

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2209 Session of 2018

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

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 13, 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~~ THE Lean <--
10 State 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.

1 (3) A State agency benefits by examining the State
2 agency's operations and determining which activities
3 accomplish the State agency's mission, vision and strategic
4 objectives.

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

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

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

14 Section 3. Definitions.

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

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

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

24 "Certified public accountant." As defined in the act of May
25 26, 1947 (P.L.318, No.140), known as the CPA Law.

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

30 "Cost-drivers." Anything that causes cost in providing a

1 service or producing a good. When aggregated, the marginal cost
2 of producing a good or service.

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

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

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

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

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

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

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

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

1 (1) Assurance as to the reliability of attested
2 information, compiled financial statements or assessments of
3 the status or performance of a State agency.

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

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

11 (ii) The language of the written communication.
12 "Performance audit." A comprehensive evaluation of a State
13 agency's performance, including all of the following:

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

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

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

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

26 Section 4. Duties of department.

27 The department shall have the following duties:

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

30 (2) Recommending the State agencies that will be

1 subject to the pilot program under section 5.

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

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

11 Section 5. Performance audit pilot program.

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

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

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

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

28 (3) If the Appropriations Committee of the Senate or
29 the Appropriations Committee of the House of Representatives
30 fails to approve or disapprove the department's

1 recommendation under paragraph (1) within 15 legislative
2 session days or votes to disapprove the department's
3 recommendation, the department ~~may~~ SHALL submit additional <--
4 recommendations for consideration. ADDITIONAL RECOMMENDATIONS <--
5 SHALL BE APPROVED OR DISAPPROVED IN THE SAME MANNER AS
6 SPECIFIED UNDER THIS SUBSECTION.

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

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

- 20 (1) The Governor.
- 21 (2) The chairperson and minority chairperson of the
22 Appropriations Committee of the Senate.
- 23 (3) The chairperson and minority chairperson of the
24 Appropriations Committee of the House of Representatives.
- 25 (4) The State agencies subject to the performance
26 audits.

27 (e) Expiration.--Upon providing copies of the performance
28 audits, the department shall submit a notice of the expiration
29 of the pilot program to the Legislative Reference Bureau for
30 publication in the Pennsylvania Bulletin. The pilot program

1 under this section shall expire upon the date of publication of
2 the notice in the Pennsylvania Bulletin.

3 Section 6. Initial performance audit of State agencies.

4 (a) Schedule.--Except for the State agencies participating
5 in the pilot program under section 5, all State agencies shall
6 be subject to a performance audit during an initial three-year
7 period after the ~~effective date of this act~~ SUBMISSION OF THE <--
8 PERFORMANCE AUDITS UNDER SECTION 5(D). The schedule of
9 performance audits for the initial three-year period shall be
10 determined as follows:

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

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

23 (3) If the Appropriations Committee of the Senate or the
24 Appropriations Committee of the House of Representatives
25 fails to approve or disapprove the department's
26 recommendation under paragraph (1) within 15 legislative
27 session days or votes to disapprove the department's
28 recommendation, the department ~~may~~ SHALL submit additional <--
29 recommendations for consideration. ADDITIONAL RECOMMENDATIONS <--
30 MUST BE APPROVED OR DISAPPROVED IN THE SAME MANNER AS

1 SPECIFIED UNDER THIS SUBSECTION.

2 (b) Audit.--Upon approval of the schedule recommended by the
3 department under subsection (a), all State agencies shall be
4 subject to performance audits by a qualified performance
5 auditor, who is not currently employed by the Commonwealth,
6 contracted by the department. The performance audits shall be
7 completed no later than three years after the submission of the
8 performance audits under section 5(d). A performance audit shall
9 contain findings and recommendations regarding the operations of
10 the State agency being audited and the qualified performance
11 auditor shall submit the findings and recommendations to the
12 department upon completion of the performance audit.

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

16 (1) The Governor.

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

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

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

23 Section 7. Continuing performance audits of State agencies.

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

28 (1) No later than October 1 after the lapse of the
29 initial three-year period under section 6, the department
30 shall submit a recommendation of the schedule of continuing

1 performance audits to the chairperson and minority
2 chairperson of the Appropriations Committee of the Senate and
3 the chairperson and minority chairperson of the
4 Appropriations Committee of the House of Representatives.

5 (2) In making a recommendation under paragraph (1), the
6 department shall consider a State agency's size and financial
7 status. The department may use discretion and choose not to
8 recommend smaller and financially stable State agencies for
9 continuing performance audits under paragraph (1).

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

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

24 (5) The department may recommend revisions to the
25 continuing performance AUDIT schedule ~~no later than October 1~~ <--
26 ~~after the lapse of the initial three year period under~~
27 ~~section 6 and each October 1 thereafter.~~ Revisions must be
28 approved or disapproved in the same manner as specified under
29 this subsection.

30 (b) Audit.--Upon approval of the schedule recommended by the

1 department under subsection (a), a State agency specified in the
2 schedule shall be subject to a continuing performance audit
3 every three years by a qualified performance auditor contracted
4 by the department. Performance audits shall contain findings and
5 recommendations regarding the operations of the State agency and
6 the qualified performance auditor shall submit the findings and
7 recommendations to the department upon completion of the
8 performance audit.

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

11 (1) The Governor.

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

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

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

18 Section 8. Duties of State agencies.

19 (a) Records.--Except as prohibited by the laws of this
20 Commonwealth, a State agency shall provide the department all
21 the records that the department determines to be necessary to
22 allow the qualified performance auditor to conduct the
23 performance audit as required under this act.

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

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

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

29 (ii) The services to be accomplished by the State
30 agency.

- 1 (iii) Cost-drivers at the State agency.
- 2 (iv) Critical success factors at the State agency.
- 3 (v) Measures of effectiveness at the State agency.
- 4 (vi) Processes utilized by the State agency.

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

7 (C) RECOVERED MONEY.--

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8 (1) A STATE AGENCY SHALL PROVIDE NOTICE OF ANY MONEY
9 SAVED AS A RESULT OF THE IMPLEMENTATION OF A LEAN PROCESS
10 IMPROVEMENT SYSTEM TO THE OFFICE OF THE BUDGET AND THE
11 GENERAL ASSEMBLY.

12 (2) ANY MONEY SAVED BY A STATE AGENCY AS A RESULT OF THE
13 IMPLEMENTATION OF A LEAN PROCESS IMPROVEMENT SYSTEM SHALL BE
14 DEPOSITED INTO THE BUDGET STABILIZATION RESERVE FUND
15 ESTABLISHED IN SECTION 1701-A OF THE ACT OF APRIL 9, 1929
16 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

17 Section 9. Progress report by State agencies.

18 (a) Submission.--A State agency shall submit a report, WHICH <--
19 SHALL BE A PUBLIC RECORD, each year by December 31 for five
20 years after the State agency receives a performance audit under
21 this act to all of the following:

- 22 (1) The Governor.
- 23 (2) The chairperson and minority chairperson of the
24 Appropriations Committee of the Senate.
- 25 (3) The chairperson and minority chairperson of the
26 Appropriations Committee of the House of Representatives.
- 27 (4) The department.

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

- 30 (1) The State agency's progress in remedying concerns

1 and implementing suggestions detailed in the performance
2 audit.

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

5 Section 10. Effective date.

6 This act shall take effect in 60 days.