
HOUSE BILL 3080

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By Representatives Morris, Kessler, Carlyle, Maxwell, and Wallace

Read first time 01/22/10. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to information technology in state government;
2 amending RCW 43.105.005, 43.105.017, 43.105.052, 43.105.172, 41.06.142,
3 43.105.060, 43.105.200, 43.105.170, 43.105.830, and 43.105.835;
4 reenacting and amending RCW 43.105.020; adding new sections to chapter
5 43.105 RCW; adding a new section to chapter 43.41 RCW; and creating a
6 new section.

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

8 **Sec. 1.** RCW 43.105.005 and 1990 c 208 s 1 are each amended to read
9 as follows:

10 It is a purpose of this chapter to provide for coordinated planning
11 and management of state information services by consolidating the
12 operational functions of information technology, including servers and
13 networks, for state government within the department of information
14 services and to consider outsourcing to the private sector a
15 significant portion of information technology services where feasible
16 and cost-effective. ((The legislature recognizes that information
17 systems, telecommunications, equipment, software, and services must
18 satisfy the needs of end users and that many appropriate and cost-
19 effective alternatives exist for meeting these needs, such as shared

1 ~~mainframe computing, shared voice, data, and video telecommunications~~
2 ~~services, local area networks, departmental minicomputers, and~~
3 ~~microcomputers.))~~

4 **Sec. 2.** RCW 43.105.017 and 1992 c 20 s 6 are each amended to read
5 as follows:

6 It is the intent of the legislature that:

7 (1) State government use voice, data, and video telecommunications
8 technologies to:

9 (a) Transmit and increase access to live, interactive classroom
10 instruction and training;

11 (b) Provide for interactive public affairs presentations, including
12 a public forum for state and local issues;

13 (c) Facilitate communications and exchange of information among
14 state and local elected officials and the general public;

15 (d) Enhance statewide communications within state agencies; and

16 (e) Through the use of telecommunications, reduce time lost due to
17 travel to in-state meetings;

18 (2) Information be shared and administered in a coordinated manner,
19 except when prevented by agency responsibilities for security, privacy,
20 or confidentiality;

21 ~~(3) ((The primary responsibility for the management and use of~~
22 ~~information, information systems, telecommunications, equipment,~~
23 ~~software, and services rests with each agency head;~~

24 ~~(4))~~ Resources be used in the most efficient manner and services
25 be shared when cost-effective;

26 ~~((+5))~~ (4) A structure be created to:

27 (a) Plan and manage telecommunications and computing networks;

28 (b) Increase agencies' awareness of information sharing
29 opportunities; and

30 (c) Assist agencies in implementing such possibilities;

31 ~~((+6))~~ (5) An acquisition process for equipment, proprietary
32 software, and related services be established that meets the needs of
33 the users, considers the exchange of information, and promotes fair and
34 open competition;

35 ~~((+7))~~ (6) To the greatest extent possible, major information
36 technology projects be implemented on an incremental basis;

1 ((+8)) (7) The state maximize opportunities to exchange and share
2 data and information by moving toward implementation of open system
3 architecture based upon interface standards providing for application
4 and data portability and interoperability;

5 ((+9)) (8) To the greatest extent possible, the state recognize
6 any price performance advantages which may be available in midrange and
7 personal computing architecture;

8 ((+10)) (9) The state improve recruitment, retention, and training
9 of information technology professional staff;

10 ((+11)) (10) Plans, proposals, and acquisitions for information
11 services be reviewed from a financial and management perspective as
12 part of the budget process; and

13 ((+12)) (11) State government adopt policies and procedures that
14 maximize the use of existing video telecommunications resources,
15 coordinate and develop video telecommunications in a manner that is
16 cost-effective and encourages shared use, and ensure the appropriate
17 use of video telecommunications to fulfill identified needs.

18 **Sec. 3.** RCW 43.105.020 and 2009 c 565 s 32, 2009 c 509 s 7, and
19 2009 c 486 s 14 are each reenacted and amended to read as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly (~~required~~ ~~[requires]~~) requires otherwise.

22 (1) "Administrator" means the community technology opportunity
23 program administrator designated by the department.

24 (2) "Backbone network" means the shared high-density portions of
25 the state's telecommunications transmission facilities. It includes
26 specially conditioned high-speed communications carrier lines,
27 multiplexors, switches associated with such communications lines, and
28 any equipment and software components necessary for management and
29 control of the backbone network.

30 (3) "Board" means the information services board.

31 (4) "Broadband" means a high-speed, high capacity transmission
32 medium, using land-based, satellite, wireless, or any other mechanism,
33 that can carry either signals or transmit data, or both, over long
34 distances by using a wide range of frequencies.

35 (5) "Committee" means the state interoperability executive
36 committee.

1 (6) "Common vendor registration and bid notification system" has
2 the definition in RCW 39.29.006.

3 (7) "Community technology programs" means programs that are engaged
4 in diffusing information and communications technology in local
5 communities, particularly in unserved and underserved areas of the
6 state. These programs may include, but are not limited to, programs
7 that provide education and skill-building opportunities, hardware and
8 software, internet connectivity, digital media literacy, development of
9 locally relevant content, and delivery of vital services through
10 technology.

11 (8) "Council" means the advisory council on digital inclusion
12 created in RCW 43.105.400.

13 (9) "Department" means the department of information services.

14 (10) "Director" means the director of the department.

15 (11) "Educational sectors" means those institutions of higher
16 education, school districts, and educational service districts that use
17 the network for distance education, data transmission, and other uses
18 permitted by the K-20 board.

19 (12) "Equipment" means the machines, devices, and transmission
20 facilities used in information processing, such as computers, word
21 processors, terminals, telephones, wireless communications system
22 facilities, cables, and any physical facility necessary for the
23 operation of such equipment.

24 (13) "High-speed internet" means broadband.

25 (14) "Information" includes, but is not limited to, data, text,
26 voice, and video.

27 (15) "Information processing" means the electronic capture,
28 collection, storage, manipulation, transmission, retrieval, and
29 presentation of information in the form of data, text, voice, or image
30 and includes telecommunications and office automation functions.

31 (16) "Information services" means data processing,
32 telecommunications, office automation, and computerized information
33 systems.

34 (17) "Information technology portfolio" or "portfolio" means a
35 strategic management process documenting relationships between agency
36 missions and information technology and telecommunications investments.

37 (18) "K-20 educational network board" or "K-20 board" means the K-
38 20 educational network board created in RCW 43.105.800.

1 (19) "K-20 network" means the network established in RCW
2 43.105.820.

3 (20) "K-20 network technical steering committee" or "committee"
4 means the K-20 network technical steering committee created in RCW
5 43.105.810.

6 (21) "Local governments" includes all municipal and quasi municipal
7 corporations and political subdivisions, and all agencies of such
8 corporations and subdivisions authorized to contract separately.

9 (22) "Oversight" means a process of comprehensive risk analysis and
10 management designed to ensure optimum use of information technology
11 resources and telecommunications.

12 (23) "Proprietary software" means that software offered for sale or
13 license.

14 (24) "Purchased services" means services provided by a vendor to
15 accomplish routine, continuing, and necessary functions. This term
16 includes, but is not limited to, services acquired for equipment
17 maintenance and repair, operation of a physical plant, security,
18 computer hardware and software installation and maintenance,
19 telecommunications installation and maintenance, data entry, keypunch
20 services, programming services, and computer time-sharing.

21 (25) "Small business" has the definition in RCW 39.29.006.

22 (26) "Telecommunications" means the transmission of information by
23 wire, radio, optical cable, electromagnetic, or other means.

24 (27) "Video telecommunications" means the electronic
25 interconnection of two or more sites for the purpose of transmitting
26 and/or receiving visual and associated audio information. Video
27 telecommunications shall not include existing public television
28 broadcast stations as currently designated by the department of
29 commerce under chapter 43.330 RCW.

30 (28) "Authorized preferred provider" means the entity selected by
31 the office of financial management under section 10 of this act.

32 **Sec. 4.** RCW 43.105.052 and 2000 c 180 s 1 are each amended to read
33 as follows:

34 The department shall:

35 (1) Perform all duties and responsibilities the board delegates to
36 the department, including but not limited to:

1 (a) The review of agency information technology portfolios and
2 related requests; and

3 (b) Implementation of statewide and interagency policies,
4 standards, and guidelines;

5 (2) Direct the formulation and creation of policies, guidelines,
6 standards, and specifications for the purchase, development, and
7 maintenance of information technology for state agencies including, but
8 not limited to, those:

9 (a) Required to support state and local government exchange,
10 acquisition, storage, use, sharing, and distribution of geographic or
11 base map data and related technologies; and

12 (b) Necessary to support a unified approach to information
13 technology across the totality of state government, thereby ensuring
14 that the citizens and businesses of the state receive the greatest
15 possible security, value, and convenience from investments made in
16 technology;

17 (3) Direct the development of policies and procedures, in
18 consultation with the office of financial management and the board,
19 that are integrated into the state's strategic planning and performance
20 budgeting processes and that state agencies and public institutions of
21 higher education must follow in developing information technology plans
22 and technology-related budget requests. These policies and procedures
23 must require consideration of the contribution of current and proposed
24 technology expenditures to the support of agency and institution
25 priority functional activities, as well as current and future operating
26 expenses, and must be used by all state agencies and public
27 institutions of higher education in preparing budget requests;

28 (4)(a) Review budget requests for information technology from state
29 agencies and public institutions of higher education and recommend
30 budget priorities to the office of financial management. This review
31 includes, but is not limited to, all data processing or other related
32 projects for amounts exceeding one hundred thousand dollars in which
33 the agency or institution has entered into or plans to enter into a
34 contract, agreement, or other financing agreement or other arrangement
35 that requires the state to either pay for the contract by foregoing
36 revenue collections, or allows or assigns to another party the
37 collection on behalf or for the state any fees, charges, or other
38 assessments or revenues to pay for the project.

1 (b) For each project, the agency or institution shall provide to
2 the department: (i) A summary of the terms; (ii) the anticipated
3 duration; and (iii) the cost or charges to any user, whether a state
4 agency or institution or other party not directly a party to the
5 project arrangements. The descriptions must also include any terms or
6 conditions that bind the state or restrict the state's operations and
7 the methods of procurement employed to reach the terms;

8 (5) Direct the development of policies and procedures for the
9 effective management of investments in information technology
10 throughout its entire life cycle including, but not limited to, project
11 definition, procurement, development, implementation, operation,
12 performance evaluation, and enhancement or retirement. The policies
13 and procedures must include, at a minimum, the periodic review by the
14 director of state agency and public institution of higher education
15 information technology projects estimated to cost one million dollars
16 or more or deemed to be mission-critical or of statewide application by
17 the director;

18 (6) Periodically evaluate the feasibility of outsourcing
19 information technology resources and services and outsource those
20 resources and services that are feasible and beneficial to the state;

21 (7) Direct the compilation and maintenance of an inventory of
22 information technology including, but not limited to, personnel,
23 facilities, equipment, goods, and contracts for services;

24 (8) Evaluate the needs of state agencies with regard to:

25 (a) A consistent, reliable, and secure information technology
26 infrastructure;

27 (b) Existing capabilities with regard to building and supporting
28 that infrastructure; and

29 (c) Recommended approaches to ensure the future development,
30 maintenance, and financing of an information technology infrastructure
31 befitting the needs of state agencies and the service level
32 requirements of its citizens;

33 (9) Develop and adopt policies, standards, and guidelines for
34 managing information technology by state agencies and institutions;

35 (10) Develop and adopt policies, standards, and guidelines for the
36 procurement of all information technology and telecommunications goods
37 and services for state agencies;

1 (11) Make available information services to state agencies and
2 local governments and public benefit nonprofit corporations (~~(on a full~~
3 ~~cost-recovery basis)~~). For the purposes of this section "public
4 benefit nonprofit corporation" means a public benefit nonprofit
5 corporation as defined in RCW 24.03.005 that is receiving local, state,
6 or federal funds either directly or through a public agency other than
7 an Indian tribe or political subdivision of another state. These
8 services may include, but are not limited to:

9 (a) Telecommunications services for voice, data, and video;

10 (b) Mainframe computing services;

11 (c) Support for departmental and microcomputer evaluation,
12 installation, and use;

13 (d) Equipment acquisition assistance, including leasing, brokering,
14 and establishing master contracts;

15 (e) Facilities management services for information technology
16 equipment, equipment repair, and maintenance service;

17 (f) Negotiation with local cable companies and local governments to
18 provide for connection to local cable services to allow for access to
19 these public and educational channels in the state;

20 (g) Office automation services;

21 (h) System development services; and

22 (i) Training(~~(-~~

23 ~~These services are for discretionary use by customers and customers~~
24 ~~may elect other alternatives for service if those alternatives are more~~
25 ~~cost-effective or provide better service. Agencies may be required to~~
26 ~~use the backbone network portions of the telecommunications services~~
27 ~~during an initial start-up period not to exceed three years));~~

28 ~~((+3))~~ (12) Establish rates and fees for services provided by the
29 department to (~~assure~~) ensure that the services component of the
30 department is self-supporting. A billing rate plan shall be developed
31 for a two-year period to coincide with the budgeting process. The rate
32 plan shall be subject to review at least annually by the customer
33 advisory board. The rate plan shall show the proposed rates by each
34 cost center and will show the components of the rate structure as
35 mutually determined by the department and the customer advisory board.
36 The same rate structure will apply to all user agencies of each cost
37 center. The rate plan and any adjustments to rates shall be approved

1 by the office of financial management. The services component shall
2 not subsidize the operations of the strategic planning and policy
3 component;

4 ~~((+4))~~ (13) With the advice of the information services board and
5 agencies, develop a state strategic information technology plan and
6 performance reports as required under RCW 43.105.160;

7 ~~((+5))~~ (14) Develop plans for the department's achievement of
8 statewide goals and objectives set forth in the state strategic
9 information technology plan required under RCW 43.105.160. These plans
10 shall address such services as telecommunications, central and
11 distributed computing, local area networks, office automation, and end
12 user computing. The department shall seek the advice of the customer
13 advisory board and the board in the development of these plans;

14 ~~((+6))~~ (15) Under direction of the information services board and
15 in collaboration with the department of personnel, and other agencies
16 as may be appropriate, develop training plans and coordinate training
17 programs that are responsive to the needs of agencies;

18 ~~((+7))~~ (16) Identify opportunities for the effective use of
19 information services and coordinate appropriate responses to those
20 opportunities;

21 ~~((+8))~~ (17) Assess agencies' projects, acquisitions, plans,
22 information technology portfolios, or overall information processing
23 performance as requested by the board, agencies, the director of
24 financial management, or the legislature. Agencies may be required to
25 reimburse the department for agency-requested reviews;

26 ~~((+9))~~ (18) Develop planning, budgeting, and expenditure reporting
27 requirements, in conjunction with the office of financial management,
28 for agencies to follow;

29 ~~((+10))~~ (19) Assist the office of financial management with
30 budgetary and policy review of agency plans for information services;

31 ~~((+11))~~ (20) Provide staff support from the strategic planning and
32 policy component to the board for:

33 (a) Meeting preparation, notices, and minutes;

34 (b) Promulgation of policies, standards, and guidelines adopted by
35 the board;

36 (c) Supervision of studies and reports requested by the board;

37 (d) Conducting reviews and assessments as directed by the board;

1 ~~((12))~~ (21) Be the lead agency in coordinating video
2 telecommunications services for all state agencies and develop,
3 pursuant to board policies, standards and common specifications for
4 leased and purchased telecommunications equipment. The department
5 shall not evaluate the merits of school curriculum, higher education
6 course offerings, or other education and training programs proposed for
7 transmission and/or reception using video telecommunications resources.
8 Nothing in this section shall abrogate or abridge the legal
9 responsibilities of licensees of telecommunications facilities as
10 licensed by the federal communication commission on March 27, 1990; and
11 ~~((13))~~ (22) Perform all other matters and things necessary to
12 carry out the purposes and provisions of this chapter.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.105 RCW
14 to read as follows:

15 (1) Develop an approval process for proposed major information
16 technology projects by state agencies to ensure the projects conform to
17 the state strategic information technology plan developed under RCW
18 43.105.160;

19 (2) Establish minimum qualifications, training, and standards for
20 project managers;

21 (3) Review and approve all procurement solicitations involving
22 major information technology projects;

23 (4) Develop and update a project management methodology to be used
24 by state agencies in the development of information technology;

25 (5) Direct the development of any statewide or multiagency
26 enterprise projects;

27 (6) Develop and update an information clearinghouse that identifies
28 best practices and new developments in information technology,
29 including detailed information regarding the state's previous
30 experiences with the development of major information technology
31 projects;

32 (7) Direct the development of policies, procedures, and standards,
33 in consultation with the board, for assessing security risks,
34 determining the appropriate security measures, and performing security
35 audits of government databases and data communications. At a minimum,
36 these policies, procedures, and standards must address the scope of

1 security audits and which entities are authorized to conduct security
2 audits; and

3 (8) Designate a government entity to oversee, plan, and coordinate
4 the conduct of periodic security audits of all executive branch
5 agencies and institutions of higher education regarding the protection
6 of government databases and data communications. The designated
7 government entity may contract with a private firm or firms that
8 specialize in conducting such audits subject to the approval of the
9 director.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.105 RCW
11 to read as follows:

12 The department shall have the following powers and duties
13 concerning the development, operation, and management of
14 telecommunications and information technology services used by state
15 agencies:

16 (1) To manage and coordinate the various telecommunications
17 facilities and communications services, centers, and operations used by
18 the state;

19 (2) To acquire, lease, or construct facilities and equipment as
20 necessary to deliver comprehensive communications services and to
21 maintain the facilities and equipment, owned or leased;

22 (3) To reduce server inventory by consolidating servers
23 geographically;

24 (4) To optimize telephony architecture statewide through
25 centralization of telephony;

26 (5) To centralize control of personal computer and server
27 replacement cycles and streamline personal computer support statewide;

28 (6) To provide technical assistance to state agencies in such areas
29 as:

30 (a) Designing management information systems;

31 (b) Performing systems development services, including design,
32 application programming, and maintenance;

33 (c) Conducting research and sponsoring demonstration projects
34 pertaining to all facets of telecommunications and communications
35 services; and

36 (d) Planning and forecasting for future needs in communications and
37 information technology services; and

1 (7) To develop and implement information, billing, and collection
2 systems that will assist state agencies in forecasting their needs and
3 managing their operations.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.105 RCW
5 to read as follows:

6 (1) All information technology and telecommunications goods and
7 services must be procured by:

8 (a) The department for its own benefit or on behalf of other state
9 agencies or institutions; or

10 (b) Other agencies and institutions to the extent authorized by the
11 department.

12 (2) The director shall disapprove any procurement that does not
13 conform to the statewide strategic information technology plan or to
14 the individual information technology portfolios of state agencies or
15 institutions.

16 (3) All statewide contracts and agreements made and entered into by
17 the department for the purchase of communications services,
18 telecommunications facilities, and information technology goods and
19 services must provide for the inclusion of counties, cities, and towns
20 in the contracts and agreements. Notwithstanding the provisions of RCW
21 41.06.142, the department may enter into multiple vendor contracts for
22 the referenced services, facilities, and goods and services.

23 (4) The department may designate categories of information
24 technology goods and services that may be procured by state agencies
25 without seeking prior authorization from the department.

26 (5) This section does not apply to the legislative branch.

27 **Sec. 8.** RCW 43.105.172 and 1999 c 80 s 2 are each amended to read
28 as follows:

29 (1) Information technology portfolios prepared by state agencies
30 shall reflect ~~((+1))~~:

31 (a) Links among an agency's objectives, business plan, and
32 technology;

33 ~~((+2))~~ (b) Analysis of the effect of an agency's proposed new
34 technology investments on its existing infrastructure and business
35 functions; and

1 (~~(3)~~) (c) Analysis of the effect of proposed information
2 technology investments on the state's information technology
3 infrastructure.

4 (2) The director of each state agency shall designate an existing
5 employee to be the agency's information technology resource who is
6 responsible for:

7 (a) Preparing and updating the agency's information technology
8 portfolio under RCW 43.105.170; and

9 (b) Complying with the procedures, policies, and guidelines
10 established by the director under section 5 of this act.

11 NEW SECTION. Sec. 9. (1) By September 1, 2010, the office of
12 financial management, in consultation with the director of the
13 department of information services and the department of information
14 services, shall develop a migration strategy to consolidate all
15 operational information technology staff and resources within the
16 department of information services, with a completion date of January
17 1, 2012. Except as provided in (d) of this subsection, this strategy
18 must:

19 (a) Transfer all operational information technology staff from
20 state agencies to the department of information services according to
21 the following schedule:

22 (i) Fifty or less full-time equivalents: January 1, 2011;

23 (ii) Fifty to four hundred full-time equivalents: July 1, 2011;

24 and

25 (iii) Four hundred or more full-time equivalents: January 1, 2012;

26 (b) Direct state agencies to use information technology shared
27 services provided by the department of information services or its
28 authorized preferred provider;

29 (c) Transfer newly established information technology positions to
30 the department of information services beginning January 1, 2011, at
31 the discretion of the director of the department of information
32 services;

33 (d) Transfer the administrative information technology support
34 functions of the office of financial management and the department of
35 personnel to the department of information services by January 1, 2011;
36 and

1 (e) Report to the governor and the legislature on the progress and
2 timeline for completion of the migration by December 1, 2010, and
3 December 1, 2011.

4 (2) On or before January 1, 2012, the director of the department of
5 information services shall fully implement the systems development
6 standards, policies, and methodologies required by this act.

7 (3) For the purposes of this section, "operational information
8 technology staff" includes all information technology employees of
9 state agencies that provide: (a) Customer service support to personal
10 computers; (b) infrastructure services, such as database
11 administration, security administration, data center or server room
12 operations, and server administration; and (c) communications services,
13 such as network administration, radio support, and telephone systems
14 support. "Operational information technology staff" does not include
15 information technology employees that provide information technology
16 planning and strategy, support for portable and specialized devices,
17 radio support, or agency-specific application services.

18 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.41 RCW
19 to read as follows:

20 (1) The office, in consultation with the department of information
21 services, may enter into and consummate, under terms and conditions
22 approved by the office, an agreement or agreements in the name of the
23 state of Washington to contract with one or more authorized preferred
24 providers to provide certain information technology functions and
25 services for state government that are currently provided by the
26 department of information services or state agencies for a period of up
27 to ten years.

28 (2) The office, in consultation with the department of information
29 services, shall review information technology functions and services
30 being used in state government and their associated costs and determine
31 which information technology functions and services would be the most
32 feasible and cost-effective to contract for with the private sector.

33 (3) The office may engage in a sealed bid process to select one or
34 more authorized preferred providers under this chapter to provide those
35 information technology functions and services identified under
36 subsection (2) of this section to be the most feasible and cost-
37 effective to outsource.

1 (4) An authorized preferred provider:

2 (a) May incur debts and liabilities on its behalf, but may not
3 obligate the state for payment, nor may the state otherwise be liable
4 for the debts or obligations of the authorized preferred provider;

5 (b) Is subject to an annual audit by a certified public accounting
6 firm. The state auditor may review the corporation's audited financial
7 reports; and

8 (c) Must, upon termination of the contract, relinquish any assets
9 or real property to the state of Washington that were owned or managed
10 by the department of information services or the state prior to the
11 contract.

12 (5) For the purposes of this section, the office is exempt from the
13 limitations imposed by RCW 41.06.142 regarding competitive contracting
14 or by other statute or common law principle that would otherwise limit
15 its ability to contract for services outside the department.

16 (6) This section does not apply to the legislative branch.

17 **Sec. 11.** RCW 41.06.142 and 2008 c 267 s 9 are each amended to read
18 as follows:

19 (1) Any department, agency, or institution of higher education may
20 purchase services, including services that have been customarily and
21 historically provided by employees in the classified service under this
22 chapter, by contracting with individuals, nonprofit organizations,
23 businesses, employee business units, or other entities if the following
24 criteria are met:

25 (a) The invitation for bid or request for proposal contains
26 measurable standards for the performance of the contract;

27 (b) Employees in the classified service whose positions or work
28 would be displaced by the contract are provided an opportunity to offer
29 alternatives to purchasing services by contract and, if these
30 alternatives are not accepted, compete for the contract under
31 competitive contracting procedures in subsection (4) of this section;

32 (c) The contract with an entity other than an employee business
33 unit includes a provision requiring the entity to consider employment
34 of state employees who may be displaced by the contract;

35 (d) The department, agency, or institution of higher education has
36 established a contract monitoring process to measure contract

1 performance, costs, service delivery quality, and other contract
2 standards, and to cancel contracts that do not meet those standards;
3 and

4 (e) The department, agency, or institution of higher education has
5 determined that the contract results in savings or efficiency
6 improvements. The contracting agency must consider the consequences
7 and potential mitigation of improper or failed performance by the
8 contractor.

9 (2) Any provision contrary to or in conflict with this section in
10 any collective bargaining agreement in effect on July 1, 2005, is not
11 effective beyond the expiration date of the agreement.

12 (3) Contracting for services that is expressly mandated by the
13 legislature or was authorized by law prior to July 1, 2005, including
14 contracts and agreements between public entities, shall not be subject
15 to the processes set forth in subsections (1), (4), and (5) of this
16 section.

17 (4) Competitive contracting shall be implemented as follows:

18 (a) At least ninety days prior to the date the contracting agency
19 requests bids from private entities for a contract for services
20 provided by classified employees, the contracting agency shall notify
21 the classified employees whose positions or work would be displaced by
22 the contract. The employees shall have sixty days from the date of
23 notification to offer alternatives to purchasing services by contract,
24 and the agency shall consider the alternatives before requesting bids.

25 (b) If the employees decide to compete for the contract, they shall
26 notify the contracting agency of their decision. Employees must form
27 one or more employee business units for the purpose of submitting a bid
28 or bids to perform the services.

29 (c) The director of personnel, with the advice and assistance of
30 the department of general administration, shall develop and make
31 available to employee business units training in the bidding process
32 and general bid preparation.

33 (d) The director of general administration, with the advice and
34 assistance of the department of personnel, shall, by rule, establish
35 procedures to ensure that bids are submitted and evaluated in a fair
36 and objective manner and that there exists a competitive market for the
37 service. Such rules shall include, but not be limited to: (i)
38 Prohibitions against participation in the bid evaluation process by

1 employees who prepared the business unit's bid or who perform any of
2 the services to be contracted; (ii) provisions to ensure no bidder
3 receives an advantage over other bidders and that bid requirements are
4 applied equitably to all parties; and (iii) procedures that require the
5 contracting agency to receive complaints regarding the bidding process
6 and to consider them before awarding the contract. Appeal of an
7 agency's actions under this subsection is an adjudicative proceeding
8 and subject to the applicable provisions of chapter 34.05 RCW, the
9 administrative procedure act, with the final decision to be rendered by
10 an administrative law judge assigned under chapter 34.12 RCW.

11 (e) An employee business unit's bid must include the fully
12 allocated costs of the service, including the cost of the employees'
13 salaries and benefits, space, equipment, materials, and other costs
14 necessary to perform the function. An employee business unit's cost
15 shall not include the state's indirect overhead costs unless those
16 costs can be attributed directly to the function in question and would
17 not exist if that function were not performed in state service.

18 (f) A department, agency, or institution of higher education may
19 contract with the department of general administration to conduct the
20 bidding process.

21 (5) As used in this section:

22 (a) "Employee business unit" means a group of employees who perform
23 services to be contracted under this section and who submit a bid for
24 the performance of those services under subsection (4) of this section.

25 (b) "Indirect overhead costs" means the pro rata share of existing
26 agency administrative salaries and benefits, and rent, equipment costs,
27 utilities, and materials associated with those administrative
28 functions.

29 (c) "Competitive contracting" means the process by which classified
30 employees of a department, agency, or institution of higher education
31 compete with businesses, individuals, nonprofit organizations, or other
32 entities for contracts authorized by subsection (1) of this section.

33 (6) The requirements of this section do not apply to RCW
34 74.13.031(5) or sections 7 and 10 of this act.

35 **Sec. 12.** RCW 43.105.060 and 1987 c 504 s 10 are each amended to
36 read as follows:

37 State and local government agencies are authorized to enter into

1 any contracts with the department, an authorized preferred provider, or
2 its successor which may be necessary or desirable to effectuate the
3 purposes and policies of this chapter or for maximum utilization of
4 facilities and services which are the subject of this chapter.

5 **Sec. 13.** RCW 43.105.200 and 1992 c 20 s 5 are each amended to read
6 as follows:

7 (1) Except as provided in subsection (2) of this section, in the
8 case of institutions of higher education, the provisions of this
9 chapter ((20, Laws of 1992, apply to business and administrative
10 applications—but)) do not apply to academic and research
11 ((applications)) projects, research initiatives, or instructional
12 programs, but do apply to the business and administrative applications
13 institutions of higher education.

14 (2) Technology investments in research projects, research
15 initiatives, or instructional programs at institutions of higher
16 education estimated to cost one million dollars or more of general fund
17 state appropriations may be reviewed by the board if the projects are
18 deemed mission-critical by the institution or of statewide application
19 by the director. The director, in consultation with institutions of
20 higher education, shall develop and provide to the institutions
21 criteria to be used in determining whether projects are mission-
22 critical.

23 **Sec. 14.** RCW 43.105.170 and 1999 c 80 s 10 are each amended to
24 read as follows:

25 (1) Each agency shall develop an information technology portfolio
26 consistent with RCW ((43.105.095)) 43.105.172. The superintendent of
27 public instruction shall develop its portfolio in conjunction with
28 educational service districts and statewide or regional providers of K-
29 12 education information technology services.

30 (2) Agency portfolios shall include, but not be limited to, the
31 following:

32 (a) A baseline assessment of the agency's information technology
33 resources and capabilities that will serve as the benchmark for
34 subsequent planning and performance measures;

35 (b) A statement of the agency's mission, goals, and objectives for

1 information technology, including goals and objectives for achieving
2 electronic access to agency records, information, and services;

3 (c) An explanation of how the agency's mission, goals, and
4 objectives for information technology support and conform to the state
5 strategic information technology plan developed under RCW 43.105.160;

6 (d) An implementation strategy to provide electronic access to
7 public records and information. This implementation strategy must be
8 assembled to include:

9 (i) Compliance with Title 40 RCW;

10 (ii) Adequate public notice and opportunity for comment;

11 (iii) Consideration of a variety of electronic technologies,
12 including those that help transcend geographic locations, standard
13 business hours, economic conditions of users, and disabilities;

14 (iv) Methods to educate both state employees and the public in the
15 effective use of access technologies;

16 (e) Projects and resources required to meet the objectives of the
17 portfolio; and

18 (f) Where feasible, estimated schedules and funding required to
19 implement identified projects.

20 (3) Portfolios developed under subsection (1) of this section shall
21 be submitted to the department for review and forwarded along with the
22 department's recommendations to the board for review and approval. The
23 board may reject, require modification to, or approve portfolios as
24 deemed appropriate by the board. Portfolios submitted under this
25 subsection shall be updated and submitted for review and approval as
26 necessary.

27 (4) Each agency shall prepare and submit to the department a
28 biennial performance report that evaluates progress toward the
29 objectives articulated in its information technology portfolio. The
30 superintendent of public instruction shall develop its portfolio in
31 conjunction with educational service districts and statewide or
32 regional providers of K-12 education information technology services.
33 The report shall include:

34 (a) An evaluation of the agency's performance relating to
35 information technology;

36 (b) An assessment of progress made toward implementing the agency
37 information technology portfolio;

1 (c) Progress toward electronic access to public information and
2 enabling citizens to have two-way interaction for obtaining information
3 and services from agencies; and

4 (d) An inventory of agency information services, equipment, and
5 proprietary software.

6 (5) The ~~((department, with the approval of the))~~ board~~((7))~~ shall
7 establish standards, elements, form, and format for plans and reports
8 developed under this section.

9 (6) Agency activities to increase electronic access to public
10 records and information, as required by this section, must be
11 implemented within available resources and existing agency planning
12 processes.

13 (7) The board may exempt any agency from any or all of the
14 requirements of this section.

15 **Sec. 15.** RCW 43.105.830 and 2004 c 276 s 909 are each amended to
16 read as follows:

17 ~~((1))~~ The K-20 technology account is hereby created in the state
18 treasury. The department of information services shall deposit into
19 the account moneys received from legislative appropriations, gifts,
20 grants, and endowments for the buildout and installation of the K-20
21 telecommunication system. The account shall be subject to
22 appropriation and may be expended solely for the K-20 telecommunication
23 system. Disbursements from the account shall be on authorization of
24 the director of the department of information services with approval of
25 the board.

26 ~~((2) During the 2003-2005 biennium, the legislature may transfer
27 moneys from the K-20 technology account to the state general fund such
28 amounts as reflect the excess fund balance of the account.))~~

29 **Sec. 16.** RCW 43.105.835 and 2004 c 276 s 910 are each amended to
30 read as follows:

31 (1) The education technology revolving fund is created in the
32 custody of the state treasurer. All receipts from billings under
33 subsection (2) of this section must be deposited in the revolving fund.
34 Only the director of the department of information services or the
35 director's designee may authorize expenditures from the fund. The
36 revolving fund shall be used to pay for network operations, transport,

1 equipment, software, supplies, and services, maintenance and
2 depreciation of on-site data, and shared infrastructure, and other
3 costs incidental to the development, operation, and administration of
4 shared educational information technology services, telecommunications,
5 and systems. The revolving fund shall not be used for the acquisition,
6 maintenance, or operations of local telecommunications infrastructure
7 or the maintenance or depreciation of on-premises video equipment
8 specific to a particular institution or group of institutions.

9 (2) The revolving fund and all disbursements from the revolving
10 fund are subject to the allotment procedure under chapter 43.88 RCW,
11 but an appropriation is not required for expenditures. The department
12 of information services shall, in consultation with entities connected
13 to the network under RCW 43.105.820 and subject to the review and
14 approval of the office of financial management, establish and implement
15 a billing structure for network services identified in subsection (1)
16 of this section.

17 (3) The department shall charge those public entities connected to
18 the K-20 (~~telecommunications~~ [telecommunication system])
19 telecommunication system under RCW 43.105.820 an annual copayment per
20 unit of transport connection as determined by the legislature after
21 consideration of the K-20 board's recommendations. This copayment
22 shall be deposited into the revolving fund to be used for the purposes
23 in subsection (1) of this section. It is the intent of the legislature
24 to appropriate to the revolving fund such moneys as necessary to cover
25 the costs for transport, maintenance, and depreciation of data
26 equipment located at the individual public institutions, maintenance
27 and depreciation of the network backbone, and services provided to the
28 network under RCW 43.105.815.

29 (~~(4) During the 2003-05 biennium, the legislature may transfer~~
30 ~~moneys from the education technology revolving fund to the state~~
31 ~~general fund and the data processing revolving fund such amounts as~~
32 ~~reflect the excess fund balance of the account.))~~

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