

H. B. 4466

(By Delegates Espinosa, Householder,
Ellington, Gearheart, Westfall, Folk,
Overington, Cowles, McCuskey, Howell
and Ferns)

[Introduced February 11, 2014; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend and reenact §4-2-1, §4-2-2, §4-2-4, §4-2-8 and
§4-2-10, of the Code of West Virginia, 1931, as amended; and
to amend said code by adding thereto a new section, designated
§4-2-13; all relating to the Legislative Auditor; requiring
that the Legislative Auditor conduct audits of all spending
units, including members of the Board of Public Works and the
Legislature, within at least two years of the effective date
of this section, if practicable, but no later than four years
from the effective date of this section, and thereafter on a
regular basis; requiring public disclosure of any and all
reviews performed pursuant to this section; and permitting the
Legislative Auditor to seek the assistance of the Attorney
General's Office in performing the duties set forth within
this section.

Be it enacted by the Legislature of West Virginia:

That §4-2-1, §4-2-2, §4-2-4, §4-2-8 and §4-2-10 of the Code of
West Virginia, 1931, as amended, be amended and reenacted; and to

1 amend said code by adding thereto a new section, designated
2 §4-2-13, all to read as follows:

3 **ARTICLE 2. LEGISLATIVE AUDITOR; POWERS; FUNCTIONS; DUTIES;**
4 **COMPENSATION.**

5 **§4-2-1. Purpose of article.**

6 The purpose of this article is to provide for the more
7 expeditious and efficient study and management of the financial
8 problems which at each session confront the Legislature, ~~and~~ to
9 provide a tighter and more economical control by the Legislature
10 over the revenues and expenditures of the state by eliminating
11 waste, fraud and abuse occurring within the state government, and
12 to provide greater transparency and accountability in state
13 government.

14 **§4-2-2. Definitions.**

15 For the purposes of this article: "Committee" means the Joint
16 Committee on Government and Finance of the Senate and House of
17 Delegates.

18 "Full performance evaluation" means to determine for an agency
19 whether or not the agency is operating in an efficient and
20 effective manner and to determine whether or not there is a
21 demonstrable need for the continuation of the agency, pursuant to
22 the provisions of section ten, article ten of this chapter.

23 "Post audit" is the audit or review of governmental finances

1 after they have been completed. The scope of a post audit includes
 2 audit or review of transactions pertaining to the financial
 3 operations of the various agencies of government on the state
 4 level, with verification of state revenues at the source and audit
 5 of expenditures all the way through the work to the recipient or
 6 beneficiary of the service.

7 "Preliminary performance review" means to determine for an
 8 agency whether or not the agency is performing in an efficient and
 9 effective manner and to determine whether or not there is a
 10 demonstrable need for the continuation of the agency pursuant to
 11 the provisions of section eleven, article ten of this chapter.

12 "Spending unit" means any department, agency, board,
 13 commission, officer, authority, subdivision or institution of the
 14 state government, including any and all members of the Board of
 15 Public Works and the Legislature, for or to which an appropriation
 16 has been made, or is to be made. ~~by the Legislature~~

17 **§4-2-4. Duties of Auditor; filing reports.**

18 (a) It is the duty of the Legislative Auditor to:

19 (1) Compile fiscal information for the Senate and the House of
 20 Delegates;

21 (2) ~~to~~ Make a continuous audit and analysis of the state
 22 budget, revenues and expenditures, during and between sessions of
 23 the Legislature;

24 (3) Perform biannually a full performance evaluation and post

1 audit of any methods used by the Legislature to facilitate the
2 awarding of grants or other discretionary funding and report any
3 misapplication of state funds or improper or unlawful expenditures
4 made during any such process;

5 (4) ~~to~~ Make full performance evaluations and post audits of
6 the revenues and expenditures of the all spending units of the
7 state government within two years from the effective date of this
8 section as amended in 2014, if practicable, and no later than four
9 years from the effective date of this section, and to make
10 continuous performance evaluations and post audits thereafter at
11 least once every two years, if practicable, ~~to~~ and no later than
12 once every four years and report any misapplication of state funds
13 or erroneous, extravagant improper or unlawful expenditures by any
14 spending unit;

15 (5) ~~to~~ Ascertain facts and to make recommendations to the
16 Legislature concerning post-audit findings, the revenues and
17 expenditures of the state and of the organization and functions of
18 the state and its spending units; and

19 (6) Report any and all failures by a spending unit to comply
20 with the previous post audit recommendations to both the committee
21 and the Attorney General.

22 (b) The Legislative Auditor may collect, and the ~~department,~~
23 ~~agency or board~~ spending unit shall pay, any ~~or~~ and all of the
24 costs associated with conducting ~~the post audits from the~~

1 ~~department, agency or board being audited, when necessary and~~
2 ~~desirable~~ required preliminary performance reviews, full
3 performance evaluations and post audits as set forth herein. The
4 Legislative Auditor shall render to the ~~department, agency or board~~
5 spending unit liable for the costs a statement of the costs as soon
6 after the costs were incurred as practicable, and it is the duty of
7 the ~~department, agency or board~~ spending unit to pay promptly in
8 the manner that other claims and accounts are paid. All money
9 received by the Legislative Auditor from this source shall be
10 expended only for the purpose of covering the costs associated with
11 such services, unless otherwise directed by the Legislature.

12 (c) A copy of each report of audit, performance review or
13 evaluation when completed and certified shall be filed in the
14 office of the Department of Finance and Administration as a public
15 record ~~and a~~ and shall be posted to the Legislature's website. A
16 copy also shall be filed with the Attorney General for any action
17 he or she may consider necessary.

18 **§4-2-8. Assistants and employees.**

19 The Legislative Auditor may appoint or employ such assistants
20 or employees as may be necessary for the efficient discharge of his
21 or her duties. Appointees and employees shall serve during his or
22 her will and pleasure. The number and compensation of such
23 assistants or employees shall be fixed by the committee. When
24 necessary, the Legislative Auditor may also seek the assistance of

1 the Attorney General or an independent certified public accountant
2 for purposes of assisting with preliminary performance reviews,
3 full performance evaluations, and post audits as set forth herein.

4 **§4-2-10. Payment of compensation and expenses.**

5 All compensation and expenses of the Legislative Auditor and
6 his or her assistants and employees shall be paid out of the funds
7 of the committee, or out of such other appropriations as may be
8 made by the Legislature therefor. The Legislative Auditor may
9 additionally utilize any moneys collected pursuant to subsection
10 (b), section four of this article, in furtherance of the duties set
11 forth herein.

12 **§4-2-13. Study of performance reviews and post audits.**

13 Every four years, the committee shall conduct a review of the
14 duties performed by the Legislative Auditor pursuant to section
15 four of this article to determine the effectiveness of the
16 performance reviews and post audits and identify any savings
17 created as a result of the Legislative Auditor's recommendations.
18 At the completion of its review, the committee shall report its
19 findings along with any recommendations regarding future
20 performance reviews and post audits to the Legislature.

NOTE: The purpose of this bill is to provide greater transparency and accountability in state government and to eliminate waste, fraud and abuse as recently evidenced in the Department of Agriculture's Rural Rehabilitation Loan Program by requiring the Legislative Auditor to conduct performance reviews

and audits for every government spending unit, including all members of the Board of Public Works and the Legislature, on a regular basis of once every two years from the effective date of this section, if practicable, and no later than four years from the effective date of this section.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.