Status Report: Implementation of State Auditor I-900 Recommendations to the Legislature

As required by Initiative 900

July 2014
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Initiative 900 Requires JLARC Report

In November 2005, the people of the State of Washington approved Initiative 900. The initiative directs the State Auditor’s Office (SAO) to conduct performance audits of state and local government agencies.

The initiative also includes the following direction with regard to performance audits of state government: “An annual report will be submitted by the Joint Legislative Audit and Review Committee by July 1st of each year detailing the status of the legislative implementation of the State Auditor’s recommendations.” This report represents JLARC’s compliance with this requirement for 2014.

Three 2013 I-900 Audits with Recommendations to the Legislature

This is the eighth annual report that JLARC staff have released on the status of recommendations to the Legislature made by the State Auditor’s performance audits. During Calendar Year 2013, the State Auditor released seven new performance audit reports: three with specific recommendations to the Legislature and four that did not include recommendations to the Legislature. JLARC held public hearings on all of the State Auditor’s performance audits and reviews issued during that time period. Many of the recommendations in the SAO performance audits are directed to state or local government agencies rather than to the Legislature. This report does not provide information on implementation of those recommendations. For local governments, Initiative 900 directs that “an annual report will be submitted by the legislative body by July 1st of each year detailing the status of the legislative implementation of the State Auditor’s recommendations.”

The Legislature may take action regarding a performance audit even if the recommendations are not specifically directed to the Legislature. For example, a December 2013 SAO performance audit titled, “Regulatory Reform: Improving Permit Timeliness” contained recommendations to government agencies, but the Legislature still decided to address the audit’s recommendations. For example, the 2014 Legislature passed E2SHB 2192, which put some of the audit recommendations into statute.

This JLARC staff report provides information on the implementation status of six specific recommendations to the Legislature included in the 2013 performance audits. In addition, JLARC staff track previous years’ recommendations for four years. For example, for an SAO recommendation to the Legislature issued in Calendar Year 2010, JLARC staff reviewed legislative activity in the 2011, 2012, 2013, and 2014 legislative sessions. This report includes updated information on the status of seven unresolved recommendations to the Legislature in performance audits issued by the SAO between Calendar Years 2010 and 2012.

Implementation Status of the SAO Recommendations to the Legislature

Table 1 summarizes implementation of the recommendations to the Legislature in the SAO’s performance audits issued in Calendar Years 2010 through 2013. The table uses the following reporting categories:

- **Implemented – Adopted As Presented** – Legislative action implementing an SAO recommendation in the manner that it was presented in the audit;
- **Implemented – Addressed with Different Approach** – Legislative action where the Legislature addressed the issue raised in the recommendation, but via a different approach;
- **Legislature Made Different Policy Choice** – Legislative action where the Legislature was aware of the recommendation and made a different policy choice than what the SAO recommended;
• **Bills Introduced on Topic But Not Adopted** – Situation where individual legislators introduced bills on the topic covered in the recommendation, but the Legislature did not adopt the recommendation;

• **Other Circumstances** – This category denotes recommendations where other relevant circumstances apply; and

• **Related or No Information** – Related information is provided when available.

### Table 1 – Implementation of SAO I-900 Recommendations to the Legislature:
Status Following the 2014 Legislative Session

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### Detail on Specific SAO Recommendations to the Legislature

What follows are details on the six specific recommendations to the Legislature from the three SAO performance audits issued in Calendar Year 2013. The details also include an update on the status of seven unresolved recommendations to the Legislature in SAO performance audits issued between Calendar Years 2010 and 2012. For each of these performance audits, this JLARC staff report provides:

• A brief summary of the subject of the performance audit;

• The text of each recommendation to the Legislature;

• The current implementation status for each recommendation;

• Identification of related legislation; and

• Where appropriate, a comment section to provide additional explanation/context about the Legislature’s actions or the categorization of implementation status.

Each section ends with reporting on any additional legislative activity since last year’s report such as public hearings, work sessions, and related budget activity. The audit reports are grouped by year and listed in the order in which the State Auditor released them.

Initiative 900 also states that “justification must be provided for recommendations not implemented.” Since no individual or entity can singularly speak to the reason for legislative action or inaction, JLARC’s auditors could not identify sufficient and appropriate evidence to make definitive conclusions about why recommendations have not been implemented to date. However, the information provided in the comment sections does, in some cases, provide a context for the Legislature’s actions.
Newly Issued 2013 Recommendations

Washington State Ferries: Vessel Construction Costs

Released January 3, 2013

About the Audit

This audit assessed three questions: (1) how the construction costs of ferries built by Washington State Ferries (WSF) compare with comparable ferries built elsewhere, (2) what factors affect the cost of constructing ferries and to what extent those factors affect total construction spending, and (3) does WSF use leading practices to develop, manage, and monitor its ferry construction contracts. The audit found that it costs more to construct a ferry when WSF is the purchaser compared to other ferry purchasers, and that certain regulatory requirements such as the Build-in-Washington laws and the Apprenticeship Act contribute to these higher costs. The audit issued two recommendations directed to the Legislature.

SAO Recommendation to the Legislature

The Legislature should address the regulatory barriers currently in place that limit competition on WSF vessel procurements by:

- Allowing WSF to use alternative strategies to encourage competition for its ferry procurements when insufficient interest exists or higher-than-expected bids are received from Washington shipyards. One possible strategy to ensure an adequate level of competition could be to allow WSF to invite out-of-state shipyards to bid on new vessel construction contracts in these situations.

2013 Related Legislation

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<tr>
<th>Bill #</th>
<th>Bill Introduced</th>
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Comments

- HB 1990 would have required the Washington Department of Transportation to obtain at least three bids on any contract offered for the construction of a new ferry vessel or for substantial alterations of an existing ferry vessel.
- SB 5858 would have required WSF to use design-build purchasing for new auto vessels; to use a fixed price contract; and would have removed Build-in-Washington requirements from the WSF design-build statute.

2014 Related Legislation

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<th>Bill #</th>
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Comments

- ESHB 2759 would have required the Washington State Department of Transportation to use design-build procurement in acquiring new ferry vessels; required the Washington State Ferries (WSF) to employ an independent representative, in certain circumstances, to serve the WSF’s interests during the procurement process; required contracts to be fixed-price and allow for a contingency to accommodate change orders; and altered a requirement that ferry vessels be constructed within the State of Washington, allowing out-of-state construction in certain circumstances.
- SB 6001 provided $350,000 to the Washington State Ferries Capital Program for the issuance of a request for proposals to convert the Issaquah class vessels to use liquefied natural gas and to provide a one-time stipend to the entity awarded the contract.
The Legislature should address the regulatory barriers currently in place that limit competition on WSF vessel procurements by:

- Undertaking a study of the Apprenticeship Act to identify and resolve potential barriers for prospective applicants, in particular shipyards with established apprenticeship training programs.

### 2013 Related Legislation

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**Comments**

SB 5858 would have changed the percentage of labor hours that must be performed by apprentices for new vessel construction projects over $2 million from at least 15 percent to at least 5 percent of the projects labor hours.

### 2014 Related Legislation

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**Comments**

SB 6186 would have changed the cost trigger for apprentice utilization requirements from $2 million to $4 million and the apprentice utilization rate from 15 to 12 percent of the labor hours.

### Additional Legislative Action

- SAO presented on the Vessel Construction Audit at a House Transportation committee work session held on January 21, 2013.
- SAO presented on the Vessel Construction Audit at a Senate Transportation committee work session held on February 26, 2013.
Enhancing Background Checks in Washington

Released May 7, 2013

About the Audit

The audit assessed whether automatic notification of new criminal events, commonly referred to as a rap back service, could enhance Washington’s current background check process, and if so, what are potential barriers to its implementation. The audit found that Washington’s background check process is falling behind other states because it does not provide an automatic notification if a person commits a criminal offense after passing a background check. This audit issued two recommendations directed to the Legislature.

SAO Recommendation to the Legislature

The Legislature should revise state law to expressly allow the Washington State Patrol and Federal Bureau of Investigation to retain civil fingerprints.

Implementation Status 2014:

- Related or no information
- Other circumstances
- Bills introduced on topic but not adopted
- Made different policy choice
- Addressed with different approach
- Adopted as presented

2014 Related Legislation

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No Related Legislation

SAO Recommendation to the Legislature

The Legislature should authorize and appropriate funding for the Washington State Patrol to implement a state and federal rap back service as part of background check processes.

Implementation Status 2014:

- Related or no information
- Other circumstances
- Bills introduced on topic but not adopted
- Made different policy choice
- Addressed with different approach
- Adopted as presented

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No Related Legislation

Additional Legislative Action

JLARC held an I-900 hearing on May 22, 2013.
**Developmental Disabilities in Washington: Increasing Access and Equality**

Released July 31, 2013

**About the Audit**

This audit assessed Washington’s Developmental Disabilities Program, evaluating it against national benchmarks, to determine whether Washington’s program provides effective services for people with developmental disabilities and the steps Washington can take to improve its Developmental Disabilities Program. The audit found those who receive services are generally pleased with their results, but many receive no services at all. Specifically, the audit reported that 15,000 people who have applied and are eligible receive no services from the state. This audit issued two recommendations directed to the Legislature.

**SAO Recommendation to the Legislature**

To better balance funding inequities and reduce the waitlist for services, we recommend that:

The Legislature set policy that directs the Developmental Disabilities Administration to develop strategies to maximize using cost-effective service options. Strategies may include:

- Reducing the number of Residential Habilitation Centers.
- Expanding crisis stabilization and emergency respite services in the community, relying less on Residential Habilitation Centers for these services.
- Providing resources to build peer support networks in the community to aid clients and their families with such needs as transportation, respite, and day activities.

**Implementation Status 2014:**

- Adopted as presented
- Addressed with different approach
- Made different policy choice
- Bills introduced on topic but not adopted
- Other circumstances
- Related or no information

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**Comments**

- SSB 6387 requires the Department of Social and Health Services (DSHS) to develop and implement a Medicaid program to replace the Individual and Family Services Program for Medicaid eligible clients no later than May 1, 2015. Additionally, DSHS must establish and maintain a service request list database for eligible individuals who have an assessed and unmet need for programs and services offered under a home and community-based waiver. If additional federal funds through the community first choice option are attained, DSHS should increase the number served on the Medicaid program by 4,000 and increase the number of clients receiving services on the home and community-based services basic plus waiver by at least 1,000.

- ESHB 2746 directs DSHS to refinance personal care services through a new Medicaid state plan option called Community First Choice Option. An additional federal match from the Community First Choice Option will partially cover service expansion for developmentally disabled clients and may cover further service expansion as directed in future legislative session(s).
To better balance funding inequities and reduce the waitlist for services, we recommend that:

- Set targets for how much to reduce the waitlist and by when.
- Direct the Administration to develop strategies and a budget proposal for prioritizing the people waiting for services by their needs. The proposal should include funding for case resource managers for people on the waitlist and for collecting information on the services people need, the level of support they require, and how urgent their needs are.

### 2014 Related Legislation

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#### Additional Legislative Action

- JLARC held an I-900 hearing on August 14, 2013.
- SAO presented this audit at a work session of the House Early Learning and Human Services Committee on November 22, 2013.
Previously Unresolved 2011 Recommendations

Department of Labor & Industries Prescription Drugs

Released May 4, 2011

About the Audit

This audit focused on the Department of Labor & Industries (L&I) prescription drug purchases for injured workers as part of the workers’ compensation program. The main question the audit sought to answer was whether the workers’ compensation program pays a reasonable and appropriate amount for prescription drugs. The audit found that L&I has attained a relatively high generic drug use rate, has limited the amount of drugs dispensed to injured workers, and is using many leading practices to contain drug costs. It also found that L&I has missed significant savings opportunities by not regularly updating its drug pricing schedule. The audit includes one recommendation to the Legislature to further reduce drug costs.

SAO Recommendation to the Legislature

We recommend the Legislature revise state law (RCW 69.41.190) to permit physicians to prescribe brand-name drugs only when generic therapeutic equivalents are not available. To accomplish this, lawmakers should modify the carve-out provision so it no longer exempts certain drug classes from the generic requirement, and should modify the “dispense-as-written” provision so it no longer prohibits pharmacists from substituting less expensive, therapeutically equivalent generics. If the law were changed, physicians who thought a brand-name drug was needed still could obtain prior approval from L&I to prescribe that drug. This recommendation would not result in therapeutic interchange (requiring physicians to prescribe drugs with different active ingredients).

Implementation Status 2014:

- Adopted as presented
- Addressed with different approach
- Made different policy choice
- Bills introduced on topic but not adopted
- Other circumstances
- Related or no information

2012 Related Legislation

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2013 Related Legislation

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2014 Related Legislation

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Comments

- HB 2326 and SB 6091 would have, among other things, required prescriptions for biological products to contain instructions on whether an interchangeable biological product may be substituted in its place. If the cost of the interchangeable biological product is less than the price of the prescribed product, the pharmacist must substitute the interchangeable biological product unless the patient requests the brand name product.
- HB 1528 and SB 5469 were reintroduced from the 2013 regular session and would have made similar changes to HB 2326.
2011 Recommendations

Crime Victims Programs, Department of Commerce, Department of Labor & Industries, Department of Social and Health Services

Released June 13, 2011

About the Audit

This audit reviewed the Crime Victims Compensation (CVC) program at the departments of Commerce, Labor & Industries (L&I), and Social and Health Services (DSHS). The audit found that the CVC program should be financially stable through the 2011-13 Biennium. The audit noted, however, a projected federal funding reduction in 2014 could increase future state funding requirements. The audit identified opportunities for the state to further reduce program expenses and improve efficiency by capping certain benefits and simplifying L&I’s benefit payment process. The audit also found significant overlap among the crime victims and domestic violence grant programs at Commerce and DSHS and determined that consolidating these programs at DSHS could improve efficiencies, reduce operating costs, and streamline services. The audit determined that it would be cost-prohibitive to merge the CVC program at L&I with the grant programs. This audit issued five recommendations to the Legislature.

SAO Recommendation to the Legislature

The Legislature should extend or make permanent the 2010 crime victims benefit reductions. Preserving current benefits will prevent the need for the state to increase spending by $3.6 million annually after July 2015. This action will be key to maintaining a financially stable program after the 2013-15 Biennium. Washington’s current maximum benefit of $50,000 is the ninth highest among the 50 states. The legislature should refine the new law so that all statutory references to benefit levels are consistent.

Implementation Status 2014:

- Adopted as presented
- Addressed with different approach
- Made different policy choice
- Bills introduced on topic but not adopted
- Other circumstances
- Related or no information

2012 Related Legislation

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2013 Related Legislation

No Related Legislation

2014 Related Legislation

No Related Legislation
The Legislature should authorize L&I’s director to reduce CVC benefit levels when funding levels fall short. Officials in three states said this authority was vital to effectively managing their programs. This would also maximize the number of crime victims who receive benefits.
The Legislature should cap the amount paid for sexual assault exams. Six of the eight states we reviewed set limits ranging from $400 to $800 per exam. Capping reimbursement amounts at $800 could save Washington’s program about $167,000 per year.

**2012 Related Legislation**

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**2013 Related Legislation**

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**2014 Related Legislation**

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The Legislature should amend the law to require local police departments, upon request, to submit crime reports to the CVC program within a specified time. Based on requirements in other states, we recommend a period between 10 or 14 days. This change could cut CVC administrative costs by about $49,000 annually and reduce the amount of time eligible victims must wait to receive benefits.

### Implementation Status 2014:

- **Adopted as presented**
- **Addressed with different approach**
- **Made different policy choice**
- **Bills introduced on topic but not adopted**
- **Other circumstances**
- **Related or no information**

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No Related Legislation

#### 2013 Related Legislation

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No Related Legislation
We recommend the Legislature consolidate the three grant programs we reviewed at Commerce and DSHS for victims of crime and domestic violence into a single program within DSHS. This merger would reduce program duplication and costs, better align program goals and agency missions, and unify budgeting and planning to maximize efficiency. It also could improve service delivery to providers by reducing the administrative burden of dealing with separate grant monitors and multiple sets of requirements.

### 2012 Related Legislation

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### 2013 Related Legislation

No Related Legislation

### 2014 Related Legislation

No Related Legislation

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**Implementation Status 2014:**

- Adopted as presented
- Addressed with different approach
- Made different policy choice
- Bills introduced on topic but not adopted
- Other circumstances
- Related or no information

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2014 JLARC Status Report - Implementation of SAO I-900 Recommendations to the Legislature
Previously Unresolved 2010 Recommendations

Mid-Columbia Public Utility Districts

Released May 19, 2010

About the Audit

This audit focused on three mid-Columbia public utility districts (PUDs) that own and operate hydroelectric facilities on the Columbia River. They are Chelan County PUD, Douglas County PUD, and Grant County PUD. The audit objectives covered the nine elements of a performance audit included in I-900 as well as five specific objectives related to providing citizens useful and accurate financial, performance, and policy information; achieving effective and efficient planning, designing, and construction management; efficiently soliciting, procuring, and managing contracts; effectively managing administrative operations; and efficiently managing operational expenses. An overarching recommendation from the audit includes one recommendation to the Legislature.

SAO Recommendation to the Legislature

We recommend the Legislature consider increasing the threshold for Chapter 54.04.070(2) RCW. Specifically: (2) Any work ordered by a district commission, the estimated cost of which is in excess of twenty-five thousand dollars, exclusive of sales tax, shall be by contract. However, a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, “prudent utility management” means performing work with regularly employed personnel utilizing material of a worth not exceeding one hundred fifty thousand dollars in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment purchased or acquired and used as one unit of a project. (Emphasis added in SAO report)

Implementation Status 2014:

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2011 Related Legislation

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