

State of Washington

Joint Legislative Audit and Review Committee (JLARC)

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

As required by Initiative 900

June 18, 2008

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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 2008.

Eight New SAO Performance Audits Available for Legislative Consideration in the 2008 Legislative Session

JLARC also released a report on this topic in 2007. At the time of that report, the State Auditor had released one performance audit, which assessed the State Motor Pool. That performance audit did not include any recommendations to the Legislature.

The State Auditor released eight additional audit reports later in 2007 and in early 2008. These I-900 audits were available for the Legislature's consideration during the 2008 Legislative Session. Each of the eight audits includes specific recommendations to the Legislature. This JLARC report provides information on the status of the Legislature's implementation of those specific recommendations.¹

Summary of Implementation of SAO Recommendations to the Legislature

Table 1 summarizes implementation of the recommendations to the Legislature in the eight SAO performance audits containing such recommendations. This reflects the Legislature's actions through the 2008 Legislative Session. 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. For example, one recommendation in this category directs the Legislature

¹ 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."

to change an agency’s administrative rule, which is not within the Legislature’s purview. There are also three instances where the auditees point out that the Legislature has already addressed the action that the audit recommends; and

- **No Information** – No related information was available about formal action by the Legislature.

Table 1 – Implementation of SAO I-900 Recommendations to the Legislature:
Status Following the 2008 Legislative Session

Current Implementation Status	# of Recommendations
Implemented:	
– Adopted as Presented	5
– Addressed with Different Approach	6
Legislature Made Different Policy Choice	2
Bills Introduced on Topic But Not Adopted	2
Other Circumstances	8
No Information	4
Total	27

During the 2007 interim and the 2008 Legislative Session, the Legislature also held numerous public hearings and work sessions on the SAO performance audits themselves or on the subject matter covered in the SAO performance audits. Table 2 summarizes this legislative activity:

Table 2 – Legislative Meeting Activity Directly or Indirectly
Related to the 2008 SAO Performance Audits*

Legislative Committee Meetings	Number of Meetings
Legislative public hearings or work sessions specifically on an SAO performance audit	14
Legislative public hearings or work sessions on the topic reviewed in an SAO performance audit	14
Total	28

*As of May 2008

Detail on Specific SAO Recommendations to the Legislature

What follows are details on the specific recommendations to the Legislature in the eight new SAO performance audits available for the Legislature's consideration in the 2008 Legislative Session. For each of the eight performance audits, this JLARC 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 additional legislative activity such as public hearings, work sessions, and related budget activity. The audit reports are 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.

**Department of Health:
Health Professions Quality Assurance (HPQA)
Released August 21, 2007**

About the audit:

In May 2006, the Governor asked the State Auditor’s Office to review the state’s processes for regulating health professionals and to recommend ways to improve the licensing and discipline of health care providers to protect patients. The Governor also asked the State Auditor to recommend ways to conduct national criminal background checks on health care license applicants and on existing practitioners. This audit includes seven recommendations to the Legislature.

SAO Recommendation to the Legislature:

The Legislature should amend the Written Operating Agreement statute between HPQA and the boards and commissions to include negotiated performance-based provisions. The amendment should include: (1) a requirement that the written agreements are reviewed annually and revised as needed to continually drive performance to protect the public’s interests; (2) set an effective date as a deadline for these agreements to be revised and to become operational; (3) require the results of the key performance measures (as appropriate to protect confidentiality) be posted on the Web sites of HPQA and each board and commission.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 2906	✓				
SHB 2907	✓	✓			
SSB 6458	✓	✓	✓		
SSB 6506	✓	✓			

Comments:

Three of the above bills propose changes to the Written Operating Agreement statute. However, the proposed changes do not mirror exactly the changes recommended by the SAO audit. The fourth, HB 2906, and the original version of SB 6506 create a new State Medical Board for Safety and Quality. These two bills include a section regarding establishment and annual review of performance measures. None of these bills passed the Legislature.

As additional information, 4SHB 1103, which the Legislature enacted, directs the Medical Quality Assurance Commission and the Nursing Care Quality Assurance Commission to conduct pilot projects to evaluate the effect of granting these commissions additional authority over budget development, spending, and staffing. The pilot projects include development of performance-based expectations, including identification of key performance measures. The Secretary of Health and the Commissions must report to the Legislature and the Governor on the results of these pilot projects by December 2013.

**Department of Health:
Health Professions Quality Assurance (HPQA)
Released August 21, 2007**

SAO Recommendation to the Legislature:

The Legislature should eliminate the registered counselor credential as it currently exists.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
2SHB 2674	✓	✓	✓	✓	✓
SSB 6456	✓	✓	✓		

Comments:

2SHB 2674 eliminates the registered counselor credential as of July 1, 2010. The health profession of registered counselors is divided into eight new categories of fully-credentialed and pre-credential status health professions.

SAO Recommendation to the Legislature:

For all registered professions, the Legislature should review and modify as needed existing laws that allow individuals to be credentialed with no educational or experience requirements.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
No related legislation.					

**Department of Health:
Health Professions Quality Assurance (HPQA)
Released August 21, 2007**

SAO Recommendation to the Legislature:

The Legislature should give the Department of Health the statutory authority to access Washington State Patrol criminal background information, particularly non-conviction data.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 2883	✓				
SSB 6458	✓	✓	✓		
4SHB 1103	✓	✓	✓	✓	✓

Comments:

4SHB 1103 provides the Secretary of Health with the authority to receive criminal history record information that includes nonconviction data for any purpose associated with investigation or licensing, and to investigate the complete criminal history and pending charges of all applicants and license holders. The Secretary must establish requirements for each applicant for an initial license to obtain a state background check through the State Patrol prior to the issuance of any license.

**Department of Health:
Health Professions Quality Assurance (HPQA)
Released August 21, 2007**

SAO Recommendation to the Legislature:

The Legislature should give the Department of Health the statutory authority and associated resources to access the FBI database for national background checks and require HPQA to conduct national background checks on all credential holders.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 2883	✓				
SSB 6458	✓	✓	✓		
4SHB 1103	✓	✓	✓	✓	✓

Comments:

4SHB 1103 requires the Secretary of Health to specify those situations where an applicant for an initial license must obtain an electronic fingerprint-based national background check through the State Patrol and the Federal Bureau of Investigation. In addition to these background checks, the bill provides that an investigation may include an examination of state and national criminal identification data.

**Department of Health:
Health Professions Quality Assurance (HPQA)
Released August 21, 2007**

SAO Recommendation to the Legislature:

The Legislature should provide additional tools for obtaining records, documents, and other evidence. These tools could include authorization to issue citations and fines for failure to provide documents in a timely manner.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 2883	✓				
SSB 6458	✓	✓	✓		
4SHB 1103	✓	✓	✓	✓	✓

Comments:

4SHB 1103 requires licensees to produce documents, records, or other items within 21 calendar days of service of a disciplining authority's request. The licensee may request a 30-day time extension, for good cause. If the licensee fails to produce the documents requested, the disciplining authority may issue a written citation and assess a fine.

**Department of Health:
Health Professions Quality Assurance (HPQA)
Released August 21, 2007**

SAO Recommendation to the Legislature:

The Legislature should adopt a law (1) requiring a deadline by which Secretary of Health guidelines must be adopted; (2) authorizing the Secretary to discipline all professions for misconduct, while the boards and commissions continue to discipline standard-of-care violations; and (3) indicate that any board or commission not adopting sanction guidelines by the deadline could be subject to losing its disciplinary authority and becoming an advisory committee.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
4SHB 1103	✓	✓	✓	✓	✓

Comments:

4SHB 1103 requires the Secretary of Health to serve as the sole disciplining authority for complaints solely alleging that a license holder has committed acts of unprofessional conduct involving sexual misconduct. The boards and commissions must review all cases and refer to the Secretary sexual misconduct cases that do not involve clinical expertise or standard-of-care issues.

With regard to sanctioning guidelines, 4SHB 1103 directs each of the disciplining authorities to appoint a representative to review the Secretary's sanctioning guidelines, as well as guidelines adopted by any of the boards and commissions, and to collaborate to develop a schedule that defines appropriate ranges of sanctions for license holders who commit unprofessional conduct. The disciplinary authorities must submit the proposed schedule and recommendations to the Secretary by November 15, 2008. The Secretary must adopt rules establishing a uniform sanctioning schedule that is consistent with the proposed schedule, to take effect no later than January 1, 2009. The schedule will be applied to all disciplinary actions commenced after January 1, 2009.

**Department of Health:
Health Professions Quality Assurance (HPQA)
Released August 21, 2007**

Additional Legislative Action:

- House Appropriations Subcommittee on General Government & Audit Review public hearing: I-900 Performance Audit on the Department of Health's Licensing of Health Professions (9/12/2007);
- JLARC I-900 public hearing (9/26/2007);
- Senate Health & Long-Term Care Committee public hearing: Report on State Auditor's Audit of the Department of Health's Health Care Professions Licensing Program (9/27/2007);
- House Health Care & Wellness Committee work session: Report on State Auditor's Audit of the Department of Health's Health Care Professions Licensing Program (9/28/2007);
- House Health Care & Wellness Committee work session: Registered Counselors Work Group report (11/30/2007);
- House Appropriations Subcommittee on General Government & Audit Review work session: Performance Audit updates (Department of General Administration, Department of Health, Educational Service Districts) 5/22/08;
- The Supplemental Operating Budget (ESHB 2687) includes specific funding for implementation of 4SHB 1103 (health professions);
- The Supplemental Operating Budget (ESHB 2687) includes specific funding for implementation of SHB 2674 (counselor credentialing);
- The Supplemental Operating Budget (ESHB 2687) continues extra funding for an additional year to address a backlog of complaints against regulated health care professionals;
- EHB 3381 (consumer protection – program implementation – fees) includes two sections allowing the Department of Health to establish fees related to health professions background checks (referencing Section 7 of 4SHB 1103) and related to health profession application and renewal fees (referencing implementation of the administrative and disciplinary provisions of 4SHB 1103).

Washington State Department of Transportation (WSDOT)
Washington State Ferries System
 Released September 4, 2007

About the audit:

This audit focuses on two audit areas related to the Washington State Ferry System: 1) the functions and activities performed by the ferry system's Maintenance Department, specifically the Eagle Harbor Repair Facility, which bears the main responsibility for vessel maintenance and preservation; and 2) the capacity and efficiency of ferry routes, in order to identify opportunities for cost savings related to fuel and labor. This audit includes two recommendations to the Legislature.

SAO Recommendation to the Legislature:

The Legislature should eliminate the no-priority boarding policy for Eagle Harbor staff, if WSDOT fails to make appropriate modifications to WAC 468-300-700.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
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No related legislation.

Comments:

In its response to this recommendation, WSDOT indicates that the existing policy of not providing priority boarding for maintenance personnel in all situations is a sound business practice. WSDOT reports that paying customers have little patience when Ferries Division employees receive priority boarding and that employees have relatively easy access to vessels in off-peak periods. WSDOT notes that, in urgent situations, priority boarding is provided – based upon the merit of that specific situation. As part of WSDOT's April 22, 2008, Government Management Accountability and Performance reporting on the status of implementation of SAO recommendations, the agency reported that it has fully evaluated areas for potential efficiencies recommended by this audit regarding vessel boarding policies for Eagle Harbor staff and has determined that they are not cost-effective at this time.

Washington State Department of Transportation (WSDOT)
Washington State Ferries System
 Released September 4, 2007

SAO Recommendation to the Legislature:

The Legislature should change WSF's service schedule to reduce operational losses, if WSF, WSDOT, the Washington State Transportation Commission, and the Governor's Office are unable to do so.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
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No related legislation.

Comments:

In its response to this recommendation, WSDOT reports that it is engaged with the Legislature as part of Phase II of the Joint Transportation Committee's Ferry Financing Study to develop ways of attracting more ridership to less utilized off-peak sailings. The Department notes that, if successful, this would enable more revenue to be generated by off-peak trips and still maintain necessary connections for off-peak riders.

At the Legislature's direction, the Joint Transportation Committee is conducting a set of ferry financing studies. The JTC completed the first study phase in January 2007, and the Legislature enacted recommendations from this study in budget provisos and ESHB 2358 in 2007. The JTC provided a status report on phase two of the study in December 2007, and the Legislature enacted recommendations from this phase in SSB 6932 in 2008. The next phase of the study is scheduled for completion in January 2009. The JTC review will include a review of WSDOT's revised capital plan for the state ferry system. The December 2007 status report indicates that this revised capital plan will adhere to a revised ridership demand forecast, vehicle level of service standards, operational strategies, and terminal design standards. The capital plan is to be accompanied by a financing plan to sustain future ferry operations and capital requirements.

Additional Legislative Action:

- JLARC I-900 public hearing (9/26/2007);
- House Transportation Committee work session: Ferry Finance Study – Status and summary of findings to date (1/23/2008);
- Senate Transportation Committee work session: Washington state ferries (1/31/2008);
- The Joint Transportation Committee meeting agendas frequently include information on the JTC ferry studies; for example, JTC meetings on 1/10/2008, 3/11/2008, and 4/8/2008.

Educational Service Districts (ESDs)

Released September 18, 2007

About the audit:

This audit addresses the following topics with regard to Educational Service Districts: operations costs; the contracting process and monitoring of contracts; and compliance of operations with statutory authority. The audit also compares Washington ESDs with similar organizations in other states, and examines best practices for providing cost-effective services and programs to school districts. This audit includes four recommendations to the Legislature.

SAO Recommendation to the Legislature:

The Legislature should modify Washington Administrative Code 180-22-150, so that all ESDs fall within its square mileage requirements.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
Not accomplished through legislation.					

Comments:

Note that the Legislature is responsible for making changes to state statute, while agencies are responsible for making changes to administrative rules. This recommendation is more appropriately addressed to the state Board of Education.

SAO Recommendation to the Legislature:

The Legislature should remove ESD Superintendents' responsibility from the regulatory functions of RCW 28A.310.260 in relation to member school district staff code of conduct violations.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
No related legislation.					

Educational Service Districts (ESDs)

Released September 18, 2007

SAO Recommendation to the Legislature:

The Legislature should modify the controlling statutory language to eliminate the Boundary Committees and the ESD Superintendents' role in resolving boundary disputes.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
2SHB 2635	✓	✓	✓	✓	✓

Comments:

The Legislature examined the process for making changes to school district boundaries in proposed legislation in 2007, through a House Education Committee workgroup in the 2007 interim, and with legislation enacted in 2008. The interim workgroup considered this SAO audit recommendation as part of its November 2007 meeting. The bill enacted makes changes to the process and to the regional committees but does not eliminate the role of the committees and the ESD Superintendents as recommended in the SAO audit.

SAO Recommendation to the Legislature:

Washington policy-makers should undertake an evaluation or performance audit of the state's special education delivery system in an effort to increase efficiency and use existing infrastructure.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
Previous legislative mandates for studies on special education.					

Comments:

The Legislature recently received studies in this subject area, for example, the K-12 Special Education performance audit conducted by JLARC in 2001 (Report 01-11) and the Special Education Excess Cost Accounting and Reporting Requirements study conducted by JLARC in 2006 (Report 06-3).

Educational Service Districts (ESDs)

Released September 18, 2007

Additional Legislative Action:

- Audit discussed as part of Senate Education Committee meeting at ESD 112 in Vancouver (9/20/2007);
- House Appropriations Subcommittee on General Government & Audit Review public hearing: State Auditor's Performance Audit on Educational Service Districts (9/28/07);
- JLARC I-900 public hearing (10/22/2007);
- House Education Committee School District Boundary Workgroup discussion of recommendation on boundary committees and boundary disputes (11/28/2007);
- House Appropriations Subcommittee on General Government & Audit Review work session: Performance Audit updates (Department of General Administration, Department of Health, Educational Service Districts) 5/22/08;
- 2SHB 2635 (school districts – boundaries and organization) contains a null and void clause. The bill would have been null and void if not specifically referenced in the Supplemental Operating Budget (ESHB 2687). The bill *is* referenced in the budget;
- The SAO Educational Service District audit includes a recommendation to the ESDs to implement a strategy to receive discounts for telephone services, Internet access, and internal connections from the federal telecommunications discount program known as "E-rate." In the Supplemental Operating Budget (ESHB 2687), the Legislature directs the Office of the Superintendent of Public Instruction (OSPI), in collaboration with the ESDs, to coordinate a system of outreach to school districts not currently maximizing their eligibility for federal E-rate funding through the Schools and Libraries Program administered by the Federal Communications Commission. By December 2008, OSPI is to report to the fiscal committees of the Legislature identifying school districts that were eligible but did not apply for E-rate funding for the last two years and an estimate of the amounts for which they were eligible in those years. The report to the fiscal committees is also to include recommendations for following-up on the findings relative to the E-rate program contained in the SAO Educational Service District performance audit.

Sound Transit Link Light Rail Project

Released October 4, 2007

About the audit:

This audit examines whether Sound Transit is effectively planning, designing, and managing its Link Light Rail Project. This audit includes one recommendation to the Legislature.

SAO Recommendation to the Legislature:

The Legislature should modify current contracting requirements to allow performance-based contracting as appropriate.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
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No related legislation.

Comments:

In its response to this recommendation, Sound Transit reports that, pursuant to its enabling statute RCW 81.112.070, Sound Transit already has the authority to use various project delivery methods, including negotiated procurements.

Additional Legislative Action:

- JLARC I-900 public hearing (10/22/2007);
- House Transportation Committee work session: Sound Transit update (1/16/2008);
- Joint Transportation Committee meeting: Agenda items included Sound Transit Planning Update and Coordination – Sound Transit, WSDOT, and King County (5/13/2008).

**Washington State Department of Transportation (WSDOT):
Managing and Reducing Congestion in Puget Sound
Released October 10, 2007**

About the audit:

This audit examines 1) the effectiveness of WSDOT’s current highway investments and infrastructure utilizations given current and projected highway user volume over the next five years; and 2) the financial and non-financial costs of any recommended improvements over the next five years. The audit evaluates how current highway investments and infrastructure and possible highway investments and infrastructure can: minimize congestion for the greatest possible majority of highway users; maximize vehicle throughput; and maximize highway user throughput. This audit includes four recommendations to the Legislature.

SAO Recommendation to the Legislature:

The Legislature should choose/identify projects based on congestion reduction rather than other agendas.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 3290	✓				
SB 6176	✓				

Comments:

The 2008 Conference Transportation Budget highlights indicate that the supplemental budget “preserves the priorities established by the 2003 and 2005 transportation packages.” The state’s 2007-09 Transportation Budget (2008 Supplemental: ESHB 2878) appropriates \$2.452 billion to the Department of Transportation in the category of Mobility Improvements – 41 percent of WSDOT’s combined operating and capital budget. The two bills listed here offered changes to the state transportation system policy goals (RCW 47.04.280). However, neither proposal specifically elevates congestion relief above other goals such as safety.

**Washington State Department of Transportation (WSDOT):
Managing and Reducing Congestion in Puget Sound
Released October 10, 2007**

SAO Recommendation to the Legislature:

The Legislature should implement new legislation to facilitate the expansion of road pricing should WSDOT's HOT lane pilot be successful.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
E2SHB 1773	✓	✓	✓	✓	✓
ESHB 3096	✓	✓	✓	✓	✓
SSB 6355	✓	✓			

Comments:

(1) The SR-167 High Occupancy Toll (HOT) lane pilot project began operation in Spring 2008. It is too early to know at this time if the project is successful. (2) The Office of Financial Management noted in its audit response that the 2008 Legislature was expected to adopt a comprehensive tolling policy bill. The Legislature has done so with the passage of E2SHB 1773. In this legislation, the Legislature declares it is the policy of the state to use tolling to provide a source of transportation funding and to encourage effective use of the transportation system. The bill also designates the Legislature as the entity with the authority to impose tolls on an eligible toll facility, unless that authority is otherwise delegated. In the future, the Legislature may choose to retain the SR-167 project and consider other toll projects as it deems appropriate. The tolling-related provisions of ESHB 3096 are specific to the State Highway 520 bridge and the Interstate 90 floating bridge.

**Washington State Department of Transportation (WSDOT):
Managing and Reducing Congestion in Puget Sound
Released October 10, 2007**

SAO Recommendation to the Legislature:

The Legislature should empower a single body – either WSDOT or a new regional transportation entity for the Puget Sound Region – to allow for a more integrated approach to planning for congestion reduction.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 3311	✓				
ESSB 6771	✓	✓	✓		
SB 6772	✓				

Comments:

The Legislature explored this concept with legislation in 2008 as it has in previous sessions; however, the bills did not pass the Legislature.

**Washington State Department of Transportation (WSDOT):
Managing and Reducing Congestion in Puget Sound
Released October 10, 2007**

SAO Recommendation to the Legislature:

The Legislature should review whether new legislation is required for public private partnerships for transportation infrastructure and implement any necessary changes.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
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No related legislation.

Comments:

The State Auditor report indicates that Washington has not taken advantage of private sector financing options. The discussion in the report focuses on toll-based initiatives but also mentions a few other options. In its response to this recommendation, WSDOT indicates that it does not believe changes in the public/private partnership law are required to continue exploring toll-based or concession-based private financing options on a case-by-case basis. In a January 2007 report to the Legislature and Governor, the Transportation Commission does suggest some statutory changes to the Transportation Innovative Partnership Program. As mentioned in the comment on the HOT lane pilot project, E2SHB 1773 enacted in 2008 designates the Legislature as the entity with the authority to impose tolls on an eligible toll facility, unless that authority is otherwise delegated.

**Washington State Department of Transportation (WSDOT):
Managing and Reducing Congestion in Puget Sound
Released October 10, 2007**

Additional Legislative Action:

- JLARC I-900 public hearing (10/22/2007);
- House Transportation Committee work session: Tolling 101 (1/16/2008);
- Senate Transportation Committee work session: Concepts, coordination, and considerations of tolling (1/17/2008);
- House Transportation Committee work session: Congestion relief (1/31/2008);
- Senate Transportation Committee work session: Topics included Office of Financial Management (OFM) Attainment Report; WSDOT state audits review, and WSDOT report on I-5 pavement reconstruction and operational improvements projects (2/4/2008). The OFM Attainment Report provides a high-level assessment of the performance of the overall transportation system and of the state's progress in achieving the transportation goals established by the Legislature in 2007: Safety; Preservation; Mobility (includes congestion); Environment; and Stewardship;
- Joint Transportation Committee meeting agenda: SR 167 High Occupancy Toll (HOT) Lanes (4/8/2008);
- Joint Transportation Committee meeting agenda: SR 520 – Mediation, High Capacity Transit, Tolling Implementation Committee, and Urban Partnership (5/13/2008).

**Washington State Department of Transportation (WSDOT):
Administration and Overhead
Released November 15, 2007**

About the audit:

This audit focuses on six operational areas within the Department of Transportation: 1) Human Resources; 2) expenditure accounting; 3) payroll; 4) cash receipts; 5) internal audit; and 6) ONE-DOT. ONE-DOT discusses more fully integrating the business functions of the ferry system into those of the Department. This audit includes two recommendations to the Legislature.

SAO Recommendation to the Legislature:

The Legislature should change the current payroll structure to include 26 annual pay periods and should eliminate midperiod personnel changes by allowing changes only at the beginning of a pay period.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
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No related legislation.

SAO Recommendation to the Legislature:

The Legislature should change WSDOT's internal audit reporting structure.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
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No related legislation.

Comments:

In the main text of the audit, this recommendation is directed to WSDOT. However, in Appendix D, the audit report identifies this as a recommendation for legislative action. In response to this recommendation, WSDOT and the Office of Financial Management indicated that they will convene a work group to explore alternate reporting structures, with completion by June 2008.

**Washington State Department of Transportation (WSDOT):
Administration and Overhead
Released November 15, 2007**

Additional Legislative Action:

- JLARC I-900 public hearing (12/5/2007);
- As part of its work on adoption of the 2008 Supplemental Transportation Budget (ESHB 2878), the House considered adoption of amendment #1308. The amendment directed the Department of Transportation to implement all recommendations identified by the State Auditor in this report, then provided that all cost savings achieved from implementing these recommendations must be directed to fund a specific project on Highway 2. The amendment failed.

Port of Seattle Construction Management

Released December 20, 2007

About the audit:

The objectives of this audit are 1) to determine if the Port of Seattle effectively planned, designed, and managed its construction projects, including its Third Runway Project, in order to a) minimize all costs associated with its construction projects, including but not limited to engineering, land acquisition, environmental review, permitting, and construction; and b) minimize unnecessary change orders and delays that result in extra costs; and 2) if not, determine the resulting costs and what can be done to reduce them. This audit includes two recommendations to the Legislature. The discussion below of the first of these recommendations is divided into five parts, as the overall recommendation advised changes to five specific statutes.

SAO Five-Part Recommendation to the Legislature:

The Legislature should clarify the RCW with respect to competition required in procurements that result in expenditures of public funds. With respect to competition requirements in general, if it has been the intent of the Legislature that state and municipal governments should not have wide latitude to award sole source contracts for goods and services, the Legislature should revise the **five specific statutes** listed below. Alternatively, if it has been the intent of the Legislature that state and municipal governments should have wide latitude to award sole-source contracts for goods and services, the Legislature should reevaluate that position and enact new (or clarify existing) statutes requiring competition for the procurement of goods and services – including consulting and other services (including Architectural/Engineering services).

SAO Recommendation to the Legislature (Part 1 of 5):

Contracts for labor and material – Revise RCW 53.08.120 to make clear that its competition requirements apply to consulting and other services (except for contracts for Architectural/Engineering services, which are governed by the modified competition requirements in Chapter 39.80 RCW).

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 2928	✓				
HB 2947	✓				
2SHB 3274	✓	✓	✓	✓	✓
ESSB 6235	✓	✓	✓		

Comments:

2SHB 3274 amends RCW 53.08.120 to provide that all contracts for work meeting the definition of “public work” in RCW 39.04.010(4), the estimated cost of which exceeds \$200,000, must be awarded using a competitive bid process. The legislation also creates a new chapter in Title 53 (Port Districts) directing a policy of open competition for personal service contracts entered into by port districts. The definition of “personal service” in this new chapter includes professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement (distinct from the public works or purchased services statutes).

Port of Seattle Construction Management

Released December 20, 2007

SAO Recommendation to the Legislature (Part 2 of 5):

Purchase contract process – Revise RCW 39.04.190 to make it clear that port district purchases of consulting and other services (except for contracts for Architectural/Engineering services, which are governed by the modified competition requirements in Chapter 39.80 RCW) are not exempt from that section’s requirements “to assure that a competitive price is established and for awarding the contracts for the purchase of any materials, equipment, supplies, or services to the lowest responsible bidder.”

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 2928	✓				
HB 2947	✓				
2SHB 3274	✓	✓	✓	✓	✓
ESSB 6235	✓	✓	✓		

Comments:

The original version of SB 6235 amends RCW 39.04.190. Later versions and other bills approached the concept of competitive pricing for port district consulting and other services by amending different statutes or by creating new sections of law. 2SHB 3274 creates a new chapter in Title 53 (Port Districts) directing a policy of open competition for personal service contracts entered into by port districts.

SAO Recommendation to the Legislature (Part 3 of 5):

Contracts requiring competitive bidding – Violations by municipal officer – Penalties – Revise RCW 39.30.020 to make clear it applies to the procurement of consulting and other services (including Architectural/Engineering services).

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
2SHB 3274	✓	✓	✓	✓	✓
ESSB 6235	✓	✓	✓		

Comments:

2SHB 3274 amends RCW 39.30.020 expressly to include procurement procedures for consulting, architectural, engineering, or other services.

Port of Seattle Construction Management

Released December 20, 2007

SAO Recommendation to the Legislature (Part 4 of 5):

Public works definitions – Revise RCW 39.04.010 to make clear that the definition of “public work” includes consulting and other services (including Architectural/Engineering services) that are related to construction, alteration, repair, or improvements executed at the cost of the state or of any municipality.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 2928	✓				
HB 2947	✓				
2SHB 3274	✓	✓	✓	✓	✓
ESSB 6235	✓	✓	✓		

Comments:

The original version of SB 6235 includes the SAO recommended changes to the definition of “public work.” Other bills amend RCW 39.04.010 by expressly including port districts as part of the definition of “municipality.” 2SHB 3274 makes this latter change and creates a new chapter in Title 53 (Port Districts) directing a policy of open competition for personal service contracts entered into by port districts. The new chapter includes its own definition section.

Port of Seattle Construction Management

Released December 20, 2007

SAO Recommendation to the Legislature (Part 5 of 5):

Delegation of powers to managing official or port district – Revise RCW 53.12.270 to make clear that employees of port districts may not waive established Port policies related to competition in the procurement of goods and services without notifying or seeking the approval of the elected commission.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 2927	✓				
HB 2947	✓				
2SHB 3274	✓	✓	✓	✓	✓
ESSB 6235	✓	✓	✓		

Comments:

HB 2927 and HB 2947 include the SAO recommended changes to this statute. The final version of 2SHB 3274 amends RCW 53.12.270 to provide that a port commission must establish, by resolution, policies to comply with RCW 39.04.280 (public works competitive bidding requirements – exemptions) that set forth the conditions by which competitive bidding requirements for public works contracts may be waived.

Port of Seattle Construction Management

Released December 20, 2007

SAO Recommendation to the Legislature:

The Legislature should consider revising RCW 39.04.155, small works roster contract procedures – limited public works process. The Legislature should remove the phrase “other than a port district” from paragraph (c).

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
HB 2928	✓				
HB 2947	✓				
2SHB 3274	✓	✓	✓	✓	✓
ESSB 6235	✓	✓	✓		

Comments:

2SHB 3274 removes the phrase “other than a port district” from RCW 39.04.155(2)(c), as do the other bills above.

Additional Legislative Action:

- JLARC I-900 public hearing (1/9/2008);
- House Appropriations Subcommittee on General Government & Audit Review work session: Port of Seattle performance audit (1/31/2008);
- The Supplemental Operating Budget (ESHB 2687) includes funding provisos for the Office of the Attorney General and the Municipal Research Council for the implementation of 2SHB 3274 (port district contracting);
- The Legislature considered, but did not enact, bills dealing with limiting or otherwise adjusting the taxing authority of port districts in counties with large populations (HB 3155, SB 6281, SB 6290).

**Washington State Department of Transportation (WSDOT):
Highway Maintenance and Construction Management
Released January 10, 2008**

About the audit:

This audit examines 1) the Department of Transportation’s consumable inventory and supply management system; 2) the Department’s procurement strategy for hot mix asphalt; 3) the efficiency of the Department’s maintenance operations; and 4) the Department’s highway project delivery and project management. This audit includes one recommendation to the Legislature.

SAO Recommendation to the Legislature:

The Legislature should modify current contracting requirements to allow performance-based contracting as appropriate.

Implementation status:

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

Related Legislation:

Bill #	Bill Introduced	Out of Policy Committee	Out of House of Origin	Passed Legislature	Signed by Governor
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No related legislation.

Comments:

In its response to this recommendation, WSDOT reports that the Legislature has provided the latitude necessary to use the appropriate contracting strategies for projects. The Office of Financial Management indicates in its response that it believes WSDOT has the statutory authority to use these different contracting approaches as particular circumstances warrant.

Additional Legislative Action:

- JLARC I-900 public hearing (2/20/2008);
- As part of its work on adoption of the 2008 Supplemental Transportation Budget (ESHB 2878), the House considered adoption of amendment #1311. The amendment directed the Department of Transportation to implement all recommendations identified by the State Auditor in this report, then provided that all cost savings achieved from implementing these recommendations must be directed to fund additional projects on the North Spokane Corridor. The amendment failed.

