

**H. B. 2015**

(By Delegates Foster, Espinosa, Summers, Miller, Lane,  
Duke, Ellington, McGeehan, Storch, Howell and Ihle)

[Introduced January 14, 2015; referred to the

Committee on Government Organization then Finance.]

**FISCAL  
NOTE**

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

**ARTICLE 2. LEGISLATIVE AUDITOR; POWERS; FUNCTIONS; DUTIES;**

1                                   **COMPENSATION.**

2 **§4-2-1. Purpose of article.**

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

8 **§4-2-2. Definitions.**

9           For the purposes of this article: "Committee" means the Joint Committee on Government  
10 and Finance of the Senate and House of Delegates.

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

15           "Post audit" is the audit or review of governmental finances after they have been completed.  
16 The scope of a post audit includes audit or review of transactions pertaining to the financial  
17 operations of the various agencies of government on the state level, with verification of state  
18 revenues at the source and audit of expenditures all the way through the work to the recipient or  
19 beneficiary of the service.

20           "Preliminary performance review" means to determine for an agency whether or not the  
21 agency is performing in an efficient and effective manner and to determine whether or not there is

1 a demonstrable need for the continuation of the agency pursuant to the provisions of section eleven,  
2 article ten of this chapter.

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

7 **§4-2-4. Duties of Auditor; filing reports.**

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

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

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

12 (3) Perform biannually a full performance evaluation and post audit of any methods used by  
13 the Legislature to facilitate the awarding of grants or other discretionary funding and report any  
14 misapplication of state funds or improper or unlawful expenditures made during any such process;

15 (4) ~~to~~ Make full performance evaluations and post audits of the revenues and expenditures  
16 ~~of the~~ all spending units of the state government within two years from the effective date of this  
17 section as amended in 2015, if practicable, and no later than four years from the effective date of this  
18 section, and to make continuous performance evaluations and post audits thereafter at least once  
19 every two years, if practicable, to and no later than once every four years and report any  
20 misapplication of state funds or erroneous, extravagant improper or unlawful expenditures by any  
21 spending unit;

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

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

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

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

19 **§4-2-8. Assistants and employees.**

20           The Legislative Auditor may appoint or employ such assistants or employees as may be  
 21 necessary for the efficient discharge of his or her duties. Appointees and employees shall serve

1 during his or her will and pleasure. The number and compensation of ~~such~~ the assistants or  
 2 employees shall be fixed by the committee. When necessary, the Legislative Auditor may also seek  
 3 the assistance of the Attorney General or an independent certified public accountant for purposes of  
 4 assisting with preliminary performance reviews, full performance evaluations, and post audits as set  
 5 forth herein.

6 **§4-2-10. Payment of compensation and expenses.**

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

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

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

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, if practicable, and no later than four years.

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

§4-2-13 is new; therefore, it has been completely underscored.