
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2353 Session of
2020

INTRODUCED BY GAYDOS, GROVE, KAUFER, OWLETT, SANKEY, THOMAS,
JONES, MILLARD, BERNSTINE, RYAN, WHEELAND, SAYLOR, COX, MOUL,
KEEFER, KLUNK, DUSH, B. MILLER AND RADER, APRIL 3, 2020

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 3, 2020

AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania
2 Consolidated Statutes, providing for the assessment and
3 reduction of improper payments by Commonwealth agencies.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 71 of the Pennsylvania Consolidated
7 Statutes is amended by adding a part to read:

8 PART II

9 COMMONWEALTH AGENCIES

10 Chapter

11 11. Preliminary Provisions (Reserved)

12 13. Assessment and Reduction of Improper Payments

13 CHAPTER 11

14 PRELIMINARY PROVISIONS

15 (Reserved)

16 CHAPTER 13

17 ASSESSMENT AND REDUCTION OF IMPROPER PAYMENTS

18 Sec.

1 1301. Definitions.

2 1302. Assessment of improper payments.

3 1303. Review of programs and activities of Commonwealth
4 agencies.

5 1304. Corrective action plans.

6 1305. Audits of Commonwealth agencies.

7 § 1301. Definitions.

8 The following words and phrases when used in this chapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Commonwealth agency." Any board, commission or department
12 of the executive branch under the policy supervision and
13 jurisdiction of the Governor. The term does not include any of
14 the following:

15 (1) The Treasury Department.

16 (2) The Department of the Auditor General.

17 (3) The Office of Attorney General.

18 "Improper payment." A payment that should not have been made
19 by a Commonwealth agency or a contractor with a Commonwealth
20 agency under statutory, contractual, administrative or other
21 legal applicable requirements, including any of the following:

22 (1) An overpayment.

23 (2) An underpayment.

24 (3) A payment to an ineligible recipient.

25 (4) A payment for an ineligible service.

26 (5) A payment for a duplicative or redundant service.

27 (6) A payment for services not received.

28 (7) A payment for goods and services that does not
29 utilize or was not given available discounts.

30 "Office." The Office of State Inspector General.

1 "Payment." A payment, including a commitment for a future
2 payment, that is made by a Commonwealth agency or a contractor
3 with a Commonwealth agency and utilizes Federal or State funds.
4 § 1302. Assessment of improper payments.

5 (a) Assessment.--No less than once every two years, a
6 Commonwealth agency shall conduct an assessment of improper
7 payments. A Commonwealth agency shall conduct an initial
8 assessment of improper payments no later than 10 days after the
9 effective date of this section.

10 (b) Contents.--As part of the assessment under subsection
11 (a), a Commonwealth agency shall:

12 (1) Determine whether the programs operated by the
13 Commonwealth agency have a low, moderate or high risk of
14 resulting in improper payments.

15 (2) Explain the reasons why the programs operated by the
16 Commonwealth have been assessed as having a low, moderate or
17 high risk of resulting in improper payments.

18 (3) Make recommendations for reducing improper payments.

19 (c) Copies.--A Commonwealth agency shall provide a copy of
20 the assessment under subsection (a) to all of the following:

21 (1) The Secretary of the Budget.

22 (2) The Office of State Inspector General.

23 (3) The Department of the Auditor General.

24 (4) The Independent Fiscal Office.

25 (5) The Legislative Budget and Finance Committee.

26 (6) Members of the General Assembly.

27 § 1303. Review of programs and activities of Commonwealth
28 agencies.

29 (a) Review.--The office shall establish a schedule to review
30 at least one Commonwealth agency during each calendar year.

1 (b) Examination.--In reviewing a Commonwealth agency under
2 subsection (a), the office shall examine the Commonwealth
3 agency's programs and activities to determine all of the
4 following:

5 (1) The total percentage of the Commonwealth agency's
6 activities and programs susceptible to improper payments.

7 (2) The number of the Commonwealth agency's improper
8 payments.

9 (3) The total amount of Federal or State funds that were
10 expended through improper payments.

11 (c) Duties of Commonwealth agencies.--A Commonwealth agency
12 shall provide the office with all the information necessary to
13 conduct the review under subsection (a).

14 (d) Reports.--

15 (1) Upon completion of the office's review of a
16 Commonwealth agency under subsection (a), the Inspector
17 General shall submit a report on the Commonwealth agency's
18 programs and activities to all of the following:

19 (i) The Department of the Auditor General.

20 (ii) The Legislative Budget and Finance Committee.

21 (iii) Members of the General Assembly.

22 (2) The Inspector General shall submit the report no
23 later than December 31, 2021, and each December 31
24 thereafter.

25 (3) The report shall include all of the following:

26 (i) An estimate of the total annual amount of
27 improper payments by the Commonwealth agency during the
28 previous two fiscal years.

29 (ii) The total percentage of the Commonwealth
30 agency's expenditures that constitute improper payments

1 during the previous two fiscal years.

2 (iii) The reasons why the Commonwealth agency made
3 the improper payments.

4 (iv) An evaluation of whether the Commonwealth
5 agency has the procedures and resources to prevent
6 improper payments.

7 (v) Whether the Commonwealth agency has taken steps
8 to address improper payments.

9 (vi) The actions necessary for the Commonwealth
10 agency to reduce improper payments as a percentage of the
11 Commonwealth agency's total expenditures to no more than
12 0.3% within the next five fiscal years.

13 § 1304. Corrective action plans.

14 (a) Adoption.--After the office submits a report on a
15 Commonwealth agency under section 1303(d) (1) (relating to review
16 of programs and activities of Commonwealth agencies), the
17 Commonwealth agency shall adopt a corrective action plan to
18 reduce the rate of improper payments to no more than 0.3% as
19 specified under section 1303(d) (3) (vi).

20 (b) Transfers.--If the office's review under section 1303(e)
21 shows that a Commonwealth agency has failed to reduce the rate
22 of improper payments to no more than 0.3% as specified under
23 section 1303(d) (3) (vi), the Governor shall transfer the lesser
24 of the following from the funds appropriated to the Commonwealth
25 agency for general government operations into budgetary reserve:

26 (1) An amount equal to the total improper payments by
27 the Commonwealth agency during the fifth fiscal year after
28 the office submits the report on the Commonwealth agency
29 under section 1303(d) (1).

30 (2) An amount equal to the total improper payments by

1 the Commonwealth agency as a percentage of the Commonwealth
2 agency's expenditures for general government operations
3 during the fifth fiscal year after the office submits the
4 report on the Commonwealth agency under section 1303(d)(1).

5 (c) Prohibition.--The amount transferred under subsection
6 (b) from a Commonwealth agency into budgetary reserve shall not
7 be transferred from budgetary reserve to the Commonwealth agency
8 until the Commonwealth agency reduces the rate of improper
9 payments to no more than 0.3% as specified under section 1303(d)
10 (3)(vi).

11 § 1305. Audits of Commonwealth agencies.

12 (a) Initial audits.--The Legislative Budget and Finance
13 Committee shall perform an audit on a Commonwealth agency no
14 later than five years after the office has completed its review
15 of the Commonwealth agency under section 1303(a) (relating to
16 review of programs and activities of Commonwealth agencies) to
17 determine whether the Commonwealth agency's rate of improper
18 payments exceeds 0.3%.

19 (b) Initial notice.--After the Legislative Budget and
20 Finance Committee performs an audit under subsection (a), if the
21 Legislative Budget and Finance Committee finds that the
22 Commonwealth agency's rate of improper payments exceeds 0.3%,
23 the Executive Director of the Legislative Budget and Finance
24 Committee shall provide notice to all of the following:

25 (1) The Governor.

26 (2) The office.

27 (3) The members of the General Assembly.

28 (c) Transfers.--Upon receiving the notice under subsection
29 (b), the Governor shall transfer, the lesser of the following
30 from the funds appropriated to the Commonwealth agency for

1 general government operations into budgetary reserve:

2 (1) An amount equal to the total improper payments by
3 the Commonwealth agency.

4 (2) An amount equal to the total improper payments by
5 the Commonwealth agency as a percentage of the Commonwealth
6 agency's expenditures for general government operations.

7 (d) Additional audits.--No later than six months after the
8 Governor transfers funds into budgetary reserve under subsection
9 (c), the Legislative Budget and Finance Committee shall perform
10 another audit of the Commonwealth agency to determine whether
11 the Commonwealth agency's rate of improper payments exceeds
12 0.3%.

13 (e) Additional notice.--After the Legislative Budget and
14 Finance Committee performs an audit under subsection (d), if the
15 Legislative Budget and Finance Committee finds that the
16 Commonwealth agency's rate of improper payments does not exceed
17 0.3%, the Executive Director of the Legislative Budget and
18 Finance Committee shall provide notice to all of the following:

19 (1) The Governor.

20 (2) The office.

21 (3) The members of the General Assembly.

22 (f) Transfers prohibited.--Upon receiving the notice under
23 subsection (e), if the Governor has already transferred funds
24 from the Commonwealth agency's general government operations
25 into budgetary reserves, the Governor shall transfer the funds
26 out of budgetary reserves to the Commonwealth agency for general
27 government operations.

28 Section 2. This act shall take effect in 60 days.