

MAINE STATE LEGISLATURE

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SMG
2/28/11

L.D. 104

Date: 3-22-11

(Filing No. S-12)

STATE AND LOCAL GOVERNMENT

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STATE OF MAINE

SENATE

125TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 46, L.D. 104, Bill, "An Act Regarding Audits of State Agency Expenditures To Recover Overpayments and Lost Discounts"

Amend the bill in section 1 in §1622 in subsection 1 by striking out all of paragraph A (page 1, lines 16 to 23 in L.D.) and inserting the following:

'A. "Overpayment" means a payment made to a vendor:

(1) In duplicate for a single invoice;

(2) In the amount of a discount available from the vendor that was not applied;

(3) For a late payment penalty that was improperly applied by the vendor;

(4) For shipping costs that were computed incorrectly or incorrectly included in an invoice;

(5) For any commodities billed at an amount higher than negotiated in a contract or master agreement;

(6) For a state tax imposed pursuant to Title 36; or

(7) For a good or service the vendor did not provide.'

Amend the bill in section 1 in §1622 in subsection 2 by striking out all of the first paragraph (page 1, lines 26 to 35 in L.D.) and inserting the following:

'2. Recovery audits for certain overpayments. In addition to the audit authorized pursuant to section 1621, at least once every 10 years the State Controller shall contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. The audits must be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations. A state agency shall provide the recovery audit consultant all information necessary for the audit.'

Amend the bill in section 1 in §1622 in subsection 2 by striking out all of paragraph A (page 1, line 36 and page 2, lines 1 to 9 in L.D.) and inserting the following:

RWS

1 'A. A contract under this subsection:

2 (1) May provide for reasonable compensation for services provided under the
3 contract, including compensation determined by the application of a specified
4 percentage of the total amount recovered because of the consultant's audit
5 activities or recommendations as a fee for services; and

6 (2) To allow time for the performance of existing state payment auditing
7 procedures, may not allow a recovery audit of a payment during the 180-day
8 period after the date the payment was made.'

9 Amend the bill in section 1 in §1622 by striking out all of subsection 3 (page 2, lines
10 26 to 32 in L.D.) and inserting the following:

11 **3. Funds recovered and payments to consultants.** The State Controller shall
12 deposit all recovered money in a nonlapsing Other Special Revenue Funds audit recovery
13 account within the Department of Administrative and Financial Services. From the audit
14 recovery account, the State Controller shall make payment to a consultant that conducts a
15 recovery audit under subsection 2 according to the negotiated contract and refund
16 amounts in accordance with state or federal regulations. Any amounts not refunded or
17 paid to the consultant must be identified in the report pursuant to subsection 4.'

18 Amend the bill in section 1 in §1622 in subsection 4 by striking out all of paragraph
19 B (page 2, lines 40 and 41 and page 3, lines 1 and 2 in L.D.) and inserting the following:

20 'B. Not later than December 1st of each odd-numbered year, the State Controller
21 shall issue a report to the joint standing committee of the Legislature having
22 jurisdiction over appropriations and financial affairs and the joint standing committee
23 of the Legislature having jurisdiction over state and local government matters
24 summarizing the contents of all reports received from a consultant contracted
25 pursuant to subsection 2 during the state fiscal biennium ending June 30th of that
26 year.'

27 Amend the bill in section 1 in §1622 in subsection 5 in the first line (page 3, line 3 in
28 L.D.) by striking out the following: "shall" and inserting the following: 'may'

29 **SUMMARY**

30 This amendment makes a number of changes to the bill requiring the State Controller
31 to conduct recovery audits.

32 1. It adds to the definition of "overpayment" a commodity billed at an amount higher
33 than negotiated in a contract or master agreement.

34 2. It requires recovery audits to be completed at least every 10 years.

35 3. It removes the exemption from the audit recovery process of a state agency that
36 has a low proportion of its expenditures made to vendors.

37 4. It removes the section that would have allowed an audit recovery consultant to
38 pursue judicial action on behalf of the State.

39 5. It changes the way an audit recovery consultant is paid by setting up an audit
40 recovery account out of which the consultant is paid.

12/12

COMMITTEE AMENDMENT "A" to S.P. 46, L.D. 104

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6. It requires the State Controller to report to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on State and Local Government rather than the Legislature as a whole.

7. It makes rulemaking by the State Controller optional rather than mandatory.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



125th MAINE LEGISLATURE

LD 104

LR 151(02)

An Act Regarding Audits of State Agency Expenditures To Recover Overpayments and Lost Discounts

Fiscal Note for Bill as Amended by Committee Amendment "A" *S-12*

Committee: State and Local Government

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium savings - Other Special Revenue Funds
Potential current biennium cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

The additional costs to the Department of Administrative and Financial Services to contract with outside auditors to recover overpayments made by all state agencies is contingent on the recovery of such payments. Any funds recovered will be deposited in the Audit Recovery Account in the State Controller's office and will be used to pay the costs of the program. If no recoveries are made, no expenditures will be incurred. The amount of net savings from the bill will depend on the results of the audit process and is not estimated at this time.