

1 *Be it enacted by the Legislature of West Virginia:*

2 That §4-2-1, §4-2-2, §4-2-4, §4-2-8 and §4-2-10 of the Code of
3 West Virginia, 1931, as amended, be amended and reenacted; and that
4 said code be amended by adding thereto a new section, designated
5 §4-2-13, all to read as follows:

6 **ARTICLE 2. LEGISLATIVE AUDITOR; POWERS; FUNCTIONS; DUTIES;**
7 **COMPENSATION.**

8 **§4-2-1. Purpose of article.**

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

17 **§4-2-2. Definitions.**

18 For the purposes of this article: "Committee" means the Joint
19 Committee on Government and Finance of the Senate and House of
20 Delegates.

21 "Full performance evaluation" means to determine for an agency
22 whether or not the agency is operating in an efficient and effective
23 manner and to determine whether or not there is a demonstrable need

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

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

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

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

20 **§4-2-4. Duties of Auditor; filing reports.**

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

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

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

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

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

19 (5) to Ascertain facts and to make recommendations to the
20 Legislature concerning post-audit findings, the revenues and
21 expenditures of the state and of the organization and functions of
22 the state and its spending units; and

23 (6) Report any and all failures by a spending unit to comply

1 with the previous post-audit recommendations to both the committee
2 and the Attorney General.

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

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

23 **§4-2-8. Assistants and employees.**

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

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

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

18 **§4-2-13. Study of performance reviews and post-audits.**

19 Every four years, the committee shall conduct a review of the
20 duties performed by the Legislative Auditor pursuant to section four
21 of this article to determine the effectiveness of the performance
22 reviews and post-audits and identify any savings created as a result
23 of the Legislative Auditor's recommendations. At the completion of

1 its review, the committee shall report its findings along with any
2 recommendations regarding future performance reviews and post-audits
3 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.

§4-2-13 is new; therefore, strike-throughs and underscoring have been omitted.