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**Ways & Means Committee**

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**ESSB 5931**

**Brief Description:** Reorganizing and streamlining central service functions, powers, and duties of state government.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Baumgartner and Zarelli).

**Brief Summary of Engrossed Substitute Bill**

- Creates the Department of Enterprise Services (DES).
- Creates the Office of the Chief Information Officer within the Office of Financial Management.
- Creates an Information Technology Advisory Board and a Consolidated Technology Services Board.
- Abolishes the Department of General Administration and transfers its duties to the DES.
- Abolishes the Department of Personnel and transfers its functions to the Office of Financial Management and the DES.
- Abolishes the State Printer and transfers its functions to the DES.
- Transfers the risk management and personal services contracts functions from the Office of Financial Management to the DES.
- Transfers certain functions within the Department of Information Services to the DES.
- Replaces the Department of Information Services with the newly created Consolidated Technology Services Agency.

**Hearing Date:** 5/20/11

**Staff:** Kara Durbin (786-7133), Marsha Reilly (786-7135), and Jeff Olsen (786-7175).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

Washington State has several central service agencies that primarily provide services to other state agencies and occasionally local governments and nonprofits.

### Department of General Administration.

The Department of General Administration (GA) is a state agency that provides a wide variety of support services for state agencies, city and county governments, school districts, colleges and universities, and a number of nonprofit organizations, including, but not limited to, purchasing and contracting for goods and services; lease management; maintenance of state buildings and grounds; management of the state motor pool; and operating the consolidated mail service.

### Office of the Public Printer.

The Public Printer (Printer) is a state official appointed by the Governor with the advice and consent of the Senate. The duties of the Printer include responsibility for the printing and binding of a wide range of public documents. The Printer is also authorized to engage in purchasing, leasing, and procurement functions related to his or her printing duties, and may enter into contracts with outside vendors.

### Department of Personnel.

The Department of Personnel (DOP) manages the state's civil service system which was initially established through Initiative Measure No. 207 in 1960. The provisions of the civil service laws apply to all state agencies, institutions of higher education, boards, and commissions, and each employee and position unless expressly excluded or exempted by law. The duties and functions of the DOP include oversight and administration of the civil service system and the administration, maintenance, and operation of the central personnel payroll system.

### Office of Financial Management.

The Office of Financial Management (OFM) was established through legislation in 1969 as a division of the Office of the Governor. The general duties of the OFM are to provide planning, assistance, and coordination in the preparation of budgets; management and estimates of the cash flow of all public funds; performing functions and research related to the state census and assisting in the federal census; preparation of fiscal notes for proposed legislation; oversight of the state's risk management; and management of personal services contracts.

### Department of Information Services.

The Department of Information Services (DIS) was formed in 1987 through the consolidation of the state's four independent data processing and communications systems. The DIS is a cabinet-level agency that provides technology-based services to state agencies and local governments, as well as public benefit nonprofit corporations, on a cost-recovery basis. State agencies may procure information technology services through the DIS, but are not required to do so if other alternatives are more cost effective or provide better service.

The Information Services Board (ISB) provides authorization and oversight for managing large information technology projects administered by executive branch agency staff. The ISB is charged with: (1) developing state information technology standards; (2) governing acquisitions; (3) reviewing and approving the statewide information technology strategic plans; and (4) developing statewide or inter-agency technical policies.

The state's broadband program is managed by the DIS. The DIS is charged with coordination, programming, and outreach on broadband issues, as well as procurement of a state broadband map.

#### Civil Service and Collective Bargaining.

The state civil service law establishes the state's personnel administration system. Civil service rules apply to non-represented classified employees. The rules may be superseded by collective bargaining agreements applicable to represented employees.

The state collective bargaining law provides for bargaining by the Governor and representatives of classified employee bargaining units. Collective bargaining agreements must be submitted to the Office of Financial Management by October 1, and to the Legislature as part of the Governor's budget proposal. The Legislature must accept or reject the request for funds necessary to implement the agreements as a whole.

#### **Summary of Bill:**

##### Part I: Creation of The Department of Enterprise Services.

The Department of Enterprise Services (DES) is created as an executive branch agency vested with some or all of the powers and duties of the Department of General Administration (GA), the Public Printer (Printer), the Department of Personnel (DOP), the Office of Financial Management (OFM), and the Department of Information Services (DIS). The Director of the DES is appointed by the Governor and is subject to confirmation by the Senate.

##### *Impacts of Agency Reorganization.*

The creation of the DES and the concomitant reorganization of state agencies have the following impacts:

- The GA is eliminated and its powers and duties are transferred to the DES.
- The Printer is eliminated and its powers and duties are transferred to the DES.
- The OFM is retained, but some powers and duties are transferred to the DES.
- The DOP is eliminated and its powers and duties are distributed between the OFM and the DES.
- The DIS is retained, but some powers and duties are transferred to the DES and the Department of Commerce.

##### *Duties and Responsibilities of the DES.*

The general responsibilities of the DES include: (1) providing products and services to support governmental entities and nonprofit organizations, and entering into agreements to this end; and (2) making information and printing services available to state, local, and federal agencies, local governments, and public benefit nonprofit corporations.

##### *Contracting Out Studies.*

The OFM must examine on a biennial basis which services within the DES might be performed by the private sector. The OFM will select six activities each biennium for the DES to competitively bid to the private sector. If service cannot be provided at a lower rate or more efficiently, the OFM will notify the DES, and the DES may cancel the bid. If the bid is cancelled, the OFM must notify the legislative fiscal committees. The OFM must report on the

results of these examinations biennially and the legislative fiscal committees must hold a public hearing on the reports. The Joint Legislative and Audit Review Committee (JLARC) will conduct a study of the implementation of contracting for services at the DES and report to the Legislature by January 1, 2018. The DES must also examine state procurement practices and report on recommendations for improvement by October 30, 2011.

#### *State Procurement Practices.*

The DES is tasked with effecting the reform and consolidation of state procurement practices and providing a report to the Governor with procurement reform recommendations. In doing so, the DES is directed to review national best practices and the procedures used in other states and by the federal government. The Director of the DES is authorized to establish policies annually to define criteria and dollar thresholds for direct buy purchases and informal competitive bidding limits. Criteria may be adjusted to accommodate special market conditions and to promote market diversity.

#### Part II: Powers and Duties Transferred from the GA to the DES.

The GA is eliminated, and all of the powers, duties, functions, assets, and personnel of the GA are transferred to the DES as part of the agency reorganization process. All statutory references to the "Department of General Administration" or its "Director" in the Revised Code of Washington are to be construed to mean the DES or its Director.

#### *Repealed Statutes: Chapter 43.19 RCW (GA).*

In the process of transferring the functions and duties of the GA to the DES, statutes pertaining to the following are repealed: the appointment and powers of the Director of the GA; the GA Central Services Account; requirements for the combined purchases of commonly used items, advance payments by state agencies, and costs of operating central stores; employees of the motor pool retain their employment status and remain covered by civil service law upon being transferred to employment by the GA (1975 law); vehicles, property, facilities, funds and all other assets from the motor pool of the department of highways are transferred to the GA; funds related to the motor vehicle transportation service be deposited in the GA's general administration services account; requirement for an energy audit be conducted for each state owned facility by either the GA or other agency responsible for such facility; and provisions relating to energy conservation maintenance and operation procedures for state-owned facilities.

#### Part III: Powers and Duties Transferred from the Printer to the DES.

The Office of the Public Printer is eliminated and all of the powers, duties, functions, assets, and personnel of the Printer are transferred to the DES as part of the agency reorganization process. All statutory references to the "Public Printer" in the Revised Code of Washington are to be construed to mean the DES or its Director. Current collective bargaining agreements also transfer, but are subject to expiration dates, and employees transferred to the DES are no longer exempt from civil service laws.

The transfer of duties, functions, and powers to the DES includes various policy changes pertaining to the printing of public documents under the authority of the DES, as described in the sections below.

#### *State Printing Policy*

Other than the printing of all state treasury warrants, state agencies are no longer required to use state printing services. If a print job is put out for bid, the DES must be included in the bid solicitation. All solicitations must be posted on the state's common vendor registration and bid notification system and results provided to the DES.

*Print Management Contracts.*

The DES must broker print management contracts for state agencies that are required to utilize such contracts. Also, the DES is authorized to broker print management contracts for other state agencies that choose to utilize these services. A state agency may be exempted from entering into a print management contract if the Director of the DES deems it unfeasible or if the DES and the agency cannot reach an agreement regarding print management.

*Printing and Binding Jobs.*

For every printing and binding job ordered by a state agency, the DES shall advise the agency on how to choose more economic and efficient options to reduce costs.

*Consolidation of Agency Print Shops.*

The DES must determine which agencies have print shops and prepare a recommendation, including proposed legislation for 2012, to transfer print shop personnel, equipment, and activities of state agencies and institutions of higher education to the DES.

*Repealed Statutes: Chapter 43.78 RCW (Printer).*

In the process of transferring the functions and duties of the Printer to the DES, statutes pertaining to the following are repealed: the appointment of the Public Printer; the Printer's bonding requirement; requirements for state agencies to use the Printer; requesting print jobs by requisition; providing itemized statement of charges; and requirements for establishing five classes of printing and bind jobs.

Part IV: Powers and Duties Transferred from the DOP to the DES.

The DOP is eliminated and its powers and duties are divided between the OFM and the DES. Generally, the OFM shall direct and supervise personnel policies and the application of civil service laws and the DES shall direct and supervise the implementation of the laws.

*Appointment of Human Resources Director.*

The position of Director of Human Resources is created within the OFM. The Director of Human Resources has the same responsibilities for the adoption of rules and procedures as the Director of Personnel. In addition, the Director of Human Resources must adopt and maintain a comprehensive classification plan and compensation system for all positions in the classified service.

Upon request by an appointing authority and an employee organization representing classified employees, the Director of Human Resources may initiate a classification study. The Director of Human Resources may adopt special competitive salary ranges for institutions of higher education and related boards. Salary surveys of positions in public and private employment may be undertaken to establish market rates. Information collected from salary surveys that identify a specific employer is exempt from public disclosure.

*Duties Transferred to the OFM.*

Duties transferred to the OFM formerly performed by the DOP, include:

- compensation surveys for officers and entry-level officer candidates of the Washington State Patrol;
- prescription of training provisions for employees appointed to a supervisory or management position;
- adoption of policies and rules regarding diversity, employee leave, moving expenses of new employees, travel expenses of prospective employees, and the undergraduate internship program;
- study of the duties and salaries of various directors of departments and members of boards and commissions who are subject to appointment by the Governor and whose salaries are fixed by the Governor;
- oversight and custody of the Disability Accommodation Revolving Account, and the Higher Education Personnel Service Account; and
- joint oversight and custody of the Personnel Service Account.

*Duties Transferred to the DES.*

Duties transferred to the DES formerly performed by the DOP include:

- training and career development;
- oversight of the payroll system;
- administration of the Data Processing Revolving Account and the Personnel Service Account;
- background checks on prospective agency heads appointed by the Governor;
- duties transferred from the Personnel Resources Board to the OFM;
- amendment and adoption of rules relating to employees with unsupervised access to children; and
- oversight and custody of the Data Processing Revolving Account.

Other policy changes include the elimination of a reemployment list for terminated state employees and elimination of reports regarding agencies' progress toward meeting affirmative action goals and various training activities.

Statutes relating to the establishment of the DOP and the appointment of the Director of the DOP are repealed. Obsolete statutes relating to the Personnel Appeals Board and transfer of records from the data processing center to the Central Personnel Payroll System are repealed. Other statutes, classification system for classified service, salary changes to achieve comparable worth, classification and salary schedules to consider rates of public and private employment, and background checks are repealed but the functions are added to other new statutes.

Part V: Powers and Duties Transferred from the OFM to the DES.

The OFM's division of risk management and all of the division's powers and duties are transferred to the DES as the Office of Risk Management. Oversight and all duties related to the OFM's personnel services contracts are transferred to the DES.

Part VI: Powers and Duties Transferred from the DIS to the DES.

A limited number of specified power, duties, and functions of the DIS are transferred to the DES, as described in the sections below.

*Data Processing Revolving Account.*

The DES is authorized to receive funding from the Data Processing Revolving Account in order to pay for equipment, supplies, services, salaries, wages, and other costs related to the implementation of information services and telecommunications systems.

*Licensed Certification Authority.*

The DES is authorized to become a licensed certification authority as part of the system for authenticating digital signatures under the requirements of the Electronic Authentication Act.

*Purchase of Wireless Devices or Services.*

State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to the OFM evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

The oversight and administration of a wide range of functions pertaining to high-speed Internet activities are transferred from the DIS to the Department of Commerce, including:

- the Broadband Mapping Account;
- duties relating to the creation of a geographic information system map of all high-speed Internet infrastructure owned or leased by the state;
- the Community Technology Opportunity Program; and
- oversight of implementation of federally funded or mandated broadband programs for the state.

*Repealed Statutes: Chapter 43.105 RCW (DIS).*

In the process of transferring some of the functions and duties of the DIS to the DES, statutes pertaining to the following are repealed: encouraging state agencies and local governments to provide employee education in the use and implementation of electronic technologies; and requirements that DIS make publicly available a web directory of public facilities that provide community technology programs throughout the state.

Part VII: Creation of the Office of the Chief Information Officer.

The Office of the Chief Information Officer (Office of the CIO) is created within the Office of Financial Management (OFM) and is vested with some of the policy and planning related functions of the Department of Information Services (DIS). The Office of the CIO is headed by a chief information officer who is appointed by the Governor subject to confirmation by the Senate.

*Duties and Responsibilities.*

The primary duties of the Office of the CIO include: (1) preparing and leading the implementation of a strategic direction and enterprise architecture for information technology (IT) for state government; (2) enabling the standardization and consolidation of IT infrastructure to support enterprise-based system development and to improve and maintain service delivery; (3) establishing standards and policies for IT services throughout state government; and (4) establishing statewide architecture to serve as the organizing standard for IT for state agencies. The CIO may delegate any of his or her powers or duties.

The CIO may employ staff members, who may be exempt from the state civil service law, as well as additional staff members. The CIO also may employ staff members as may be necessary in accordance with the state civil service law, except as otherwise provided by law.

The term "state agency" is defined as every state office, department, division, board, commission, or other state agency, including offices headed by a statewide elected official.

With respect to institutions of higher education, the powers of the Office of the CIO apply to the business and administrative applications, but do not apply to academic and research applications. The Legislature and the Judiciary are strongly encouraged to coordinate with the Office of the CIO and participate in shared services initiatives and the development of enterprise-based strategies.

Prior to making a commitment to purchase, acquire, or develop a major IT project, state agencies must provide a proposal to the Office of the CIO for approval. If a substantially similar product or service is offered by the Consolidated Technology Services Agency (CTS Agency), the Office of the CIO may require the agency to procure the product or service through the CTS Agency.

*Creation of the Information Technology Advisory Board.*

A nine-member Information Technology Advisory Board (IT Board) is created within the Office of the CIO to advise the CIO on IT-related matters. The IT Board will consist of at least four private sector representatives, up to four state agency representatives, a local government representative, and four legislators.

The IT Board will: (1) review policies and standards, receive comments from agency executives on the implications of proposed policies and standards, and provide recommendations to the CIO; (2) provide a forum to solicit external expertise on developments in IT, enterprise architecture, standards, and policy development; and (3) provide a forum where issues related to IT plans, policies, and standards may be reviewed.

*Development of an Enterprise Architecture Strategy and Program.*

The Office of the CIO must develop an enterprise-based strategy for IT in state government that is informed by portfolio management planning and IT expenditure information collected from state agencies. The Office of the CIO also must develop an ongoing enterprise architecture program.

*Server Migration by State Agencies.*

State agencies must locate all existing and new servers in the State Data Center, unless they secure a waiver from the Office of the CIO. The Legislature and the Judiciary may enter into an interagency agreement with the Office of the CIO to migrate its servers into the State Data Center.

The Office of the CIO must conduct a needs assessment and develop a migration strategy to ensure that, over time, state agencies are moving towards using the CTS Agency as their central service provider for all utility-based infrastructure services.

*Existing Functions Assumed by the Office of the Chief Information Officer.*



A number of functions currently performed by the Information Services Board (ISB), the State Interoperability Executive Committee (SIEC), and the DIS are assumed by the Office of the CIO.

The ISB is eliminated. Policy and planning related IT powers and duties that are currently delegated to the ISB are assumed by the Office of the CIO.

The oversight and management of the K-20 Education Network, which currently resides with the ISB, is assumed by the Office of the CIO. Expenditures from the Education Technology Revolving Fund, which is used to pay for K-20 Education Network's operations, transport, equipment, and related functions, may be made by the CIO.

The CIO must appoint the State Interoperability Executive Committee. The appointment of the SIEC currently rests with the ISB.

The development of a state strategic IT plan, which is currently performed by the DIS, is assumed by the Office of the CIO. Agencies will continue to develop an IT portfolio and will submit this portfolio to the Office of the CIO, rather than the DIS, for review and approval. In addition, on a biennial basis, each agency will prepare and submit to the Office of the CIO a biennial performance report that evaluates progress towards its objectives outlined in its IT portfolio.

The Office of the CIO also will assume the responsibility of: (1) evaluating state agency IT budget requests at the request of the OFM; and (2) establishing standards and policies governing the planning, implementation, and evaluation of major IT projects.

*Applicability of State Civil Service Law.*

As of July 1, 2011, the state civil service law does not apply to: (1) the CIO; (2) the CIO's confidential secretary; (3) assistant directors; and (4) other exempt staff members.

Part VIII: Creation of the Consolidated Technology Services Agency.

The Consolidated Technology Services Agency (CTS Agency) is created as an agency of state government. It replaces the Department of Information Services (DIS) and is vested with many of the powers and duties of the DIS. The Director of the CTS Agency is appointed by the Governor and is subject to confirmation by the Senate.

A provision in current law, which specifies that the use of the DIS by agencies is discretionary and that agencies may elect other alternatives for IT service, is removed.

*Creation of the Consolidated Technology Services Board.*

The Consolidated Technology Services Board (CTS Board) is created as an 11-member board with seven customer representatives in the position of chief executive officer, chief financial officer, or chief information officer, and four legislative members that will serve as ex-officio members.

The powers and duties of the CTS Board include:

- approving rates for services offered by the CTS Agency;
- approving the budget proposal to the OFM for the CTS Agency;
- approving the catalog of services to be provided or procured for client agencies; and

- preparing and submitting performance evaluations of the Director of the CTS Agency and of the agency as a whole to the Governor.

*Performance Measures.*

The Director of the CTS Agency, in consultation with the CTS Board, must set performance targets and approve performance measures for achieving specific goals for the CTS Agency. These performance targets and measures must be submitted to the Governor by January 2012 and include: measures of performance related to service delivery and costs; operational efficiencies; and overall customer satisfaction.

*Purchasing.*

The CTS Agency is exempt from the state purchasing statute, which vests certain state purchasing with the Director of the Department of General Administration.

*Personal Service Contracts.*

Contracts awarded by the CTS Agency are exempt from the requirements for personal service contracts.

*Collective Bargaining.*

A new collective bargaining law provides for bargaining by the Governor and representatives of CTS Agency employee bargaining units.

Mandatory and permissive subjects of bargaining are substantially the same as under the state employee collective bargaining law. Bargaining is prohibited over management rights, as well as over: (1) the CTS Agency's right to use a performance-based evaluation system; (2) its discretion to determine levels of employee discipline; and (3) its decisions and impacts of contracting for services.

The processes for submitting collective bargaining agreements to the OFM and the Legislature are substantially the same as under the state employee collective bargaining law, except that agreements for Fiscal Year 2013 must be submitted by January 15, 2012.

*Contracting Out.*

The CTS Agency may contract for services, including services customarily and historically provided by state employees. There is no requirement that certain criteria relating to employee business units or displaced classified employees be met. Bargaining over the CTS Agency's decisions and impacts of contracting for services is prohibited.

*Repealed Statutes.*

In the process of moving many of the functions and duties of the DIS and the ISB to either the Office of the CIO or the CTS Agency, multiple statutes in the DIS chapter (chapter 43.105 RCW) are repealed. Many of these provisions are reiterated in substantially the same form in the newly created Office of the CIO chapter of the Revised Code of Washington.

Provisions that are repealed and not otherwise assumed by the Office of the CIO or the CTS Agency pertain to: (1) the ISB; (2) the development of a management and oversight structure based on the use of IT portfolios; (3) expenditures by state agencies for major IT projects; (4)

development of a consumer protection website; and (5) statements of legislative intent and purpose regarding the DIS.

Part IX: Applicability of Civil Service Law to the CTS Agency; Review of Collective Bargaining Units; and Administrative Provisions.

*State Civil Service Law*

As of July 1, 2011, the state civil service law does not apply to the CTS Agency's officers and its unrepresented employees. As of July 1, 2012, the law does not apply to all of the CTS Agency's officers and employees.

*Review of Collective Bargaining Units.*

By January 1, 2012, the Public Employment Relations Commission (Commission) must review the appropriateness of the collective bargaining units transferred to the DES by the GA, the Printer, and the DIS. If the Commission determines that an existing collective bargaining unit is appropriate under state collective bargaining laws, the exclusive bargaining representative certified to represent the bargaining unit prior to January 1, 2012, shall continue as the exclusive bargaining representative without the necessity of an election.

If the Commission determines that existing collective bargaining units are not appropriate, the Commission may modify the units and order an election. The Commission may also require an election if similarly situated employees are represented by more than one employee organization.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on May 18, 2011.

**Effective Date:** The bill takes effect on October 1, 2011, except for sections 109 pertaining to the definition of an executive state officer, 448 pertaining to the salary of the executive director for the Public Disclosure Commission, and 732 pertaining to legislative intent for access to public disclosure of reports which take effective January 1, 2012; and section 462 pertaining to definitions for the Department of Labor and Industries which takes effect December 31, 2011.

Sections 728 through 731, pertaining to campaign finance disclosure law, expire January 1, 2012, and section 462, pertaining to definitions for the Department of Labor and Industries, expires December 31, 2011.