

Substitute for Substitute for SENATE BILL No. 316

AN ACT relating to state governmental operations; creating the Kansas taxpayer transparency act; establishing the Kansas performance measurement commission; concerning the Kansas governmental operations accountability law; relating to audits; amending K.S.A. 74-7284, 74-7285 and 74-7287 and K.S.A. 2007 Supp. 46-1226 and repealing the existing sections; also repealing K.S.A. 74-7286, 74-7289, 74-7290, 74-7291, 74-7292, 74-7293, 74-7294, 74-7296, 74-7298, 74-7299, 74-72,100, 74-72,101, 74-72,102, 74-72,104, 74-72,106, 74-72,107 and 74-72,108 and K.S.A. 2007 Supp. 46-1131, 74-7295 and 74-72,103.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2007 Supp. 46-1226 is hereby amended to read as follows: 46-1226. (a) Any cost study analysis, audit or other study commissioned or funded by the legislature and any conclusions or recommendations thereof shall not be binding upon the legislature. The legislature may reject, at any time, any such analysis, audit or study and any conclusions and recommendations thereof.

(b) A cost study analysis, audit or study shall include, but not be limited to, any cost study analysis, audit or study conducted pursuant to K.S.A. 46-1225, prior to its repeal, ~~and~~ K.S.A. 2007 Supp. 46-1131, *prior to its repeal*, and K.S.A. 2007 Supp. 46-1132, and amendments thereto.

Sec. 2. K.S.A. 74-7284 is hereby amended to read as follows: 74-7284. The legislature hereby declares that the purpose of state government is to keep secure the constitutional rights of Kansas citizens, to protect their health, safety and welfare, and to otherwise serve the public need in the most economically beneficial, operationally efficient, and cost effective manner possible. Therefore, it is the intention of ~~this act~~ K-GOAL to provide for a governmental operations accountability system under which the legislature may ensure accomplishment of the declared purpose of state government by periodically reviewing and evaluating the operations of selected state agencies *or programs*, determining the necessity, propriety and legality of the operations reviewed and evaluated, identifying inefficiency and ineffectiveness, and taking action to retain and maintain appropriate and effective governmental operations, remediate defective governmental operations, and terminate inappropriate or obsolete governmental operations.

Sec. 3. K.S.A. 74-7285 is hereby amended to read as follows: 74-7285. (a) *Each state agency or program shall be subject to audit, review and evaluation under the Kansas governmental operations accountability law as determined by the legislative post audit committee.* The legislative post audit committee shall direct the post auditor to conduct ~~a not fewer than four~~ performance ~~audit of each state agency which is subject to legislative review and evaluation~~ *audits each year* under the Kansas governmental operations accountability law. *The agencies or programs to be audited each year and the scope of such audits shall be selected from a listing provided to the committee by the legislative post auditor. The legislative post auditor shall solicit ideas for performance audit topics from a broad range of interested parties, including the general public.* Each performance audit conducted pursuant to the requirements of this subsection shall be completed ~~not sooner than two years prior to nor later than the 30th calendar day of the~~ *on or before December 1 for review by the legislature during the next regular session of the legislature* ~~set for review and evaluation of the state agency.~~

(b) Any performance audit directed to be conducted by the post auditor and the division of post audit under the provisions of subsection (a) ~~may be general in scope, addressing~~ *include a determination of the following factors, as applied to the state agency or program being evaluated:*

(1) *Whether the primary function of the agency or program is needed. If applicable to the scope of the audit selected for the agency or program being reviewed, this determination may include, but not be limited to, an assessment of one or more of the following:*

(A) *Whether the purpose, problem or need that the agency or program was established to address still exists.*

(B) *Whether the agency or program provides a significant public benefit or essential public service.*

(C) *Whether abolishing the agency or program significantly harms the public's health or welfare.*

(D) *Whether there would be possible savings from abolishing the agency or program.*

(E) Whether federal funding would be jeopardized if the agency or program were abolished.

(2) Whether another federal, state, local or private entity exists that could effectively perform the functions of the agency or program. If applicable to the scope of the audit selected for the agency or program being reviewed, this determination may include, but not be limited to, an assessment of one or more of the following:

(A) Whether the function is needed, and if so, whether it is addressed in other states.

(B) Whether other organizational structures would work better in Kansas.

(C) Whether efficiencies and potential cost savings might be achieved from transferring or consolidating the function.

(3) Whether the agency or program could be operated more efficiently and still fulfill its intended purpose. If applicable to the scope of the audit selected for the agency or program being reviewed, this determination may include, but not be limited to, an assessment of one or more of the following:

(A) Whether the agency or program is doing more than is necessary or authorized.

(B) Whether the agency's or program's statutory authority, rules and regulations, mission and technology, reflect the current environment in which the agency or program is operating.

(C) Whether the agency or program is responsive to the public's needs.

(D) Whether efficiencies and potential savings might be achieved by making changes to the way the agency or program operates.

(E) Whether the agency's or program's functions or operations could be less burdensome or restrictive and still adequately protect and serve the public.

(F) Whether the agency or program has sufficient authority related to fees, inspections, enforcement and penalties.

(G) Whether the agency or program promptly and effectively address complaints and take appropriate enforcement actions.

(H) Whether any fees are set at a level that fully supports agency or program costs.

(4) Whether there are any other factors, as determined by the legislative post auditor or directed by the legislative post audit committee, that would need to be determined for the audit.

(c) The scope of the audits conducted under this section may address all operations of the state agency, or may be restricted to a particular operation of the state agency. ~~In directing the post auditor to conduct any such performance audit, the legislative post audit committee may specify the objectives and scope and direct the details of the audit. In conducting any such audit, the post auditor shall include a determination of the applicable factors specified in subsection (b) of K.S.A. 74-7287, and amendments thereto, and such other factors as may be directed to be included by the legislative post audit committee, as directed by the legislative post audit committee, with the advice of the legislative post auditor.~~

(d) Upon completion of the performance audit, the legislative post audit committee shall review and accept the audit report. A copy of the audit report shall be made available to each member of the legislature in accordance with the provisions of K.S.A. 46-1212c, and amendments thereto.

~~(e) The legislative post audit committee, upon the affirmative vote of not less than seven members of the committee taken at a regular meeting thereof, may designate a different regular session of the legislature during which a state agency is to be subjected to review and evaluation under the Kansas governmental operations accountability law, instead of the regular session of the legislature prescribed by the provisions of the Kansas governmental operations accountability law or as previously designated by the legislative post audit committee pursuant to this subsection, but no such review and evaluation shall be deferred to a regular session occurring after the 2008 regular session of the legislature.~~

Sec. 4. K.S.A. 74-7287 is hereby amended to read as follows: 74-7287. (a) ~~Prior to retention under K-GOAL and subsection to audit, re-~~

~~view and evaluation in futuro of a state agency, a committee of reference in each house of the legislature~~ *The senate committee on ways and means, the house of representatives committee on appropriations, the legislative budget committee or the appropriate legislative standing committee or committees, as determined by the legislative coordinating council, shall review and evaluate the operations of the state agency. ~~Each such or program subject to audit and evaluation under K-GOAL.~~ The committee shall familiarize itself with the provisions of law by which the state agency or program acquired existence, the manner in which the state agency or program is supposed to be organized and how the state agency or program actually is organized, the powers granted to and the operations authorized to be performed by the state agency or program, what powers are being exercised and what operations are being performed by the state agency or program, and the manner in which the state agency or program is exercising its powers and performing its operations. ~~Each~~ The committee shall ~~also~~ consider any performance audit conducted by the post auditor and the division of post audit under the direction of the legislative post audit committee pursuant to the provisions of K.S.A. 74-7285, and amendments thereto. During the course of the review and evaluation of the state agency or program and its operations, ~~each the committee of reference~~ shall hold a public hearing for the purpose of receiving testimony from the public, the involved state agency or program and its officers and employees, and other appropriate state officers and employees. In all such hearings, the involved state agency or program shall be held accountable for the legality and propriety of the operations under review and be responsible for producing evidence of the necessity for and extent of any changes in the organization, powers or operations of the state agency or program or in its enabling laws which would increase efficiency or effectiveness.*

~~(b) In reviewing and evaluating a state agency, each committee of reference shall take into consideration the following factors, if applicable, among others, in developing its recommendations regarding the state agency and its operations:~~

~~—(1) Whether all operations of the state agency have been authorized by the legislature and whether the effects of such operations accord with legislative intent;~~

~~—(2) whether all operations of the state agency are being performed efficiently and effectively and whether any such operations could be performed in a more efficient, effective or economical manner;~~

~~—(3) whether regulatory operations of the state agency are reasonably related to and are designed for the purpose of protection or benefaction of the public and have such protection or benefaction as a primary effect;~~

~~—(4) whether regulatory operations of the state agency could be performed in a less restrictive manner which could adequately protect the public;~~

~~—(5) whether regulatory operations of the state agency have the effect of directly or indirectly increasing the cost of any goods or services involved and, if so, whether the increase in cost is more harmful to the public than the harm which could result from the termination of such regulatory operations;~~

~~—(6) whether there is need for any change in the organization of the state agency or in any of its operations which would enable the state agency to fulfill its purposes in a more efficient, effective or economical manner; and~~

~~—(7) whether the termination of any of a state agency's operations would significantly harm or endanger the rights, health, safety or welfare of the public or result in the reduction or foreclosure of services required or desired by the public.~~

New Sec. 5. Sections 5 through 9, and amendments thereto, shall be known and may be cited as the Kansas taxpayer transparency act.

New Sec. 6. (a) As used in the Kansas taxpayer transparency act:

(1) “Searchable website” means a website that allows the public to search and aggregate the information identified in subsection (b) including requirements that the website offer the public the ability to efficiently search and display data, and ascertain the total amounts of revenues and expenditures (A) of funds established within the state treasury in an aggregate or summary form in a manner determined by the secretary of

administration, (B) of compensation paid to public employees employed by state agencies, and (C) of bond debt as specified in this act.

(2) “Agency” means any entity or instrumentality of the state of Kansas as defined in K.S.A. 75-3701, and amendments thereto, and any other entity or instrumentality delegated statutory authority by the legislature to issue bonds and to collect revenue for the purpose of repaying bonds issued under authority delegated by statute.

(3) “Board” means the public finance transparency board.

(b) No later than March 1, 2009, the secretary of administration shall develop and operate a single, searchable website accessible by the public at no cost to access, that includes:

(1) Annual expenditures, as determined by the secretary of administration and as available within the central accounting system and state payroll system, shall include, but not be limited to:

(A) Disbursements by any state agency from funds established within the state treasury;

(B) bond debt payments;

(C) salaries and wages including, but not limited to, compensation paid to individual employees of state agencies;

(D) contractual services including, but not limited to, amounts paid to individual vendors;

(E) commodities including, but not limited to, amounts paid to individual vendors;

(F) capital outlay including, but not limited to, amounts paid to individual vendors;

(G) debt service including, but not limited to, amounts of bond interest paid and sources of funds paid for individual bond issues;

(H) aid to local units including, but not limited to, amounts paid to individual units of government for individually identifiable aid programs;

(I) other assistance and benefits; and

(J) capital improvements including, but not limited to, amounts of bond principal paid and sources of funds paid for individual bond issues.

(2) Annual revenues, as determined by the secretary of administration and as available within the central accounting system, shall include, but not be limited to:

(A) Receipts or deposits by any state agency into funds established within the state treasury;

(B) taxes including, but not limited to, compulsory contributions imposed by the state for the purpose of financing services;

(C) agency earnings including, but not limited to, amounts collected by each agency for merchandise sold, services performed, licenses and permits issued, or regulation;

(D) revenue for the use of money and property including, but not limited to, amounts received for compensation for the use of state-owned money and property;

(E) gifts, donations and federal grants including, but not limited to, amounts received from public and private entities to aid in support of a specific function or other governmental activity;

(F) other revenue including, but not limited to, receipts not classified elsewhere; and

(G) non-revenue receipts including, but not limited to, all receipts that do not constitute revenue.

(3) Annual bonded indebtedness which shall include, but not be limited to the amount of the total original obligation stated in terms of principal and interest, the term of the obligation, the source of funding for repayment of the obligation, the amounts of principal and interest previously paid to reduce the obligation, the balance remaining of the obligation, any refinancing of the obligation, and the cited statutory authority to issue such bonds.

(4) Any other relevant information specified by the secretary of administration after consulting with and seeking the advice of the public finance transparency board as established in section 7, and amendments thereto.

(c) The single website provided for in subsection (b) of this section shall include data for fiscal year 2003 and each fiscal year thereafter. The website shall be designed so that such data shall be retained on the single website for not less than 10 years and shall include data for the most recent fiscal years. Data that is available in the central accounting system

and state payroll system shall be on the single website as soon as possible, but not later than 45 days after the last day of the preceding fiscal year. The secretary of administration shall develop policies and procedures to make data available from any other source. Nothing in this act shall require the secretary of administration to provide information on the website that is not available in the central accounting system and the state payroll system at the time of initial implementation of the website. After implementation of the initial website, the public finance transparency board shall advise the secretary of administration on incorporating additional information described by this act from any other source of information available to the secretary of administration including information submitted by state agencies pursuant to subsection (d) of this section.

(d) Any state agency shall provide, at the request of the secretary of administration, such information as is necessary to accomplish the purposes of this act.

(e) Nothing in this act shall permit or require the disclosure of information which is considered confidential by state or federal law.

New Sec. 7. (a) There is hereby established the public finance transparency board for the purpose of advising and consulting with the secretary of administration on the content, format and reports to be produced on the website established in section 6, and amendments thereto.

(b) The board shall consist of members as follows:

(1) The secretary of administration or the secretary's designee, who shall serve as chairperson of the board;

(2) the director of accounts and reports or the director's designee;

(3) two members who are chief executive officers of agencies of the executive branch or such officer's designees, appointed by the governor, who shall serve at the pleasure of the governor;

(4) four members of the general public, two appointed by the governor, one appointed by the president of the senate and one appointed by the speaker of the house;

(5) four members of the legislature, one appointed by the president of the senate, one appointed by the minority leader of the senate, one appointed by the speaker of the house, and one appointed by the minority leader of the house, all of whom shall serve at the pleasure of the appointing official;

(6) the legislative post auditor or such auditor's designee;

(7) the state archivist or such archivist's designee; and

(8) the director of legislative research or such director's designee.

(c) The board shall annually elect one member from the board as vice-chairperson and another as secretary.

(d) Eight members of the board shall constitute a quorum and the affirmative vote of eight members shall be necessary for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(e) General public members and legislative members of the board attending meetings of the board, or attending subcommittee meetings thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(f) In order to achieve its purpose as provided in this act, the board shall:

(1) Advise the secretary of administration, after implementation of the initial website, on incorporating additional information described by this act from any other source of information available to the secretary of administration including information submitted by state agencies pursuant to subsection (d) of section 6, and amendments thereto;

(2) serve in an advisory capacity to the secretary of administration, who shall from time to time consult with and seek the advice of the board on matters related to the further development of the website, expansion of the content of information for the website, and new reports to be generated on the website to assist the public in accessing public information;

(3) seek advice from the general public, professional associations, academic groups and institutions and individuals with knowledge of and

interest in areas of public information access, gateway services, add-on services and electronic information; and

(4) meet at least twice during each fiscal year on the call of the secretary of administration who shall set the agenda for such meetings, which shall include a report on the progress in implementing and developing the website, proposed enhancements to the website in terms of content, format, policies and procedures and reports, and other matters as deemed appropriate by the secretary of administration.

(g) All state agencies shall cooperate with the board in providing such assistance as may be requested for the achievement of its purpose.

New Sec. 8. The secretary of administration shall implement the provisions of this act by policies and procedures.

New Sec. 9. The provisions of sections 5 through 8, and amendments thereto, shall expire on June 30, 2014.

New Sec. 10. (a) There is hereby established the Kansas performance measurement commission, consisting of 11 members. The commission shall consist of the following:

(1) Two members who are legislators appointed by the president of the senate;

(2) two members who are legislators appointed by the speaker of the house of representatives;

(3) one member who is a legislator appointed by the minority leader of the senate;

(4) one member who is a legislator appointed by the minority leader of the house of representatives;

(5) three members appointed by the governor;

(6) one member appointed by the chairperson of the state board of regents; and

(7) one member appointed by the chief justice of the supreme court.

No more than six members shall be from the same political party.

(b) Appointments shall be made and the first meeting shall be held 45 days after the effective date of this act. The speaker of the house of representatives shall designate one member to convene and organize the first meeting of the commission at which the commission shall elect a chairperson and a vice-chairperson from among the members. The commission shall meet on call of the chairperson or on request of six members of the commission.

Six members of the commission shall constitute a quorum. All actions of the commission shall be taken by a majority of all members of the commission.

(c) Each member of the commission attending meetings or subcommittee meetings of the commission shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3212, and amendments thereto.

(d) The commission may enter into a contract with a private consultant to design a performance measurement management system for the state of Kansas. The system shall be data driven to allow the generation of information for the legislature to help the legislators evaluate the effectiveness of state programs. The system shall contain recommendations to implement long range planning for state programs. The system also shall include an assessment of the current efficiency and effectiveness of state programs and an assessment of the degree to which state program activities are consistent with the mission of the program.

(e) The commission shall submit a final report of its recommendations to the legislature on or before January 1, 2009.

(f) Staff assistance shall be provided to the commission by the Kansas legislative research department, the Kansas office of revisor of statutes and the Kansas legislative division of post audit.

(g) The provisions of this section shall expire on July 1, 2009.

Sec. 11. K.S.A. 74-7284, 74-7285, 74-7286, 74-7287, 74-7289, 74-7290, 74-7291, 74-7292, 74-7293, 74-7294, 74-7296, 74-7298, 74-7299, 74-72,100, 74-72,101, 74-72,102, 74-72,104, 74-72,106, 74-72,107 and 74-72,108 and K.S.A. 2007 Supp. 46-1131, 46-1226, 74-7295 and 74-72,103 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.