
Detailed Fiscal Analysis

Recovery audit requirements

The bill requires the Auditor of State to contract with consultants to conduct recovery audits for overpayments made to vendors by any state agency that (1) during the most recently concluded biennium had total expenditures that exceeded \$100 million or (2) during the most recent biennium has appropriations in excess of \$100 million. Additionally, the Auditor is required to establish, by rule, criteria for determining whether a state agency may be exempted from a recovery audit, taking into consideration the likely costs and benefits of performing such audits for agencies that make relatively few or small payments to vendors. As of this writing, there are 23 state agencies that had appropriations in the last biennium that exceeded \$100 million. However, it is not yet known how many of these agencies may be granted an audit exemption. The Auditor of State is required to adopt rules that establish standards, procedures, and guidelines for the conduct of recovery audit. The Auditor must also approve the scope of the audit as set forth in the contract.

Payment of audit consultants

The bill also states that payment of an audit consultant is the responsibility of the state agency subject to the audit. Such compensation may be determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities or recommendations as a fee for services. The agency is to pay, from the recovered money, the consultant responsible for identifying the overpayment. Any portion of a recovered overpayment that is not paid to the consultant must be credited to the fund or account from which the payment was originally made.

Reporting requirements

The bill requires that a recovery consultant submit a written report to the Auditor of State for each audit conducted, as well as to each state agency audited. The Auditor must provide copies of those reports to the Governor within seven days of their receipt. The Auditor must also notify the Attorney General in writing of each audit report that states an overpayment of public money exists and has not been collected. The bill also requires the Auditor, no later than January 1 of each even-numbered year, to issue a report to the General Assembly summarizing the contents of all recovery audit reports received during the state biennium ending June 30 of the previous year.

Legal remedies – uncollected overpayments

If a recovery audit report states that an overpayment of public money exists and has not been collected, the head officer of the state agency receiving the report, or the consultant contracted to recover the overpayment may commence a civil action for the recovery of the money. The civil action must be brought within 120 days after receiving or issuing the report, in the name of the agency to which the overpayment of money is due. Within that 120-day period, the head officer of the state agency, or

the audit consultant must notify the Attorney General in writing of whether any legal action has been taken against the vendor and, if no legal action has been taken, the reason why. The Attorney General may file a civil action on behalf of the audited agency if the auditing consultant does not intend to file a civil action to recover the overpayment.

Affected agencies

As indicated above, there are 23 state agencies with appropriations or expenditures that exceeded \$100 million in the FY 2006 - FY 2007 biennium. These agencies are: Accrued Leave Liability (PAY), Department of Administrative Services (DAS), Department of Aging (AGE), Department of Alcohol and Drug Addiction Services (ADA), Attorney General (AGO), Department of Commerce (COM), Department of Development (DEV), Department of Education (EDU), Environmental Protection Agency (EPA), Department of Health (DOH), Department of Job and Family Services (JFS), Judiciary/Supreme Court (JSC), Lottery Commission (LOT), Department of Mental Health (DMH), Department of Mental Retardation and Developmental Disabilities (DMR), Department of Natural Resources (DNR), Public Works Commission (PWC), Board of Regents (BOR), Department of Rehabilitation and Correction (DRC), Rehabilitation Services Commission (RSC), School Facilities Commission (SFC), Department of Taxation (TAX), and Department of Youth Services (DYS).

Other fiscal effects

Each individual agency is responsible for the cost of the recovery audit. These costs will be determined by the terms of the individual contracts negotiated by the Auditor of State. Presumably, the recoveries made through conducting these audits will equal or surpass the costs of conducting the audits, thereby resulting in revenue gains for the individual agencies. The Auditor of State's office may experience some administrative costs for submitting requests for proposals (RFPs) and negotiating the terms of the recovery audit contracts.

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