
HOUSE BILL 2051

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Zeiger, Eddy, Fitzgibbon, Rivers, Haler, Kelley,
and Buys

Read first time 04/05/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to encouraging state agency use of recovery audits
2 for government overpayments; and adding a new chapter to Title 43 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that overpayments are
5 a serious problem for state agencies given the magnitude and complexity
6 of state operations and ongoing audit findings for agency internal
7 control weaknesses. Overpayments waste tax dollars and detract from
8 the efficiency and effectiveness of state operations by diverting
9 resources from their intended uses. An overpayment occurs when an
10 individual, vendor, or other entity receives a government payment in
11 error or in excess of the legal amount entitled. The legislature
12 further finds that some state agencies already diligently work to
13 recover overpayments through internal audit processes and staff. To
14 improve the economy and efficiency of governmental operations, the
15 state should contract for recovery audits to recoup any overpayments
16 made of state tax dollars to help augment existing state agency efforts
17 to recover overpayments.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Consultant" means a private contractor with recovery audit
4 expertise.

5 (2) "Director" means the director of financial management.

6 (3) "Overpayment" includes:

7 (a) Failure to meet eligibility requirements;

8 (b) Duplicate payments;

9 (c) Invoice and pricing errors;

10 (d) Failure to apply discounts, rebates, or other allowances;

11 (e) Failure to comply with purchasing agreements; and

12 (f) Any other inadvertent errors resulting in overpayments.

13 (4) "Recovery audit" means a financial management technique used to
14 identify overpayments made by a state agency with respect to
15 individuals, vendors, and other entities in connection with a payment
16 activity.

17 (5) "State agency" means a department, office, board, commission,
18 bureau, division, institution, or institution of higher education.
19 "State agency" includes individual state agencies and programs, as well
20 as those programs and activities that cross agency lines, all statewide
21 elected offices, and the legislature.

22 NEW SECTION. **Sec. 3.** (1) The director must contract with
23 consultants to conduct recovery audits of payments made by state
24 agencies to individuals, vendors, and other entities.

25 (2) A contract under this section:

26 (a) May provide for reasonable compensation for services provided
27 under the contract, including compensation determined by the
28 application of a specified percentage of the total amount recovered
29 because of the consultant's audit activities;

30 (b) May permit or require the consultant to pursue a judicial
31 action in a court inside or outside this state to recover an overpaid
32 amount; and

33 (c) Must allow time for the performance of existing state payment
34 auditing procedures and may not allow a recovery audit of a payment
35 during the ninety-day period after the date the payment was made.

36 (3) The director or a state agency whose payments are being audited
37 must provide a person acting under a contract authorized by this

1 section with any confidential information in the custody of the
2 director or state agency that is necessary for the performance of the
3 audit or the recovery audit of an overpayment, to the extent the
4 director and state agency are not prohibited from sharing the
5 information under an agreement with another state or the federal
6 government. A person acting under a contract authorized by this
7 section, and each employee or agent of the person, is subject to all
8 prohibitions against the disclosure of confidential information
9 obtained from the state in connection with the contract that apply to
10 the director or applicable state agency or an employee of the director
11 or applicable state agency. A person acting under a contract
12 authorized by this section or an employee or agent of the person who
13 discloses confidential information in violation of a prohibition made
14 applicable to the person under this subsection is subject to
15 prosecution for a gross misdemeanor.

16 NEW SECTION. **Sec. 4.** (1) The director must require that recovery
17 audits be performed on the payments to individuals, vendors, and other
18 entities made by each state agency that has total expenditures from all
19 funds during a state fiscal biennium in an amount that exceeds fifty
20 million dollars.

21 (2) In addition, the director must require recovery audits for any
22 state agency that receives an audit finding by the state auditor for
23 internal control weaknesses concerning agency payments and contracts
24 after the state agency has been given one hundred eighty days to
25 address the state auditor findings and implement any recommendations.

26 (3) Each state agency to which this section applies must provide
27 the recovery audit consultant with all information necessary for the
28 audit.

29 (4) The director may exempt from the mandatory recovery audit
30 process a state agency or activity, according to criteria the director
31 adopts by rule, after consideration of the likely costs and benefits of
32 performing recovery audits for agencies.

33 NEW SECTION. **Sec. 5.** (1) When contracting with consultants for
34 recovery audits, the director must select the consultant based on the
35 lowest reasonable compensation for services provided under recovery

1 audit contracts based on a specified percentage of the total amount
2 recovered because of a consultant's audit activities.

3 (2) A state agency must expend or return to the federal government
4 any federal money that is recovered through a recovery audit conducted
5 under this chapter. The state agency must expend or return the federal
6 money in accordance with the rules of the federal program through which
7 the agency received the federal money.

8 NEW SECTION. **Sec. 6.** (1) The director must make available
9 electronic form copies of any reports received from a consultant
10 contracting under this chapter to:

11 (a) The governor;

12 (b) The state auditor's office; and

13 (c) The legislative fiscal committees of the legislature.

14 (2) The director must provide the copies required by subsection (1)
15 of this section not later than the seventh business day after the date
16 the director receives the consultant's report.

17 (3) Not later than December 31st of each year, the director must
18 issue a report to the legislature summarizing the contents of all
19 reports received under this chapter during the previous fiscal year.
20 This report must also be posted on the office of financial management's
21 web site.

22 NEW SECTION. **Sec. 7.** The director must adopt rules necessary to
23 implement this chapter in a timely manner so that the director may
24 begin contracting with consultants under this chapter not later than
25 January 1, 2012.

26 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
27 a new chapter in Title 43 RCW.

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