

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2366

60th Legislature
2007 Regular Session

Passed by the House March 14, 2007
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 13, 2007
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2366** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2366

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Capital Budget (originally sponsored by Representatives Dunshee, Jarrett, Ormsby, Hunter and Kenney)

READ FIRST TIME 3/5/07.

1 AN ACT Relating to accountability, efficiency, and oversight of
2 state facility planning and management; amending RCW 43.82.150 and
3 43.82.010; adding new sections to chapter 43.82 RCW; adding a new
4 section to chapter 39.35B RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the capital stock
7 of facilities owned and leased by state agencies represents a
8 significant financial investment by the citizens of the state of
9 Washington. Capital construction projects funded in the state's
10 capital budget require diligent analysis and approval by the governor
11 and the legislature. In some cases, long-term leases obligate state
12 agencies to a larger financial commitment than some capital
13 construction projects without a comparable level of diligence. State
14 facility analysis and portfolio management can be strengthened through
15 greater oversight and support from the office of financial management
16 and the legislature and with input from stakeholders.

17 The legislature finds that the state lacks specific policies and
18 standards on conducting life-cycle cost analysis to determine the
19 cost-effectiveness of owning or leasing state facilities and lacks

1 clear guidance on when and how to use it. Further, there is limited
2 oversight and review of the results of life-cycle cost analyses in the
3 capital project review process. Unless decision makers are provided a
4 thorough economic analysis, they cannot identify the most
5 cost-effective alternative or identify opportunities for improving the
6 cost-effectiveness of state facility alternatives.

7 The legislature finds that the statewide accounting system limits
8 the ability of the office of financial management and the legislature
9 to analyze agency expenditures that include only leases for land,
10 buildings, and structures. Additionally, other statewide data systems
11 that track state-owned and leased facility information are limited,
12 onerous, and inflexible.

13 Therefore, it is the intent of the legislature to strengthen the
14 office of financial management's oversight role in state facility
15 analysis and decision making. Further, it is the intent of the
16 legislature to support the office of financial management's and the
17 department of general administration's need for technical expertise and
18 data systems to conduct thorough analysis, long-term planning, and
19 state facility portfolio management by providing adequate resources in
20 the capital and operating budgets.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.82 RCW
22 to read as follows:

23 The office of financial management, in consultation with the
24 appropriate committees of the legislature, shall prepare an
25 implementation plan to improve the oversight of real estate procurement
26 and management practices. The plan must identify specific steps that
27 state government can take to better manage the acquisition, ownership,
28 lease, and disposition of office and warehouse space so that state
29 services are delivered in an effective manner. The plan shall be
30 submitted to the governor and the appropriate committees of the
31 legislature by October 1, 2007.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.35B RCW
33 to read as follows:

34 The office of financial management shall:

35 (1) Design and implement a cost-effective life-cycle cost model by

1 October 1, 2008, based on the work completed by the joint legislative
2 audit and review committee in January 2007 and in consultation with
3 legislative fiscal committees;

4 (2) Deploy the life-cycle cost model for use by state agencies once
5 completed and tested;

6 (3) Update the life-cycle cost model periodically in consultation
7 with legislative fiscal committees;

8 (4) Establish clear policies, standards, and procedures regarding
9 the use of life-cycle cost analysis by state agencies including:

10 (a) When state agencies must use the life-cycle cost analysis,
11 including the types of proposed capital projects and leased facilities
12 to which it must be applied;

13 (b) Procedures state agencies must use to document the results of
14 required life-cycle cost analyses;

15 (c) Standards regarding the discount rate and other key model
16 assumptions; and

17 (d) A process to document and justify any deviation from the
18 standard assumptions.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.82 RCW
20 to read as follows:

21 (1) The office of financial management shall design and implement
22 a modified predesign process for any space request to lease, purchase,
23 or build facilities that involve (a) the housing of new state programs,
24 (b) a major expansion of existing state programs, or (c) the relocation
25 of state agency programs. This includes the consolidation of multiple
26 state agency tenants into one facility. The office of financial
27 management shall define facilities that meet the criteria described in
28 (a) and (b) of this subsection.

29 (2) State agencies shall submit modified predesigns to the office
30 of financial management and the legislature. Modified predesigns must
31 include a problem statement, an analysis of alternatives to address
32 programmatic and space requirements, proposed locations, and a
33 financial assessment. For proposed projects of twenty thousand gross
34 square feet or less, the agency may provide a cost-benefit analysis,
35 rather than a life-cycle cost analysis, as determined by the office of
36 financial management.

1 (3) Projects that meet the capital requirements for predesign on
2 major facility projects with an estimated project cost of five million
3 dollars or more pursuant to chapter 43.88 RCW shall not be required to
4 prepare a modified predesign.

5 (4) The office of financial management shall require state agencies
6 to identify plans for major leased facilities as part of the ten-year
7 capital budget plan. State agencies shall not enter into new or
8 renewed leases of more than one million dollars per year unless such
9 leases have been approved by the office of financial management except
10 when the need for the lease is due to an unanticipated emergency. The
11 regular termination date on an existing lease does not constitute an
12 emergency. The department of general administration shall notify the
13 office of financial management and the appropriate legislative fiscal
14 committees if an emergency situation arises.

15 (5) For project proposals in which there are estimates of
16 operational savings, the office of financial management shall require
17 the agency or agencies involved to provide details including but not
18 limited to fund sources and timelines.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.82 RCW
20 to read as follows:

21 State agencies are prohibited from entering into lease agreements
22 for privately owned buildings that are in the planning stage of
23 development or under construction unless there is prior written
24 approval by the director of the office of financial management.
25 Approval of such leases shall not be delegated. Lease agreements
26 described in this section must comply with section 4 of this act.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.82 RCW
28 to read as follows:

29 The office of financial management shall:

30 (1) Work with the department of general administration and all
31 other state agencies to determine the long-term facility needs of state
32 government; and

33 (2) Develop and submit a six-year facility plan to the legislature
34 by January 1st of every odd-numbered year, beginning January 1, 2009,
35 that includes state agency space requirements and other pertinent data

1 necessary for cost-effective facility planning. The department of
2 general administration shall assist with this effort as required by the
3 office of financial management.

4 **Sec. 7.** RCW 43.82.150 and 1997 c 96 s 2 are each amended to read
5 as follows:

6 (1) The office of financial management shall develop and maintain
7 an inventory system to account for all owned or leased facilities
8 utilized by state government. At a minimum, the inventory system must
9 include the facility owner, location, type, condition, and size of each
10 facility. In addition, for owned facilities, the inventory system must
11 include the date and cost of original construction and the cost of any
12 major remodeling or renovation. The inventory must be updated by June
13 30th of each year. The office of financial management shall publish a
14 report summarizing information contained in the inventory system for
15 each agency by October 1st of each year, beginning in ~~((1997))~~ 2010 and
16 shall submit this report to the appropriate fiscal committees of the
17 legislature.

18 (2) All agencies, departments, boards, commissions, and
19 institutions of the state of Washington shall provide to the office of
20 financial management a complete inventory of owned and leased
21 facilities by ~~((May 30, 1994))~~ September 1, 2010. The inventory must
22 be updated and submitted to the office of financial management by ~~((May~~
23 ~~30))~~ September 1st of each subsequent year. The inventories required
24 under this subsection must be submitted in a standard format prescribed
25 by the office of financial management.

26 (3) The office of financial management shall report to the
27 legislature by September 1, 2008, on recommended improvements to the
28 inventory system, redevelopment costs, and an implementation schedule
29 for the redevelopment of the inventory system. The report shall also
30 make recommendations on other improvements that will improve
31 accountability and assist in the evaluation of budget requests and
32 facility management by the governor and the legislature.

33 (4) For the purposes of this section, "facilities" means buildings
34 and other structures with walls and a roof. "Facilities" does not mean
35 roads, bridges, parking areas, utility systems, and other similar
36 improvements to real property.

1 **Sec. 8.** RCW 43.82.010 and 2004 c 277 s 906 are each amended to
2 read as follows:

3 (1) The director of general administration, on behalf of the agency
4 involved and after consultation with the office of financial
5 management, shall purchase, lease, lease purchase, rent, or otherwise
6 acquire all real estate, improved or unimproved, as may be required by
7 elected state officials, institutions, departments, commissions,
8 boards, and other state agencies, or federal agencies where joint state
9 and federal activities are undertaken and may grant easements and
10 transfer, exchange, sell, lease, or sublease all or part of any surplus
11 real estate for those state agencies which do not otherwise have the
12 specific authority to dispose of real estate. This section does not
13 transfer financial liability for the acquired property to the
14 department of general administration.

15 (2) Except for real estate occupied by federal agencies, the
16 director shall determine the location, size, and design of any real
17 estate or improvements thereon acquired or held pursuant to subsection
18 (1) of this section. Facilities acquired or held pursuant to this
19 chapter, and any improvements thereon, shall conform to standards
20 adopted by the director and approved by the office of financial
21 management governing facility efficiency unless a specific exemption
22 from such standards is provided by the director of general
23 administration. The director of general administration shall report to
24 the office of financial management and the appropriate committees of
25 the legislature annually on any exemptions granted pursuant to this
26 subsection.

27 (3) The director of general administration may fix the terms and
28 conditions of each lease entered into under this chapter, except that
29 no lease shall extend greater than twenty years in duration. The
30 director of general administration may enter into a long-term lease
31 greater than ten years in duration upon a determination by the director
32 of the office of financial management that the long-term lease provides
33 a more favorable rate than would otherwise be available, it appears to
34 a substantial certainty that the facility is necessary for use by the
35 state for the full length of the lease term, and the facility meets the
36 standards adopted pursuant to subsection (2) of this section. The
37 director of general administration may enter into a long-term lease
38 greater than ten years in duration if an analysis shows that the life-

1 cycle cost of leasing the facility is less than the life-cycle cost of
2 purchasing or constructing a facility in lieu of leasing the facility.
3 (~~For the 2003-05 biennium, any lease entered into after April 1, 2004,~~
4 ~~with a term of ten years or less shall not contain a nonappropriation~~
5 ~~clause.~~)

6 (4) Except as permitted under chapter 39.94 RCW, no lease for or on
7 behalf of any state agency may be used or referred to as collateral or
8 security for the payment of securities offered for sale through a
9 public offering. Except as permitted under chapter 39.94 RCW, no lease
10 for or on behalf of any state agency may be used or referred to as
11 collateral or security for the payment of securities offered for sale
12 through a private placement without the prior written approval of the
13 state treasurer. However, this limitation shall not prevent a lessor
14 from assigning or encumbering its interest in a lease as security for
15 the repayment of a promissory note provided that the transaction would
16 otherwise be an exempt transaction under RCW 21.20.320. The state
17 treasurer shall adopt rules that establish the criteria under which any
18 such approval may be granted. In establishing such criteria the state
19 treasurer shall give primary consideration to the protection of the
20 state's credit rating and the integrity of the state's debt management
21 program. If it appears to the state treasurer that any lease has been
22 used or referred to in violation of this subsection or rules adopted
23 under this subsection, then he or she may recommend that the governor
24 cause such lease to be terminated. The department of general
25 administration shall promptly notify the state treasurer whenever it
26 may appear to the department that any lease has been used or referred
27 to in violation of this subsection or rules adopted under this
28 subsection.

29 (5) It is the policy of the state to encourage the colocation and
30 consolidation of state services into single or adjacent facilities,
31 whenever appropriate, to improve public service delivery, minimize
32 duplication of facilities, increase efficiency of operations, and
33 promote sound growth management planning.

34 (6) The director of general administration shall provide
35 coordinated long-range planning services to identify and evaluate
36 opportunities for collocating and consolidating state facilities. Upon
37 the renewal of any lease, the inception of a new lease, or the purchase
38 of a facility, the director of general administration shall determine

1 whether an opportunity exists for collocating the agency or agencies in
2 a single facility with other agencies located in the same geographic
3 area. If a collocation opportunity exists, the director of general
4 administration shall consult with the affected state agencies and the
5 office of financial management to evaluate the impact collocation would
6 have on the cost and delivery of agency programs, including whether
7 program delivery would be enhanced due to the centralization of
8 services. The director of general administration, in consultation with
9 the office of financial management, shall develop procedures for
10 implementing collocation and consolidation of state facilities.

11 (7) The director of general administration is authorized to
12 purchase, lease, rent, or otherwise acquire improved or unimproved real
13 estate as owner or lessee and to lease or sublet all or a part of such
14 real estate to state or federal agencies. The director of general
15 administration shall charge each using agency its proportionate rental
16 which shall include an amount sufficient to pay all costs, including,
17 but not limited to, those for utilities, janitorial and accounting
18 services, and sufficient to provide for contingencies; which shall not
19 exceed five percent of the average annual rental, to meet unforeseen
20 expenses incident to management of the real estate.

21 (8) If the director of general administration determines that it is
22 necessary or advisable to undertake any work, construction, alteration,
23 repair, or improvement on any real estate acquired pursuant to
24 subsection (1) or (7) of this section, the director shall cause plans
25 and specifications thereof and an estimate of the cost of such work to
26 be made and filed in his or her office and the state agency benefiting
27 thereby is hereby authorized to pay for such work out of any available
28 funds: PROVIDED, That the cost of executing such work shall not exceed
29 the sum of twenty-five thousand dollars. Work, construction,
30 alteration, repair, or improvement in excess of twenty-five thousand
31 dollars, other than that done by the owner of the property if other
32 than the state, shall be performed in accordance with the public works
33 law of this state.

34 (9) In order to obtain maximum utilization of space, the director
35 of general administration shall make space utilization studies, and
36 shall establish standards for use of space by state agencies. Such
37 studies shall include the identification of opportunities for

1 colocation and consolidation of state agency office and support
2 facilities.

3 (10) The director of general administration may construct new
4 buildings on, or improve existing facilities, and furnish and equip,
5 all real estate under his or her management. Prior to the construction
6 of new buildings or major improvements to existing facilities or
7 acquisition of facilities using a lease purchase contract, the director
8 of general administration shall conduct an evaluation of the facility
9 design and budget using life-cycle cost analysis, value-engineering,
10 and other techniques to maximize the long-term effectiveness and
11 efficiency of the facility or improvement.

12 (11) All conveyances and contracts to purchase, lease, rent,
13 transfer, exchange, or sell real estate and to grant and accept
14 easements shall be approved as to form by the attorney general, signed
15 by the director of general administration or the director's designee,
16 and recorded with the county auditor of the county in which the
17 property is located.

18 (12) The director of general administration may delegate any or all
19 of the functions specified in this section to any agency upon such
20 terms and conditions as the director deems advisable. By January 1st
21 of each year, beginning January 1, 2008, the department shall submit an
22 annual report to the office of financial management and the appropriate
23 committees of the legislature on all delegated leases.

24 (13) This section does not apply to the acquisition of real estate
25 by:

26 (a) The state college and universities for research or experimental
27 purposes;

28 (b) The state liquor control board for liquor stores and
29 warehouses; and

30 (c) The department of natural resources, the department of fish and
31 wildlife, the department of transportation, and the state parks and
32 recreation commission for purposes other than the leasing of offices,
33 warehouses, and real estate for similar purposes.

34 (14) Notwithstanding any provision in this chapter to the contrary,
35 the department of general administration may negotiate ground leases
36 for public lands on which property is to be acquired under a financing
37 contract pursuant to chapter 39.94 RCW under terms approved by the
38 state finance committee.

1 (15) The department of general administration shall report annually
2 to the office of financial management and the appropriate fiscal
3 committees of the legislature on facility leases executed for all state
4 agencies for the preceding year, lease terms, and annual lease costs.
5 The report must include leases executed under section 5 of this act and
6 subsection (12) of this section.

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