STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 646 By: Jolley of the Senate

and

Quinn of the House

COMMITTEE SUBSTITUTE

[public finance - creating the Recovery Audits for Government Overpayments of Tax Dollars Act - codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.201 of Title 62, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Recovery Audits for Government Overpayments of Tax Dollars Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.202 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in the Recovery Audits for Government Overpayments of Tax Dollars Act:

1. "Auditor" means the State Auditor and Inspector;

2. "Consultant" means a private contractor with recovery audit expertise;

3. "Director" means the Director of the Office of Management and Enterprise Services;

4. "Overpayment" includes:

a. failure to meet eligibility requirements,

b. duplicate payments,

c. invoice and pricing errors,

d. failure to apply discounts, rebates, or other allowances, and

e. failure to comply with purchasing agreements;

5. "Recovery audit" means a financial management technique used to identify overpayments made by a state agency with respect to individuals, vendors, and other entities in connection with a payment activity; and

6. "State agency" means a department, office, board, commission, bureau, division, institution, or institution of higher education, including individual state agencies and programs, whether or not those programs and activities cross agency lines and all elective offices in the executive and legislative branches of government.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.203 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The State Auditor and Inspector may contract with private consultants to conduct recovery audits of payments made by state agencies to individuals, vendors, and other entities.

B. A contract under this section:

1. May provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered as a result of the consultant's audit activities;

2. May permit or require the consultant to pursue a judicial action in a court inside or outside this state to recover an overpaid amount; and

3. To allow time for the performance of existing state payment auditing procedures, may not allow a recovery audit of a payment during the ninety-day period after the date the payment was made.

C. The Auditor or a state agency whose payments are being audited shall provide a person acting under a contract authorized by this section with any confidential information in the custody of the Auditor or state agency that is necessary for the performance of the audit or the recovery audit of an overpayment, to the extent the Auditor and state agency are not prohibited from sharing the information under an agreement with another state or the federal

government. A person acting under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the Auditor or applicable state agency or an employee of the Auditor or applicable state agency. A person acting under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of this subsection shall be guilty of a misdemeanor.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.204 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The State Auditor and Inspector may require that recovery audits be performed on the payments to individuals, vendors, and other entities made by each state agency that has total expenditures during a state fiscal year in an amount that exceeds Twenty-five Million Dollars ($25,000,000.00). Each state agency described by this subsection shall provide the recovery audit consultant with all information necessary for the audit.

B. In addition, the Auditor may require recovery audits for any state agency that receives an audit finding by the Auditor for internal control weaknesses concerning agency payments and contracts. Each state agency described by this subsection shall

provide the recovery audit consultant with all information necessary for the audit.

C. The Auditor may exempt from mandatory recovery audit process a state agency that has a low proportion of its expenditures made to individuals, vendors, and other entities, according to criteria the Auditor adopts after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

D. The Auditor shall provide the Director of the Office of Management and Enterprise Services, the Senate Appropriations Committee, and the House of Representatives Appropriations and Budget Committee with a report by December 31 of each year detailing any exemptions from subsections A and B of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.205 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The State Auditor and Inspector shall adopt reasonable compensation for services provided under recovery audit contracts based on a specified percentage of the total amount recovered because of a consultant's audit activities.

B. A state agency shall expend or return to the federal government any federal money that is recovered through a recovery audit conducted under the Recovery Audits for Government Overpayments of Tax Dollars Act. The state agency shall expend or

return the federal money in accordance with the rules of the federal program through which the agency received the federal money.

C. In calculating overpayments, sampling to calculate an average overpayment rate and extrapolation of such rate to any payee or group of payees shall be prohibited.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.206 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The State Auditor and Inspector shall provide copies, including electronic form copies, of any reports received from a consultant contracting under the Recovery Audits for Government Overpayments of Tax Dollars Act to:

1. The Governor;

2. The Director of the Office of Management and Enterprise Services; and

3. The House and Senate Appropriations and Budget Committees Chairs.

B. The Auditor shall provide the copies required by subsection A of this section not later than seven (7) business days after the date the Auditor receives the consultant's report.

C. Not later than December 31 of each year, the Auditor shall issue a report to the Legislature summarizing the contents of all reports received under the Recovery Audits for Government Overpayments of Tax Dollars Act during the past fiscal year. This

report shall also be posted on the Office of Management and Enterprise Services website.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.207 of Title 62, unless there is created a duplication in numbering, reads as follows:

The State Auditor and Inspector shall adopt rules necessary to implement the Recovery Audits for Government Overpayments of Tax Dollars Act in a timely manner so that the Auditor may begin contracting with consultants under this act not later than January 1, 2014.

SECTION 8. This act shall become effective November 1, 2013.

54-1-7906 CJB 04/11/13