



Ohio Legislative Service Commission

Bill Analysis

Wendy H. Gridley

Sub. S.B. 4*

129th General Assembly

(As Reported by S. State & Local Government & Veterans Affairs)

Sen. Schaffer

BILL SUMMARY

- Requires the Auditor of State to conduct performance audits of at least four state agencies each biennium.
- Establishes the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund to make loans to state agencies and local public offices to pay the Auditor of State's costs in conducting performance audits.
- Makes an appropriation.

CONTENT AND OPERATION

Biennial performance audits of state agencies

The bill requires the Auditor of State, each biennium, to conduct a performance audit of at least four state agencies. At least two audits must be of agencies selected from the list of administrative departments in Chapter 121. of the Revised Code (see **COMMENT 1**) and the Department of Education. At least two audits must be of other state agencies. (See **COMMENT 2**.)

The bill requires the Auditor of State to select each agency to be audited and to determine whether to audit the entire agency or a portion of the agency by auditing one or more programs, offices, boards, councils, or other entities within that agency. The Auditor must make that selection and determination in consultation with the Governor, the Speaker and Minority Leader of the House of Representatives, and the President

* This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

and Minority Leader of the Senate. An audit of a portion of an agency is considered an audit of one agency under the bill. The authority to audit a portion of an agency in no way limits the Auditor's ability to audit an entire agency if it is in the best interest of the state.

The Auditor of State must submit a report of each completed audit within thirty days after completion to the Governor, Speaker and Minority Leader of the House of Representatives, President and Minority Leader of the Senate, and Inspector General.¹

State agency report

If an audited state agency does not fully implement performance audit recommendations within one year after completion of an audit, it must do both of the following: (1) file a report explaining why it has not implemented the audit recommendations with the Auditor of State, Governor, Speaker and Minority Leader of the House of Representatives, and President and Minority Leader of the Senate and (2) provide a similar explanation in testimony to the House and Senate committees dealing primarily with the programs and activities of the agency.²

The Leverage for Efficiency, Accountability, and Performance (LEAP) Fund

The bill creates in the state treasury the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund. The Auditor of State must use the fund to make loans to state agencies and local public offices requesting loans in accordance with the bill's provision for application for loans (see below) and to pay for costs incurred by the Auditor of State for conducting performance audits. The fund will consist of money appropriated to it and the repayments of principal and interest on loans made from the fund. Interest earned on money in the fund is to be credited to the fund.³

Applications for loans from the fund

The bill authorizes a state agency or local public office to apply for a loan from the LEAP Fund to pay the Auditor of State for a performance audit. The Auditor must oversee the application and approval process. If the local public office seeking a loan is the office of a county elected official, before applying, the local public office must obtain approval from the board of county commissioners of the county in which the office is located. This approval is required to ensure that the county office being audited and the board of county commissioners are notified that the costs of the loan must be repaid.

¹ R.C. 117.46.

² R.C. 117.461.

³ R.C. 117.47.

The interest rate on the loan will be calculated at the same rate as the average of the average monthly yields for the state treasury Asset Reserve Fund for the duration of the loan. Interest will accrue from the date the audit is completed until the date the loan is repaid.

Rates charged for performance audits of state agencies and local public offices will be determined in accordance with current law for recovering costs of audits. Under current law, the Auditor of State must establish by rule rates to be charged to state agencies or to the Department of Administrative Services for recovering the costs of audits of state agencies.⁴ Current law provides for the recovery of the costs of public office audits in the following manner: the total compensation paid assistant auditors of state, their expenses, the cost of employees assigned to assist the assistant auditors, the cost of experts employed, and the cost of typing, reviewing, and copying reports is borne by the public office, except that annual vacation and sick leave of assistant auditors of state, employees, and typists are financed from the General Revenue Fund. Necessary traveling and hotel expenses of the deputy inspectors and supervisors of public offices must be paid from the state treasury. Assistant auditors of state must be compensated by the taxing district or other public office audited for public accounting services and for analyzing a public accountant's report to determine if there was an unlawful expenditure of public funds or other malfeasance or gross neglect of duty on the part of any officer or employee of the public office.⁵

Statements of loan amounts due; payments deposited to the LEAP Fund

The bill requires the Auditor of State to provide each state agency or local public office receiving a loan from the LEAP Fund a statement of the amount of the loan plus interest due. The statement must include the percentage of total cost chargeable to each fund subject to the performance audit, as well as the date upon which payment is due to the Auditor of State, which must be one year following the date of completion of the performance audit.

In the case of a performance audit of a state agency, if the state agency has not repaid the Auditor of State by the payment deadline, the auditor must certify to the Director of Budget and Management the amount of the loan plus interest due. The director must withhold from the agency the amount certified from funds under the director's control that belong to or are lawfully payable or due to the agency and that may be used to repay the loan. The director must promptly pay the amount withheld to the Auditor of State for deposit into the LEAP Fund. If the director determines that no

⁴ R.C. 117.471 and 117.13(A)(2).

⁵ R.C. 117.471 and 117.13(C)(1).

funds due and payable to the agency are available or that insufficient amounts of such funds are available, the director must withhold and pay to the Auditor of State the amounts available and must continue to do so until the full amount is paid. Funds so received by the Auditor of State must be paid into the state treasury to the credit of the LEAP Fund.

In the case of a performance audit of a local public office, if the office has not repaid the Auditor of State by the payment deadline, the Auditor of State must certify to the county auditor the amount of the loan plus interest due. The county auditor must withhold from the local public office the amount certified from funds under the county auditor's control that belong to or are lawfully payable or due to the local public office and that may be used to repay the loan. The county auditor must promptly pay the amount withheld to the Auditor of State. If the county auditor determines that no funds due and payable to the local public office are available or that insufficient amounts of such funds are available, the county auditor must withhold and pay to the auditor of state the amounts available and must continue to do so until the full amount is paid. Funds so received by the Auditor of State must be paid into the state treasury to the credit of the LEAP Fund.⁶

Statement about current authority

The bill includes a statement that section 117.46 of the Revised Code (the provision of the bill requiring the Auditor of State to conduct state agency performance audits each biennium) does not imply that the Auditor of State currently has no performance audit authority under Chapter 117. of the Revised Code.⁷ (See **COMMENT 3**).

Appropriation

The bill makes an appropriation of \$1,500,000 to the LEAP Fund established by the bill. The bill takes immediate effect upon enactment and is not subject to the referendum because its sections relate to the appropriation for current expenses.⁸

COMMENT

1. R.C. 121.02 lists the following administrative departments: Office of Budget and Management, Commerce, Administrative Services, Transportation, Agriculture,

⁶ R.C. 117.472.

⁷ Section 3.

⁸ Sections 4, 5, and 6.

Natural Resources, Health, Job and Family Services, Public Safety, Mental Health, Developmental Disabilities, Insurance, Development, Youth Services, Rehabilitation and Correction, Environmental Protection Agency, Aging, Alcohol and Drug Addiction Services, and Veterans Services.

2. Chapter 117. of the Revised Code defines "state agency" as "every organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government." R.C. 117.01(F).

3. The Auditor of State is required to conduct an audit of each public office at least once every two fiscal years. Inquiry must be made into "the methods, accuracy, and legality of the accounts, financial reports, records, files, and reports of the office, whether the laws, rules, ordinances, and orders pertaining to the office have been observed, and whether the requirements and rules of the auditor of state have been complied with In addition, . . . the auditor of state may conduct an audit of a public office at any time when so requested by the public office or upon the auditor of state's own initiative if the auditor of state has reasonable cause to believe that an additional audit is in the public interest." R.C. 117.11.

HISTORY

ACTION	DATE
Introduced	02-01-11
Reported, S. State & Local Gov't & Veterans Affairs	—

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