing or interim Joint Committee on Ways and Means,
 5 review state agency performance measures and make recommendations for change.

6 (2) As used in this section, “audit follow-up review” means a review to determine:

7 (a) Whether an audited entity has appropriately acted upon audit findings; and

8 (b) Whether implementation of audit recommendations achieved the anticipated benefits
 9 identified in an audit report or in an audited entity’s response to an audit report.

10 **SECTION 2.** ORS 171.590 is amended to read:

11 171.590. (1) In carrying out specific [*program*] evaluations and reviews, the Legislative Fiscal
 12 Office may [*utilize*] **request** the services of the Division of Audits, the [*Budget and Management*
 13 *Division*] **Oregon Department of Administrative Services[,] and** other statutory agencies of the
 14 Legislative Assembly. [*and staff of the substantive committees as necessary. The Division of Audits*
 15 *shall undertake a performance audit at the direction of the Joint Legislative Audit Committee and re-*
 16 *port to the committee.*]

17 (2) **The Division of Audits shall, for each audit recommended by the Joint Legislative**
 18 **Audit Committee and included in the audit plan described in section 8 of this 2019 Act:**

19 (a) **Verify with the committee that the identified scope of the audit meets the goals of**
 20 **the committee; and**

21 (b) **Provide periodic updates to the committee on the status of the audit.**

22 [(2) *The Emergency Board shall make funds available to the Division of Audits to reimburse it for*
 23 *expenses incurred under this section for a performance audit.*]

24 **SECTION 3.** ORS 297.020 is amended to read:

25 297.020. (1) The Division of Audits shall have the function and duty of carrying out the pro-
 26 visions of ORS **297.070**, 297.210, 297.230, 297.405 to 297.555, 297.990 and this section.

27 (2) All moneys received under authority of the sections listed in subsection (1) of this section
 28 and moneys appropriated for use by the Secretary of State in carrying out the provisions of those
 29 sections hereby are made available for use by the Division of Audits.

30 **SECTION 4.** ORS 297.030 is amended to read:

31 297.030. (1) The audits, reviews or investigations authorized to be made by the Secretary of
 32 State may be assigned to the Division of Audits as a part of its functions and duties.

33 (2) **The Secretary of State may adopt rules, standards and criteria relating to audits**
 34 **conducted by the Division of Audits as the Secretary of State deems necessary or advisable.**

35 **SECTION 5.** ORS 297.050 is amended to read:

36 297.050. (1) The Division of Audits of the office of the Secretary of State shall supply the Joint
 37 Legislative Audit Committee and the Legislative Fiscal Officer with a copy of each audit report
 38 made by or for the Division of Audits.

39 (2) **The Division of Audits shall cause a periodic peer review to be completed as required**
 40 **by the standards of the United States Government Accountability Office. The Division of**
 41 **Audits shall supply a copy of each peer review report to the committee.**

42 **SECTION 6.** ORS 297.065 is amended to read:

43 297.065. (1) It is the policy of this state that state government services be delivered with the
 44 highest level of desired effectiveness at the lowest possible cost.

45 (2) The Joint Legislative Audit Committee [*shall*] **may** provide oversight of the conduct of per-

1 formance [*and program*] audits and program evaluations, that are outside the authority of the Sec-
 2 retary of State under section 2, Article VI of the Oregon Constitution, of state departments, boards,
 3 commissions, institutions and state-aided institutions and agencies. [*The joint committee shall review*
 4 *the efforts of state departments, boards, commissions, institutions and state-aided institutions and*
 5 *agencies to comply with the recommendations of the audit or evaluation reports.*]

6 **SECTION 7.** ORS 297.070 is amended to read:

7 297.070. (1) Performance [*and program*] audits of all state departments, boards, commissions, in-
 8 stitutions and state-aided institutions and agencies **conducted by the Division of Audits** shall be
 9 [*conducted on the basis of risk assessment and*] **based** on standards **for audit services** established
 10 by [*national*] **nationally** recognized entities including, but not limited to, the United States Govern-
 11 ment Accountability Office. [*and the National Association of State Auditors. The Secretary of State*
 12 *shall adopt and the Joint Legislative Audit Committee shall approve rules specifying all criteria to be*
 13 *considered for conducting a performance or program audit under this section. The Secretary of State*
 14 *shall schedule the performance and program audits as directed by the Joint Legislative Audit Com-*
 15 *mittee.*]

16 (2) The Secretary of State may subpoena witnesses, may require the production of books and
 17 papers and rendering of reports in the manner and form that the Secretary of State requires and
 18 may do all things necessary to secure a full and thorough audit. **If a person fails to comply with**
 19 **any subpoena issued under this subsection, a judge of the circuit court of any county, on**
 20 **application of the Secretary of State, shall compel obedience by proceedings for contempt as**
 21 **in the case of disobedience of the requirements of a subpoena issued from the circuit court.**
 22 [*The Secretary of State shall report, in writing, to the Legislative Assembly as provided in ORS*
 23 *192.245. The report shall include a copy of the report on each performance and program audit.*]

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

36 (4) An audit conducted under contract as provided in subsection (3) of this section shall be
 37 considered to be conducted by the Division of Audits for purposes of ORS 297.020, 297.050 and
 38 297.535.

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

43 [(6)] (5) The Secretary of State may enter into an agreement with the department, board, com-
 44 mission, institution, state-aided institution or agency that is the subject of a performance [*or pro-*
 45 *gram*] audit for payment of the expenses incurred by the Secretary of State in conducting the audit.

1 *[The Emergency Board may also make funds available to the Division of Audits to reimburse it for*
 2 *expenses incurred under this section.]*

3 **(6) An audit report that includes information on leading practices must:**

4 **(a) Provide information on whether it is reasonable to believe that adoption of such**
 5 **practices will require resources beyond currently legislatively approved resource levels, and,**
 6 **if so, the potential magnitude of additional resources needed; and**

7 **(b) Identify states or comparable government entities that have implemented identified**
 8 **leading practices.**

9 **(7) An audit report must indicate whether:**

10 **(a) Issues identified in the report are already under consideration by the audited entity;**
 11 **and**

12 **(b) Recommendations identified in the report are already in the process of being imple-**
 13 **mented.**

14 **(8) The Division of Audits shall publish all performance audit reports and shall notify the**
 15 **Legislative Assembly and the Legislative Fiscal Officer when such audits are publicly avail-**
 16 **able.**

17 **(9) An audited entity shall submit written reports to the Division of Audits and the Leg-**
 18 **islative Fiscal Officer regarding the findings and recommendations of an audit of the entity.**
 19 **The reports must include specific responses to each recommendation, including whether the**
 20 **entity can implement the recommendation without legislative action and anticipated**
 21 **timeframes for implementation of recommendations not requiring legislative action. The re-**
 22 **ports required under this subsection must be made in a timely manner, as determined by the**
 23 **Division of Audits and the Legislative Fiscal Officer.**

24 **(10) After receiving a report under subsection (9) of this section, both the Division of**
 25 **Audits and the Legislative Fiscal Officer may conduct an audit follow-up review and may**
 26 **submit a written report regarding the audit follow-up review to the Joint Legislative Audit**
 27 **Committee. The Division of Audits and the Legislative Fiscal Officer shall notify one another**
 28 **about the intent to conduct an audit follow-up review prior to initiation of the review.**

29 *[(7)] (11) As used in this section:*

30 **(a) “Audit follow-up review” has the meaning given that term in ORS 171.585.**

31 *[(a)]* **(b) “Performance audit” [includes determining] means an audit, the objectives of which**
 32 **include:**

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

35 *[(B) The causes of inefficiencies or uneconomical practices; and]*

36 *[(C) Whether the entity has complied with laws and regulations concerning matters of economy and*
 37 *efficiency.]*

38 **(A) Assessing the extent to which legislative, regulatory and organizational goals and**
 39 **objectives are being achieved and the current status or condition of program operations or**
 40 **progress in implementing legislative requirements within the legislatively approved budget;**

41 **(B) Assessing the ability of alternative approaches to yield improved performance or**
 42 **eliminate factors that inhibit effectiveness;**

43 **(C) Determining whether a program produced documented intended results, including key**
 44 **performance measures, and whether such measures are reliable, valid and relevant;**

45 **(D) Determining whether a program operates within the context of statutory parameters,**

1 is accessible to eligible individuals, duplicates, overlaps, or conflicts with other programs,
 2 utilizes sound financial practices and information and is efficient and effective in achieving
 3 intended results within the legislatively approved budget;

4 (E) Determining whether the purpose of a program, the manner in which it is conducted,
 5 services delivered, outcomes, the population served, incurred or proposed costs, and revenue
 6 received are in compliance with provisions of laws, regulations, contracts, grant agreements
 7 or other relevant requirements; and

8 (F) Addressing identified risks and weaknesses.

9 *[(b) "Program audit" includes determining:]*

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

12 *[(B) The extent to which the need for or objectives of an ongoing program are necessary or rele-
 13 vant;]*

14 *[(C) Whether the program complements, duplicates, overlaps or conflicts with other related pro-
 15 grams;]*

16 *[(D) The effectiveness of organizations, programs, activities or functions; and]*

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

19 **SECTION 8. (1) The Secretary of State shall, on a fiscal year basis, prepare an annual**
 20 **audit plan for performance audits, as defined in ORS 297.070, of state departments, boards,**
 21 **commissions, institutions and state-aided institutions and agencies. The audit plan must be**
 22 **based on a risk assessment methodology. The Secretary of State shall seek, in the audit plan,**
 23 **to prioritize audits recommended by the Joint Legislative Audit Committee.**

24 **(2) The Division of Audits shall provide a draft of the audit plan and the risk assessment**
 25 **methodology used to prepare the plan to the committee for review and comment no later**
 26 **than February 1 of the fiscal year preceding the fiscal year to which the audit plan applies.**
 27 **No later than 90 days after the close of each regular session of the Legislative Assembly, the**
 28 **Division of Audits shall prepare and provide to the committee an amended audit plan that**
 29 **reflects changes, if any, resulting from legislation.**

30 **(3) The Division of Audits shall publish the audit plan no later than 30 days prior to its**
 31 **implementation. After publication of the audit plan, the Division of Audits shall notify the**
 32 **committee of any substantive changes to the audit plan.**

33 **(4) If the committee recommends an audit not included in the published audit plan, the**
 34 **committee shall provide the Secretary of State with the subject of the audit and available**
 35 **relevant information regarding the subject.**

36 **(5) If the Secretary of State intends to conduct an audit not included in the published**
 37 **audit plan, the Secretary of State shall notify the committee prior to the initiation of the**
 38 **audit. Such notification must include any anticipated change to the published audit plan. If**
 39 **the Secretary of State determines that an additional audit, as well as all audits in the pub-**
 40 **lished audit plan, cannot be completed with available resources, the Legislative Assembly**
 41 **may provide funding to the Division of Audits for expenses incurred for the audit. If the**
 42 **Legislative Assembly does not provide such funding, the Secretary of State shall amend the**
 43 **audit plan.**

44 **SECTION 9. (1) In the Governor's budget required under ORS 291.202, the Governor shall**
 45 **identify any new or enhanced funding or savings included in the budget as a result of im-**

1 **plementation of audit findings or recommendations.**

2 **(2) Each biennium, the Governor shall prepare a report to accompany the Governor's**
3 **budget on the status of implementation of action plans by state agencies in response to audit**
4 **findings and recommendations.**

5 **SECTION 10. In the agency request budget submitted by the Secretary of State under**
6 **ORS 291.208, the Secretary of State shall specify the amounts estimated to be expended in**
7 **the biennium during which the agency request budget is prepared for categories of audit and**
8 **related services, including fiscal audits, performance audits, information technology audits,**
9 **the Government Waste Hotline and audit follow-up reviews.**

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