

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 39

Session of 2021

INTRODUCED BY GROVE, PICKETT, THOMAS, STAATS, RYAN, JAMES, MOUL, WHEELAND, B. MILLER, GLEIM AND GILLEN, JANUARY 11, 2021

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 7, 2021

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; providing for judicial administration; and
18 prescribing the manner in which the number and compensation
19 of the deputies and all other assistants and employes of
20 certain departments, boards and commissions shall be
21 determined," providing for miscellaneous provisions and for
22 recovery audits.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
26 as The Administrative Code of 1929, is amended by adding an
27 article to read:

1 ARTICLE XXVIII-I

2 MISCELLANEOUS PROVISIONS

3 Section 2801-I. Recovery audits.

4 (a) Schedule of recovery audit.--

5 (1) The secretary shall establish a schedule for the
6 review of Commonwealth agency expenditures for improper
7 payments and payment recovery for a Commonwealth agency that
8 has \$50,000,000 or more in payments to individuals, vendors
9 or entities.

10 (2) For the review under this section, the secretary
11 shall contract with an auditor to perform a recovery audit of
12 payments by a Commonwealth agency to individuals, vendors or
13 entities.

14 (b) Contract for auditor.--A contract for an auditor:

15 (1) May provide for reasonable compensation for services
16 provided under the contract, which may include compensation
17 as determined by the application of a specified percentage of
18 the total amount of State money recovered during the recovery
19 audit.

20 (2) May permit or require the auditor to pursue a
21 judicial action in a court within or outside this
22 Commonwealth to recover an overpaid amount.

23 (3) May allow for the performance of existing payment
24 auditing procedures.

25 (4) Shall not allow a recovery audit of a payment during
26 the 90-day period after the date the payment was made.

27 (c) Confidential information.--A Commonwealth agency being
28 audited by an auditor shall provide the auditor with any
29 confidential information in the custody of the Commonwealth
30 agency or secretary that is necessary for the performance of the

1 recovery audit. The following shall apply:

2 (1) The auditor shall be subject to restrictions
3 regarding the disclosure of confidential information under
4 this section. These restrictions shall be included as part of
5 the terms of the contract made between the secretary and
6 Commonwealth agency.

7 (2) If the auditor discloses confidential information,
8 the auditor shall be guilty of a misdemeanor of the third
9 degree.

10 (d) Recovery of Federal money.--Federal money recovered
11 during a recovery audit shall be expended or returned in
12 accordance with rules associated with the program associated
13 with the Federal money.

14 (e) Report.--Within seven days of receiving a report
15 regarding a recovery audit from an auditor, the secretary shall
16 transmit, by electronic means or otherwise, a copy of the
17 recovery audit performed by the auditor to the following:

- 18 (1) The Governor.
19 (2) The Inspector General.
20 (3) The General Assembly.

21 (f) Requirements for auditors.--

22 (1) The terms of a contract between a Commonwealth
23 agency and an auditor under this section shall provide for
24 the prohibition on a conflict ~~or~~ OF interest between the <--
25 auditor and any Commonwealth agency or program that the
26 auditor is contracted to audit.

27 (2) An auditor shall have experience in performing
28 recovery audits for public entities that successfully
29 recovered public money.

30 (3) An auditor shall perform a recovery audit in

1 accordance with the Single Audit Act of 1984 (31 U.S.C. §
2 7501 et seq.) and government auditing standards and practices
3 required by the United States Government Accountability
4 Office.

5 (g) Rules and guidelines.--The secretary shall adopt rules
6 or guidelines necessary for the implementation of this section.

7 (h) Definitions.--As used in this section, the following
8 words and phrases shall have the meanings given to them in this
9 subsection unless the context clearly indicates otherwise:

10 "Auditor." A private auditor or auditing firm with
11 experience in performing a recovery audit and hired under this
12 section to review a Commonwealth agency's expenditures.

13 "Commonwealth agency." A department, office, board,
14 commission or agency under the direct or policy supervision of
15 the Governor.

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

20 (1) An overpayment.

21 (2) An underpayment.

22 (3) A payment to an ineligible recipient.

23 (4) A payment for an ineligible service.

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

25 (6) A payment for services not received.

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

28 (8) Invoice or pricing errors.

29 (9) The failure to comply with a purchasing agreement.

30 "Recovery audit." A financial management technique used to

1 identify improper payments made by a Commonwealth agency with
2 respect to individuals, vendors or entities in connection with a
3 payment activity.

4 "Secretary." The Secretary of the Budget of the
5 Commonwealth.

6 Section 2. This act shall take effect in 180 days.