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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1539 Session of  
2023

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INTRODUCED BY GROVE, GREINER, HAMM, ROWE, STAATS AND JAMES,  
JUNE 28, 2023

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REFERRED TO COMMITTEE ON FINANCE, JUNE 28, 2023

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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 relating  
22 to 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:

28 ARTICLE XXVIII-J

1 MISCELLANEOUS PROVISIONS

2 Section 2801-J. Recovery audits.

3 (a) Schedule of recovery audit.--

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

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

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

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

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

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

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

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

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

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

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

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

17           (1) The Governor.

18           (2) The Inspector General.

19           (3) The General Assembly.

20       (f) Requirements for auditors.--

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

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

29           (3) An auditor shall perform a recovery audit in  
30 accordance with 31 U.S.C. § 7501 et seq. (Single Audit Act of

1 1984) and government auditing standards and practices  
2 required by the United States Government Accountability  
3 Office.

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

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

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

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

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

19 (1) An overpayment.

20 (2) An underpayment.

21 (3) A payment to an ineligible recipient.

22 (4) A payment for an ineligible service.

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

24 (6) A payment for services not received.

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

27 (8) Invoice or pricing errors.

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

29 "Recovery audit." A financial management technique used to  
30 identify improper payments made by a Commonwealth agency with

1 respect to individuals, vendors or entities in connection with a  
2 payment activity.

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

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