
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2209 Session of
2018

INTRODUCED BY RYAN, BERNSTINE, CORR, COX, CUTLER, GROVE,
PHILLIPS-HILL, KEEFER, ROTHMAN AND WARD, APRIL 2, 2018

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 2, 2018

AN ACT

1 Providing for duties of Department of the Auditor General;
2 establishing a performance audit pilot program; and providing
3 for initial performance audit of State agencies, for
4 continuing performance audits of State agencies, for duties
5 of State agencies and for progress report by State agencies.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as The Lean State
10 Government Act.

11 Section 2. Findings and declarations.

12 The General Assembly finds and declares as follows:

13 (1) The purpose of this act is to require a State agency
14 to implement a lean process improvement system to analyze and
15 improve the State agency's operations.

16 (2) A lean process improvement system has been
17 successfully used by private and public entities around the
18 world to create efficient and goal-oriented operations.

19 (3) A State agency benefits by examining the State

1 agency's operations and determining which activities
2 accomplish the State agency's mission, vision and strategic
3 objectives.

4 (4) A State agency should focus the State agency's
5 operations around value-adding activities and eliminating
6 wasteful operations which do not add value.

7 (5) A critical step in a lean process improvement system
8 is the use of a performance audit to determine the
9 effectiveness of programs and operations.

10 (6) Implementing a lean process improvement system will
11 assist a State agency to reduce costs and improve operations
12 and delivery of services.

13 Section 3. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Certified fraud examiner." An individual who has satisfied
18 the requirements of the Association of Certified Fraud Examiners
19 to become a certified fraud examiner.

20 "Certified internal auditor." An individual who has
21 satisfied the requirements of The Institute of Internal Auditors
22 to become a certified internal auditor.

23 "Certified public accountant." As defined in the act of May
24 26, 1947 (P.L.318, No.140), known as the CPA Law.

25 "Chartered Global Management Accountant." An individual who
26 meets the requirements specified by the Association of Certified
27 Fraud Examiners or the Chartered Institute of Management
28 Accountants as a Chartered Global Management Accountant.

29 "Cost-drivers." Anything that causes cost in providing a
30 service or producing a good. When aggregated, the marginal cost

1 of producing a good or service.

2 "Department." The Department of the Auditor General of the
3 Commonwealth.

4 "Lean process improvement system." A management methodology
5 system for a State agency that improves process speed and
6 quality, reduces waste and lowers cost through the use of data-
7 driven project or service analysis. The term includes any of the
8 following practices:

9 (1) Developing a process map that describes a widely
10 accepted business process improvement system by which the
11 State agency engages in specific activities that increase
12 efficiency and reduce waste at the State agency.

13 (2) Engaging in specific activities to rapidly improve
14 the State agency's processes that will increase value or
15 decrease staff time, inventory, defects, overproduction,
16 complexity, delays or excessive movement.

17 (3) Utilizing the State agency's employees to map the
18 State agency's processes and recommend improvements to the
19 processes with an emphasis on involving the State agency's
20 employees who directly provide a product or service to an end
21 user.

22 (4) Providing the means to measure the State agency's
23 processes in order to demonstrate the effectiveness of the
24 processes.

25 (5) Training the State agency employees to mentor and
26 train other State agency employees in business improvement
27 process systems.

28 "Management letter." A written communication that states or
29 implies all of the following:

30 (1) Assurance as to the reliability of attested

1 information, compiled financial statements or assessments of
2 the status or performance of a State agency.

3 (2) The issuer of the written communication has special
4 knowledge or competence in accounting or auditing arising
5 from any of the following:

6 (i) The issuer of the communication has a name or
7 title indicating that the issuer or any individual
8 employed by or affiliated with the issuer is an
9 accountant or auditor.

10 (ii) The language of the written communication.

11 "Performance audit." A comprehensive evaluation of a State
12 agency's performance, including all of the following:

13 (1) The effectiveness, efficiency and economy with which
14 resources are managed and consumed.

15 (2) Findings and recommendations based on the
16 comprehensive evaluation which are submitted to a State
17 agency in a management letter.

18 "Qualified performance auditor." A certified internal
19 auditor, certified fraud examiner, public accountant or
20 Chartered Global Management Accountant who possesses a minimum
21 of five years of experience conducting performance or
22 operational audits of private or public entities.

23 "State agency." An office, department, authority, board or
24 commission of the executive branch.

25 Section 4. Duties of department.

26 The department shall have the following duties:

27 (1) Entering into contracts with a qualified performance
28 auditor to conduct performance audits of State agencies.

29 (2) Recommending the State agencies that will be
30 subject to the pilot program under section 5.

1 (3) Except for a State agency subject to the pilot
2 program under section 5, recommending a schedule of
3 performance audits and State agencies that will be the
4 subject of performance audits at least once during an initial
5 three-year period after the effective date of this act.

6 (4) Recommending a regular schedule of performance
7 audits for State agencies after the expiration of the
8 initial period under paragraph (3) at least once every three
9 years.

10 Section 5. Performance audit pilot program.

11 (a) Establishment.--The department shall establish a pilot
12 program for the performance of audits of two State agencies.

13 (b) Selection.--Selection of the State agencies for
14 participation in the pilot program shall be as follows:

15 (1) The department shall submit a recommendation of the
16 two State agencies which shall be audited under the pilot
17 program to the chairperson and minority chairperson of the
18 Appropriations Committee of the Senate and the chairperson
19 and minority chairperson of the Appropriations Committee of
20 the House of Representatives no later than 60 days after the
21 effective date of this act.

22 (2) The Appropriations Committee of the Senate and
23 the Appropriations Committee of the House of Representatives
24 shall meet to approve or disapprove the department's
25 recommendation under paragraph (1) no later than 15
26 legislative session days after the date of submission.

27 (3) If the Appropriations Committee of the Senate or
28 the Appropriations Committee of the House of Representatives
29 fails to approve or disapprove the department's
30 recommendation under paragraph (1) within 15 legislative

1 session days or votes to disapprove the department's
2 recommendation, the department may submit additional
3 recommendations for consideration.

4 (c) Audit.--The State agencies selected by the department
5 for participation in the pilot program under this section and
6 approved under subsection (b) shall be subject to performance
7 audits conducted by a qualified performance auditor, who is not
8 currently employed by the Commonwealth, contracted by the
9 department. The performance audits shall contain findings and
10 recommendations regarding the operations of the State agencies
11 and the qualified performance auditor shall submit the findings
12 and recommendations to the department upon completion of the
13 performance audits.

14 (d) Submission.--Upon receipt of the performance audits
15 under subsection (c), the department shall provide copies of the
16 performance audits to all of the following:

17 (1) The Governor.

18 (2) The chairperson and minority chairperson of the
19 Appropriations Committee of the Senate.

20 (3) The chairperson and minority chairperson of the
21 Appropriations Committee of the House of Representatives.

22 (4) The State agencies subject to the performance
23 audits.

24 (e) Expiration.--Upon providing copies of the performance
25 audits, the department shall submit a notice of the expiration
26 of the pilot program to the Legislative Reference Bureau for
27 publication in the Pennsylvania Bulletin. The pilot program
28 under this section shall expire upon the date of publication of
29 the notice in the Pennsylvania Bulletin.

30 Section 6. Initial performance audit of State agencies.

1 (a) Schedule.--Except for the State agencies participating
2 in the pilot program under section 5, all State agencies shall
3 be subject to a performance audit during an initial three-year
4 period after the effective date of this act. The schedule of
5 performance audits for the initial three-year period shall be
6 determined as follows:

7 (1) Within 60 days after the submission of the
8 performance audits under section 5(d), the department shall
9 submit a recommendation of the schedule of performance audits
10 to the chairperson and minority chairperson of the
11 Appropriations Committee of the Senate and the chairperson
12 and minority chairperson of the Appropriations Committee of
13 the House of Representatives.

14 (2) The Appropriations Committee of the Senate and
15 the Appropriations Committee of the House of Representatives
16 shall meet to approve or disapprove the department's
17 recommendation under paragraph (1) no later than 15
18 legislative session days after the date of submission.

19 (3) If the Appropriations Committee of the Senate or the
20 Appropriations Committee of the House of Representatives
21 fails to approve or disapprove the department's
22 recommendation under paragraph (1) within 15 legislative
23 session days or votes to disapprove the department's
24 recommendation, the department may submit additional
25 recommendations for consideration.

26 (b) Audit.--Upon approval of the schedule recommended by the
27 department under subsection (a), all State agencies shall be
28 subject to performance audits by a qualified performance
29 auditor, who is not currently employed by the Commonwealth,
30 contracted by the department. The performance audits shall be

1 completed no later than three years after the submission of the
2 performance audits under section 5(d). A performance audit shall
3 contain findings and recommendations regarding the operations of
4 the State agency being audited and the qualified performance
5 auditor shall submit the findings and recommendations to the
6 department upon completion of the performance audit.

7 (c) Submission.--Upon receipt of a performance audit under
8 subsection (b), the department shall provide a copy of each
9 performance audit to all of the following:

10 (1) The Governor.

11 (2) The chairperson and minority chairperson of the
12 Appropriations Committee of the Senate.

13 (3) The chairperson and minority chairperson of the
14 Appropriations Committee of the House of Representatives.

15 (4) The State agencies subject to the performance
16 audits.

17 Section 7. Continuing performance audits of State agencies.

18 (a) Schedule.--A State agency may be subject to a continuing
19 performance audit every three years after the lapse of the
20 initial three-year period under section 6. The schedule of
21 continuing performance audits shall be determined as follows:

22 (1) No later than October 1 after the lapse of the
23 initial three-year period under section 6, the department
24 shall submit a recommendation of the schedule of continuing
25 performance audits to the chairperson and minority
26 chairperson of the Appropriations Committee of the Senate and
27 the chairperson and minority chairperson of the
28 Appropriations Committee of the House of Representatives.

29 (2) In making a recommendation under paragraph (1), the
30 department shall consider a State agency's size and financial

1 status. The department may use discretion and choose not to
2 recommend smaller and financially stable State agencies for
3 continuing performance audits under paragraph (1).

4 (3) The Appropriations Committee of the Senate and
5 the Appropriations Committee of the House of Representatives
6 shall meet to approve or disapprove the department's
7 recommendation under paragraph (1) no later than 15
8 legislative session days after the date of submission.

9 (4) If the Appropriations Committee of the Senate or the
10 Appropriations Committee of the House of Representatives
11 fails to approve or disapprove the department's
12 recommendation under paragraph (1) within 15 legislative
13 session days or votes to disapprove the department's
14 recommendation, the department may submit additional
15 recommendations for consideration. Additional recommendations
16 must be approved or disapproved in the same manner as
17 specified under this subsection.

18 (5) The department may recommend revisions to the
19 continuing performance schedule no later than October 1 after
20 the lapse of the initial three-year period under section 6
21 and each October 1 thereafter. Revisions must be approved or
22 disapproved in the same manner as specified under this
23 subsection.

24 (b) Audit.--Upon approval of the schedule recommended by the
25 department under subsection (a), a State agency specified in the
26 schedule shall be subject to a continuing performance audit
27 every three years by a qualified performance auditor contracted
28 by the department. Performance audits shall contain findings and
29 recommendations regarding the operations of the State agency and
30 the qualified performance auditor shall submit the findings and

1 recommendations to the department upon completion of the
2 performance audit.

3 (c) Submission.--The department shall provide a copy of each
4 performance audit to all of the following:

5 (1) The Governor.

6 (2) The chairperson and minority chairperson of the
7 Appropriations Committee of the Senate.

8 (3) The chairperson and minority chairperson of the
9 Appropriations Committee of the House of Representatives.

10 (4) The State agencies subject to the performance
11 audits.

12 Section 8. Duties of State agencies.

13 (a) Records.--Except as prohibited by the laws of this
14 Commonwealth, a State agency shall provide the department all
15 the records that the department determines to be necessary to
16 allow the qualified performance auditor to conduct the
17 performance audit as required under this act.

18 (b) System.--Based on the findings and recommendations of a
19 performance audit conducted under this act, a State agency shall
20 utilize a lean process improvement system as follows:

21 (1) Identifying and documenting all of the following:

22 (i) The mission and purpose of the State agency.

23 (ii) The services to be accomplished by the State
24 agency.

25 (iii) Cost-drivers at the State agency.

26 (iv) Critical success factors at the State agency.

27 (v) Measures of effectiveness at the State agency.

28 (vi) Processes utilized by the State agency.

29 (2) Taking corrective steps to eliminate inefficiencies
30 in the State agency's processes.

1 Section 9. Progress report by State agencies.

2 (a) Submission.--A State agency shall submit a report each
3 year by December 31 for five years after the State agency
4 receives a performance audit under this act to all of the
5 following:

6 (1) The Governor.

7 (2) The chairperson and minority chairperson of the
8 Appropriations Committee of the Senate.

9 (3) The chairperson and minority chairperson of the
10 Appropriations Committee of the House of Representatives.

11 (4) The department.

12 (b) Contents.--The report under this section shall contain
13 the following information:

14 (1) The State agency's progress in remedying concerns
15 and implementing suggestions detailed in the performance
16 audit.

17 (2) The State agency's implementation of a lean process
18 improvement system as specified under section 8(b).

19 Section 10. Effective date.

20 This act shall take effect in 60 days.