



# Ohio Legislative Service Commission

## Bill Analysis

Amber Hardesty

### H.B. 201

129th General Assembly  
(As Introduced)

**Reps.** Rosenberger and Beck, J. Adams, Boose, Maag, Martin, Thompson

---

## BILL SUMMARY

- Requires the Auditor of State to perform recovery audits for overpayments made to vendors by certain state agencies.
- Permits the Auditor to contract with overpayment recovery audit consultants to conduct the audits.

---

## CONTENT AND OPERATION

### Overpayment recovery audits required

The bill directs the Auditor of State to conduct recovery audits for overpayments made to vendors by each state agency that (1) during the most recently concluded biennium had total expenditures that exceeded \$25 million or (2) during the current biennium has appropriations in excess of \$25 million. These audits must be performed once a biennium. The Auditor is required to establish, by rule, criteria for determining whether a state agency may be exempted from a recovery audit, taking into consideration the likely costs and benefits of performing the audit.

For purposes of the bill, "overpayment" means a duplicate payment made by a state agency to a vendor for a single invoice or any payment made to a vendor that:

--Represents an amount above the required payment minus any available discounts applied to result in a deduction in the required payment;

--Includes a late payment penalty that was improperly applied;

--Was collected to cover shipping costs that were incorrectly computed or incorrectly included in an invoice;

- Was paid for state sales tax;
- Was paid for a good or service that the vendor did not provide;
- Was paid as a result of an invoice error or a pricing error;
- Failed to reflect the appropriate discounts, rebates, or other allowances; or
- Failed to comply with the purchasing agreement.

The Auditor is to adopt rules for the conduct of overpayment recovery audits that establish standards, procedures, and guidelines that are designed to detect and recover overpayments made by a state agency to a vendor and to recommend improved agency accounting operations. The overpayment recovery audits are supplemental to regularly required audits of public offices by the Auditor.<sup>1</sup>

### **Use of overpayment recovery audit consultants**

The Auditor of State may contract with one or more overpayment recovery audit consultants on behalf of a state agency to conduct the overpayment recovery audits required by the bill. The consultants must have recovery audit expertise. Overpayment recovery audits conducted by those consultants are subject to specified conditions and procedures.<sup>2</sup>

### **Scope of audit; confidential information**

A contract with an overpayment recovery audit consultant must specify the scope of the overpayment recovery audit. To allow for the completion of any existing internal auditing procedures of the state agency, a payment cannot be audited during the 180-day period immediately following the date on which the payment was made.

The bill requires each state agency subject to an overpayment recovery audit to provide the consultant with all necessary information. It permits the agency, or the Auditor, to provide the consultant and the consultant's employees with any confidential information in the agency's or Auditor's custody that is necessary for the overpayment recovery audit's performance or the recovery of an overpayment, but only to the extent the agency or Auditor is not prohibited from sharing the information under an agreement with another state or the federal government. The consultant, and each employee or agent of the consultant, is subject to all prohibitions against the disclosure of confidential information that apply to the agency, the Auditor, or an employee of the

---

<sup>1</sup> R.C. 117.60, 117.61, and 117.70.

<sup>2</sup> R.C. 117.62.

agency or Auditor. A consultant, or an employee or agent of the consultant, who discloses any such information is subject to the same sanctions and penalties that would apply to the agency, the Auditor, or an employee of the agency or Auditor.<sup>3</sup>

### **Compensation of audit consultants; overpayments recovered**

Payment of an overpayment recovery audit consultant is the responsibility of the state agency subject to the audit. The compensation may be determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities or recommendations as a fee for services. The agency is to pay, from the recovered money, the consultant responsible for identifying the overpayment.

Any portion of an overpayment recovered that is not paid to the consultant must be credited to the fund or account from which the payment originated. The bill requires that any federal money recovered be expended or returned to the federal government in accordance with the rules of the federal program through which the agency received the money.<sup>4</sup>

### **Reporting requirements**

An overpayment recovery audit consultant must submit a written audit report to the Auditor for each overpayment audit conducted, as well as to each state agency for which the consultant conducted an overpayment recovery audit. The Auditor is to provide copies of those reports to the Governor, the Speaker of the House of Representatives, and the President of the Senate within seven days after their receipt. The Auditor also is to notify the Attorney General in writing of each audit report that states an overpayment of public money exists and has not been collected, and of the date that the Auditor received the report.

The bill requires the Auditor, no later than January 1 of each even-numbered year, to issue a report to the General Assembly summarizing the contents of all overpayment recovery audit reports received during the state biennium ending June 30 of the previous year.<sup>5</sup>

---

<sup>3</sup> R.C. 117.63 to 117.65.

<sup>4</sup> R.C. 117.13, 117.66, and 117.67.

<sup>5</sup> R.C. 117.68.

## Collection of overpayments

If an overpayment recovery audit report states that an overpayment of public money exists and has not been collected, the overpayment recovery audit consultant has 45 days following the issuance of the report to continue attempting to recover the overpayment. The bill also requires the head officer of the state agency receiving the report to proceed to collect the money during that same 45 days in accordance with current law procedures for the collection of money due the state. Under those existing law procedures, the Attorney General takes over the duty to collect the overpayment once the 45 days have run. Any overpayment discovered and collected by the audit consultant will not be subject to the existing law procedures. And all overpayments are considered due and payable when the head officer receives the audit report.<sup>6</sup>

---

## HISTORY

ACTION	DATE
Introduced	04-12-11

h0201-i-129.docx/ks

---

<sup>6</sup> R.C. 117.69 and 131.02.

