

HB

243

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 MAY 12 2003
 SENATE FINANCE
 COMMITTEE

DATE: 5/8/03

FURTHER:

DATE TURNED
 IN TO OFFICE: 12 May 2003

Finance Committee considered CS FOR HOUSE BILL NO. 243(STA)

HB 243 EVALUATION OF AGENCY PROGRAMS

"An Act establishing state agency program performance management and audit powers in the Office of the Governor for the evaluation of agency programs; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Gov.	4/16/03		✓	#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John Taylor</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
COCHAIR: <i>Lynne Green</i>	✓			
COCHAIR: <i>Greg Wilke</i>				

MAY 12 2003

SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 243(STA)
(H) Publish Date: 5/6/03

Revision Date/Time (Note if correction): 4/16/03 1:20 PM Dept. Affected: Governor
Title: An Act establishing audit powers in the Office of the Governor BRU OMB
Component OMB
Sponsor: Rules Committee
Requester: Governor Component No. 2144

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would re-establish an audit function in the Office of the Governor. Funding will be provided by reallocation of existing Office of the Governor funds in the Governor's FY 04 budget; no new money will be required.

The Governor's budget request for the Office of Management and Budget, and as approved by the House, totals \$1,899,500 from the general fund. Of that amount, \$1,767,500 is in personal service costs for 23 full time positions. To help restore the internal performance audit function, the following transfers were accomplished:

Prepared by: Jay Hogan, Deputy Director Phone 465-3559
Division: OMB Date/Time 4/16/03 1:36 PM
Approved by: Jay Hogan, Deputy Director Date 4/16/2003
Agency: OMB

FISCAL NOTE #2

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CSHB 243(STA)

ANALYSIS CONTINUATION

Three positions were transferred from the Division of Governmental Coordination [DGC was reduced in size and transferred via Executive Order 106 to the Department of Natural Resources] to support the audit and performance evaluation function. Two were classified as Management Analysts and the third as an Internal Auditor.

Funding for the three positions transferred came from reallocations within the Division of Elections [\$196,800] and the Human Rights Commission [\$128,800].

The three "new" positions, plus two existing OMB Internal Audit positions would give the audit and performance evaluation function a staff of five full time positions. It is also envisioned that as circumstances may require, OMB Budget and Policy Analysts would assist in various audit and performance evaluations.

FRANK H. MURKOWSKI
GOVERNOR

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU
ADMINISTRATIVE ORDER NO. 202

Under the authority of art. III, secs. 1 and 24, of the Alaska Constitution and AS 44.17.060, 44.17.070, AS 44.19.010, and 44.19.144 and in the interests of efficient administration, I, Frank H. Murkowski, Governor of the State of Alaska, order all principal departments of the executive branch to perform internal performance audits.

The performance audits are to be coordinated by the Office of Management and Budget, Office of the Governor (OMB) and are to be conducted according to the schedule and format determined by the OMB. The scope of these audits shall include

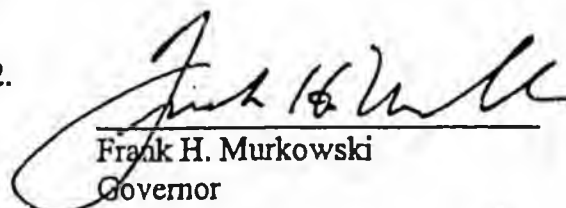
1. a review of department compliance with established objectives and goals and whether department operations and programs are being carried out as planned;
2. a review of the economy and efficiency with which a department's resources are employed;
3. an evaluation of the accuracy, timeliness, and effectiveness of department accounting systems, reporting systems, and procedures;
4. a review of the reliability and integrity of department financial and operating information;
5. a review of department compliance with existing statutes, regulations, policies, and procedures; and
6. recommendations for consolidation and reorganization of departments, divisions, and duties and any other recommendation to promote sound and efficient administration.

The OMB, together with principal departments of the executive branch, and in compliance with state personnel laws, may determine a program to reward executive branch employees for suggestions and recommendations that lead to significant improvements in the efficient administration of state government.

Working papers generated during the performance of these internal performance audits are confidential to the extent allowed by law until the related final report is released as provided under state law. Working papers containing material that is designated by law as confidential remain classified as confidential.

This Order takes effect immediately.

Dated this 2nd day of December, 2002.


Frank H. Murkowski
Governor

OFFICE OF MANAGEMENT AND BUDGET
STATEMENT AND SECTIONAL ANALYSIS FOR HOUSE BILL 243

The Office of Management and Budget was established in 1983. To staff OMB, existing budget components from other departments were transferred to the Office of the Governor and reorganized into four divisions. One of those transfers moved the Internal Audit function from the Department of Administration to OMB as part of the Management Division, then staffed with 19 full time positions. Management staff had declined to 12 full time positions by 1995, when the function was abolished.

The day Governor Murkowski took office, he signed Administrative Order No. 202 [attached] and directed "all principal departments of the executive branch to perform internal performance audits". OMB was directed to coordinate those departmental audits as part of the January/February budget review process. Much of the Governor's amended budget - now before the Legislature - is the product of this process.

In reestablishing the audit function, the Governor will shift focus from traditional internal auditing to:

Performance Measurement - Systematic collection and reporting of information that tracks resources used, work produced, and intended results achieved;

Performance Evaluation - Systematic collection and analysis of information to determine a program's performance and the reasons for achieving the level of performance; and both performance measurement and performance evaluation are vital parts of

Performance Budgeting, the central mission of OMB.

Borrowing from the Governor's transmittal letter for HB 243, the sectional analysis is:

Section 1. The bill would establish powers in the Office of Management and Budget necessary to evaluate program performance by executive branch agencies;

Section 2. Provide express authorization for the exercise of internal audit powers; and

Section 3. Would make "internal audit work papers and other related supportive material" confidential. And, as stated in the transmittal, "This provision mirrors the powers given to legislative auditors and is considered necessary to make the auditors effective in the performance of their duties."

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Frank H. Murkowski, Governor

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April 16, 2003

Hon. Bruce Weyhrauch, Chair
House State Affairs Committee
Alaska Legislature
Room 102, State Capitol
Juneau, Alaska 99801

Re: HB 243 - state agency performance audit powers;
confidentiality provisions

Dear Representative Weyhrauch:

We were requested to comment on section 3 of the above-referenced bill which makes internal audit reports confidential until released by the governor. The intent of this provision is to attain the level of effectiveness for internal auditors as presently provided for legislative auditors. See AS 24.20.301(a) and 24.20.311. The ability to make audit communications and reports confidential greatly adds to an auditor's ability to provide candid assessments of program and policy implementation.

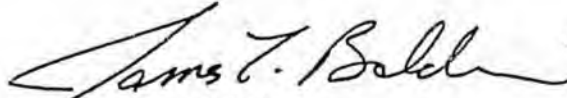
We expect that the internal audit function is likely to be less involved in post audit examinations and more in examinations of performance of assigned functions. In order to encourage candor on the part of auditors, there should be control vested in the governor as to when and if audit reports become public. It is likely that the preliminary reports of the auditors are privileged because the auditors will be advising the governor on matters of policy which would be part of the executive decision-making process. Under these circumstances the work of the auditors would be subject to the deliberative process privilege. See *Capital Info. Group v. State, Office of the Governor*, 923 P.2d 29 (Alaska 1996). However, unlike the unqualified privilege accorded to the legislature, the deliberative process privilege is qualified, meaning that it is determined by balancing the interests involved.

The bill proposes to make internal audit reports and supporting work papers confidential by law to avoid the uncertainty of the balancing process which can only be ultimately resolved in a court of law. In this way, the privilege accorded to the work product of internal auditors would be the same as accorded to legislative auditors.

Thank you for the opportunity to comment on this bill.

Sincerely,

GREGG D. RENKES
ATTORNEY GENERAL



By: James L. Baldwin
Assistant Attorney General

JLB:jn

cc: David Marquez, Assistant Attorney General, Legislative Liaison
Deborah E. Behr, Legislation Attorney
Jay Hogan, Deputy Director, OMB

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April 3, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would establish state agency program performance management and audit powers in the Office of the Governor. This bill would establish powers in the office of management and budget necessary to evaluate program performance by executive branch agencies. These powers would include express authorization for the exercise of internal audit powers. It is my intent that this authority permit the centralization of the internal audit function, which had been a declining effort under previous Administrations. I intend to use internal audits as a management tool in my Administration's continuing effort to streamline and make efficient the operations of state agencies.

The bill also would make certain audit records confidential. This provision mirrors the powers given to legislative auditors and is considered necessary to make the auditors effective in the performance of their duties.

I urge your favorable consideration of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor