

SENATE BILL REPORT

ESSB 5931

As Amended by House, May 25, 2011

Title: An act relating to reorganizing and streamlining central service functions, powers, and duties of state government.

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 History:

Committee Activity: Ways & Means: 4/14/11, 5/16/11 [DPS, DNP].

First Special Session: Passed Senate: 5/17/11, 29-18.

Passed House: 5/25/11, 54-42.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5931 be substituted therefor, and the substitute bill do pass.

Signed by Senators Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Baxter, Hatfield, Hewitt, Holmquist Newbry, Honeyford, Kastama, Pflug, Schoesler and Tom.

Minority Report: Do not pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown, Conway, Fraser, Keiser, Pridemore, Regala and Rockefeller.

Staff: Jenny Greenlee (786-7711)

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 (GA). GA provides support services to state agencies, and other entities such as schools, local governments, higher education institutions, and nonprofits. Services provided by GA include purchasing and contracting for goods and services, lease management, facility and grounds maintenance, construction project

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management, state motor pool, operation of the consolidated mail services, adoption of state building code, and oversight of bidding procedures.

Office of Public Printer (Printer). The Printer was established in 1854 and provides printing and binding for a wide range of agency documents. The Printer may subcontract printing to a private vendor under some circumstances. In those cases, the Printer may apply a 5 percent markup. Current law requires the Printer to charge the actual cost for print jobs but those costs may not exceed the prices listed in the Franklin Pricing Guide.

Department of Personnel (DOP). DOP manages the state's civil services system since creation by initiative in 1960. Civil service law applies to all state agencies, institutions of higher education, boards and commissions and each employee, unless expressly excluded or exempted by law. DOP duties include oversight and administration of the civil service system and administration and operation of the central personnel payroll system. The Director of DOP is responsible for adopting rules regarding disciplinary and other employee action, transfers, training and career development, sick leave and vacations, layoffs and reemployment, salary schedules and performance evaluations. The Public Employment Relations Commission manages collective bargaining provisions, including the determination of appropriate bargaining units within any agency.

Office of Financial Management (OFM). OFM was established in 1969 as a division of the Office of the Governor. The general duties of OFM including planning and coordination in the preparation of budgets, accounting functions, research related to the state and federal census, preparation of fiscal notes, oversight of the state's risk management, and management of personal service contracts.

Department of Information Services (DIS). DIS provides technology-based services to state agencies and local governments. The Director of DIS is responsible for managing the functions of DIS, as well as serving as the state's Chief Information Officer (CIO). DIS provides a variety of services including telecommunications and computing services, procurement of technology equipment through master contracts, and information technology (IT) support. DIS must charge a fee sufficient to fully recover all costs associated with providing its services. State agencies may procure information technology services through DIS, but are not required to do so.

The Information Services Board (ISB) is staffed by DIS and provides authorization and oversight for managing large IT projects. ISB is tasked with developing state IT standards, governing acquisitions, reviewing and approving statewide IT strategic plans, and developing statewide technical polices. The members of ISB include state agencies and members of the Legislature.

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. These rules may be superseded by collective bargaining agreements for represented employees. State collective bargaining law provides for bargaining by the Governor and representatives of classified employee bargaining units. Collective bargaining agreements must be submitted to OFM 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 Engrossed Substitute Bill: Many of the central service agencies are significantly reorganized and two new state agencies are created, the Department of Enterprise Services (DES) and the Consolidated Technology Services (CTS).

Part 1 - Creation of DES. DES is tasked with providing products and services to support state agencies, other governmental entities, and nonprofits. DES is an executive branch agency and the director is appointed by the Governor and subject to confirmation by the Senate.

DES assumes the following responsibilities:

- all roles and responsibilities of GA and the Printer;
- risk management and oversight of personal service contracts from OFM;
- training and career development, oversight of the payroll system, and many other basic functions of DOP; and
- purchase of wireless devices and digital signature authority from DIS.

Additionally, OFM must examine on a biennial basis which services within DES might be performed by the private sector. OFM will select six activities each biennium for DES to competitively bid to the private sector. If service cannot be provided at a lower rate or more efficiently, OFM will notify DES to cancel the bid. If the bid is canceled, OFM must notify the legislative fiscal committees. 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 DES and report to the Legislature by January 1, 2018. DES must also examine state procurement practices and report on recommendations for improvement by October 30, 2011.

Part 2 - Powers and Duties Transfer from GA to DES. GA is eliminated as a state agency and all of its powers and duties are assigned to DES. Provisions regarding bid processes are revised to require that all purchases require formal sealed bids and exceptions to formal bid direct buy purchases are added. The DES director is required to establish policies annually to define bid criteria and limits.

Part 3 - Powers and Duties Transfer from the Public Printer. The State Printer's powers and duties are transferred to the DES. State agencies are no longer required to use the State Printer. DES must provide printing services on a cost recovery basis. State agencies are required to consult with DES regarding economic and efficient options for printing jobs. DES will issue guidelines for agencies to manage their print operations. DES will prepare recommendations regarding agency specific print shops. DES will broker print management contracts for state agencies. All agencies with 1000 FTE's or more will utilize print management services. These print management contracts must result in savings. OFM may authorize an exemption from this requirement.

Part 4 - Powers and Duties Transferred from GA to DES. DOP is eliminated and its powers and duties divided between OFM and DES. DES will receive the majority of DOP's

responsibilities including training and career development and oversight of the payroll system. DES is responsible for job classification activities.

Other functions currently performed by DOP are transferred to OFM. These functions include creating broad personnel policies, compensation and salary scheduling, and prescription of training provisions for supervisory or management positions.

Part 5 - Powers and Duties Transferred from OFM to DES. Risk management and personal services contracting oversight activities are transferred from OFM to DES.

Part 6 - Powers and Duties Transferred from DIS. DES is authorized to receive funding from the Data Processing Revolving Account as DIS will no longer exist as a state agency. High-speed Internet programs are moved to the Department of Commerce.

Part 7 - Creation of the Office of the Chief Information Officer (OCIO). OCIO is created within OFM. OCIO is responsible for the preparation and implementation of a strategic IT plan and enterprise architecture (EA) for the state. OCIO must work towards standardization and consolidation of IT infrastructure, establish standards and policies for EA, and educate and inform the state on IT matters. CIO is appointed by the Governor and subject to confirmation by the Senate.

OCIO will prepare a biennial state performance report on IT, evaluate current IT spending and budget requests, and oversee major IT projects including procurements. A board will advise CIO and is made up of four state agencies: four private sector representatives, one representative from local governments, and members from the two largest caucuses in the House and Senate. ISB is eliminated.

Agencies are required to submit IT portfolios and are required to co-locate servers within the state data center. CIO will assess agencies ability to utilize CTS and develop a strategy for increase agency use of CTS.

Part 8 - Creation of CTS. A majority of service provision duties are transferred from DIS to CTS including server hosting and network administration, telephony, security administration, and email. A CTS Board is created with seven customer representatives in the position of chief executive officer, chief financial officer, or chief information officer. Four legislative members will serve as ex-officio members on the board. The board will approve rates for services offered by CTS, the budget proposals to OFM from CTS, the catalog of services to be provided by CTS, and prepare performance evaluations of CTS and the director for the Governor.

A new collective bargaining law is created for CTS that is substantially similar to current law but allows for CTS to use performance-based evaluation systems, discretion in employee discipline, and to determine services eligible for contracting. CTS is specifically authorized to contract out for services customarily and historically provided by state employees. Bargaining over CTS ability to contract for service is prohibited.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: PRO: The Governor supports this bill and is looking for Ways and Means to continue to move this bill forward. The significant policy points in this bill include contracting out, allowing for flexibility in creating competition for providing services where that is proven to be more efficient and effective. The Governor is supportive of having state employees compete and using contracting authority. It's part of the changes that are necessary to make agencies more efficient. The bill includes some pretty major changes in the area of information technology including creating the Office of the Chief Information Officer. That position will be responsible for planning and oversight of information technology statewide, which is very important. We would like to make changes to the bill so that the examination of services for contracting out occur on a biennial basis so it is synced with the budget cycle. The Governor does oppose elimination of the State Printer. The Governor is open to creating more competition around printing but opposes complete privatization. This bill will improve the way state government does business.

CON: Teamsters oppose the closure of the State Printer. The State Printer just received the 2011 Management Award from the In-Plan Printing and Mailing Association. The Printer saves the state money by coordinating printing for state agencies and assisting them in achieving their core functions. The Printer is entirely self supporting so no money is saved by closing the printer. It could cost the state money to close the State Printer. The Director of DES should not be the only person making the decision to contract out activities. Staff on the ground often know more about how services can be done more efficiently and should be a prescribed part of that process. WFSE is opposed to the anti-union message tucked in the bill. There are many bills this session that reorganize state services and this bill does not allow for the employees bargaining rights to follow them into the new agencies. Printing services do not have to undergo the competitive bidding process. Workers in the CTS agency get a whole new collective bargaining law that cherry picks provisions. The whole idea behind competitive bidding is to allow state employees to demonstrate that they can do the worker cheaper and more efficiently. By mandating contract out, this opportunity is eliminated. Workers would like the opportunity to compete.

Persons Testifying: PRO: Stan Marshburn, Office of Financial Management.

CON: Steven Aldrich, Teamsters Local 767M; Alia Griffing, Washington Federation of State Employees.

House Amendment(s):

- OFM and DES will examine up to six activities for possible contracting out. The requirement to conduct these examinations expire June 30, 2018. Activities contracted out prior to June 30, 2018, can continue to be contracted out after the expiration date.

- CTS can contract for services and activities related to the data center and other activities approved by the Technology Services Board (TSB), which is created in the bill.
- Changes to collective bargaining have been removed. OFM is authorized to create exempt positions in specific job classifications.
- Any material printed by state agencies that contains personally identifiable information must be printed by DES or, if contracted out, must have a confidentiality agreement.
- The auditor must conduct a performance audit of printing. That audit must be completed by November 2016.
- The TSB is created, which will authorize funding for major IT projects. The TSB will develop a policy to determine which projects will require an independent technical and financial review. The Chief Information Officer can spend up to \$1 million each biennium on these independent reviews without an appropriation.
- Full exemptions for CTS from the procurement and personal services contract requirements are removed. CTS does have some modified exemptions from the procurement rules, similar to current statutes related to DIS.
- The Education Research and Data Center is transferred from OFM to the LEAP.
- OFM must develop and submit a state technology budget. The budget must identify current baseline funding for IT, proposed and ongoing major IT projects, and their associated costs.
- The state auditor will conduct a two part review of the data center by December 1, 2011. The review may cover how decisions related to funding the data center were made and an analysis of the current implementation plan.