

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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 23, 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

1 Sec.

2 1301. Definitions.

3 1302. Assessment of improper payments.

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

6 1304. Corrective action plans.

7 1305. Audits of Commonwealth agencies.

8 § 1301. Definitions.

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

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

16 (1) The Treasury Department.

17 (2) The Department of the Auditor General.

18 (3) The Office of Attorney General.

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

23 (1) An overpayment.

24 (2) An underpayment.

25 (3) A payment to an ineligible recipient.

26 (4) A payment for an ineligible service.

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

28 (6) A payment for services not received.

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

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

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

5 § 1302. Assessment of improper payments.

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

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

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

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

19 (3) Make recommendations for reducing improper payments.

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

22 (1) The Secretary of the Budget.

23 (2) The Office of State Inspector General.

24 (3) The Department of the Auditor General.

25 (4) The Independent Fiscal Office.

26 (5) The Legislative Budget and Finance Committee.

27 (6) Members of the General Assembly.

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

30 (a) Review.--The office shall establish a schedule to review

1 at least one Commonwealth agency during each calendar year.

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

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

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

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

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

15 (d) Reports.--

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

20 (i) The Department of the Auditor General.

21 (ii) The Legislative Budget and Finance Committee.

22 (iii) Members of the General Assembly.

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

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

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

30 (ii) The total percentage of the Commonwealth

1 agency's expenditures that constitute improper payments
2 during the previous two fiscal years.

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

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

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

10 (vi) The actions necessary for the Commonwealth
11 agency to reduce improper payments as a percentage of the
12 Commonwealth agency's total expenditures to no more than
13 ~~0.3%~~ 3% within the next five fiscal years. <--

14 § 1304. Corrective action plans.

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

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

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

1 ~~(2) An amount equal to the total improper payments by~~
2 ~~the Commonwealth agency as a percentage of the Commonwealth~~
3 ~~agency's expenditures for general government operations~~
4 ~~during the fifth fiscal year after the office submits the~~
5 ~~report on the Commonwealth agency under section 1303(d)(1).~~

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

12 § 1305. Audits of Commonwealth agencies.

13 (a) Initial audits.--The Legislative Budget and Finance
14 Committee shall perform an audit on a Commonwealth agency no
15 later than five years after the office has completed its review
16 of the Commonwealth agency under section 1303(a) (relating to
17 review of programs and activities of Commonwealth agencies) to
18 determine whether the Commonwealth agency's AGENCY HAS REDUCED <--
19 ITS rate of improper payments exceeds 0.3%. BY AT LEAST 50% <--
20 SINCE THE INITIAL REVIEW BY THE OFFICE UNDER SECTION 1303(A).

21 (b) Initial notice.--After the Legislative Budget and
22 Finance Committee performs an audit under subsection (a), if the
23 Legislative Budget and Finance Committee finds that the
24 Commonwealth agency's rate of improper payments exceeds 0.3% HAS <--
25 NOT BEEN REDUCED BY AT LEAST 50% SINCE THE INITIAL REVIEW BY THE
26 OFFICE UNDER SECTION 1303(A), the Executive Director of the
27 Legislative Budget and Finance Committee shall provide notice to
28 all of the following:

29 (1) The Governor.

30 (2) The office.

1 (3) The members of the General Assembly.

2 (c) Transfers.--Upon receiving the notice under subsection
3 (b), the Governor shall transfer, the lesser of the following
4 from the funds appropriated to the Commonwealth agency for
5 general government operations into budgetary reserve:

6 (1) An amount equal to the total improper payments by
7 the Commonwealth agency.

8 (2) An amount equal to the ~~total improper payments by~~ <--
9 ~~the Commonwealth agency as a percentage of the Commonwealth~~
10 ~~agency's expenditures for general government operations. THAT~~ <--
11 EXCEED THE IMPROPER PAYMENT RATE ESTABLISHED IN THE
12 CORRECTIVE ACTION PLAN UNDER SECTION 1304.

13 (d) Additional audits.--No later than six months after the
14 Governor transfers funds into budgetary reserve under subsection
15 (c), the Legislative Budget and Finance Committee shall perform
16 another audit of the Commonwealth agency to determine whether
17 the Commonwealth agency's rate of improper payments ~~exceeds~~ <--
18 ~~0.3%. HAS BEEN REDUCED BY AT LEAST 50% SINCE THE INITIAL REVIEW~~ <--
19 BY THE OFFICE UNDER SECTION 1303(A).

20 (e) Additional notice.--After the Legislative Budget and
21 Finance Committee performs an audit under subsection (d), if the
22 Legislative Budget and Finance Committee finds that the
23 Commonwealth agency's rate of improper payments ~~does not exceed~~ <--
24 ~~0.3% HAS BEEN REDUCED BY AT LEAST 50% SINCE THE INITIAL REVIEW~~ <--
25 BY THE OFFICE UNDER SECTION 1303(A), the Executive Director of
26 the Legislative Budget and Finance Committee shall provide
27 notice to all of the following:

28 (1) The Governor.

29 (2) The office.

30 (3) The members of the General Assembly.

1 (f) Transfers prohibited.--Upon receiving the notice under
2 subsection (e), if the Governor has already transferred funds
3 from the Commonwealth agency's general government operations
4 into budgetary reserves, the Governor shall transfer the funds
5 out of budgetary reserves to the Commonwealth agency for general
6 government operations.

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