
SENATE BILL 5516

State of Washington

62nd Legislature

2011 Regular Session

By Senators Tom, Hill, Becker, Kilmer, White, and Shin

Read first time 01/28/11. Referred to Committee on Higher Education & Workforce Development.

1 AN ACT Relating to advance payments for equipment maintenance
2 services for institutions of higher education; and amending RCW
3 43.88.160.

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

5 **Sec. 1.** RCW 43.88.160 and 2006 c 1 s 6 are each amended to read as
6 follows:

7 This section sets forth the major fiscal duties and
8 responsibilities of officers and agencies of the executive branch. The
9 regulations issued by the governor pursuant to this chapter shall
10 provide for a comprehensive, orderly basis for fiscal management and
11 control, including efficient accounting and reporting therefor, for the
12 executive branch of the state government and may include, in addition,
13 such requirements as will generally promote more efficient public
14 management in the state.

15 (1) Governor; director of financial management. The governor,
16 through the director of financial management, shall devise and
17 supervise a modern and complete accounting system for each agency to
18 the end that all revenues, expenditures, receipts, disbursements,
19 resources, and obligations of the state shall be properly and

1 systematically accounted for. The accounting system shall include the
2 development of accurate, timely records and reports of all financial
3 affairs of the state. The system shall also provide for central
4 accounts in the office of financial management at the level of detail
5 deemed necessary by the director to perform central financial
6 management. The director of financial management shall adopt and
7 periodically update an accounting procedures manual. Any agency
8 maintaining its own accounting and reporting system shall comply with
9 the updated accounting procedures manual and the rules of the director
10 adopted under this chapter. An agency may receive a waiver from
11 complying with this requirement if the waiver is approved by the
12 director. Waivers expire at the end of the fiscal biennium for which
13 they are granted. The director shall forward notice of waivers granted
14 to the appropriate legislative fiscal committees. The director of
15 financial management may require such financial, statistical, and other
16 reports as the director deems necessary from all agencies covering any
17 period.

18 (2) Except as provided in chapter 43.88C RCW, the director of
19 financial management is responsible for quarterly reporting of primary
20 operating budget drivers such as applicable workloads, caseload
21 estimates, and appropriate unit cost data. These reports shall be
22 transmitted to the legislative fiscal committees or by electronic means
23 to the legislative evaluation and accountability program committee.
24 Quarterly reports shall include actual monthly data and the variance
25 between actual and estimated data to date. The reports shall also
26 include estimates of these items for the remainder of the budget
27 period.

28 (3) The director of financial management shall report at least
29 annually to the appropriate legislative committees regarding the status
30 of all appropriated capital projects, including transportation
31 projects, showing significant cost overruns or underruns. If funds are
32 shifted from one project to another, the office of financial management
33 shall also reflect this in the annual variance report. Once a project
34 is complete, the report shall provide a final summary showing estimated
35 start and completion dates of each project phase compared to actual
36 dates, estimated costs of each project phase compared to actual costs,
37 and whether or not there are any outstanding liabilities or unsettled
38 claims at the time of completion.

1 (4) In addition, the director of financial management, as agent of
2 the governor, shall:

3 (a) Develop and maintain a system of internal controls and internal
4 audits comprising methods and procedures to be adopted by each agency
5 that will safeguard its assets, check the accuracy and reliability of
6 its accounting data, promote operational efficiency, and encourage
7 adherence to prescribed managerial policies for accounting and
8 financial controls. The system developed by the director shall include
9 criteria for determining the scope and comprehensiveness of internal
10 controls required by classes of agencies, depending on the level of
11 resources at risk.

12 Each agency head or authorized designee shall be assigned the
13 responsibility and authority for establishing and maintaining internal
14 audits following the standards of internal auditing of the institute of
15 internal auditors;

16 (b) Make surveys and analyses of agencies with the object of
17 determining better methods and increased effectiveness in the use of
18 manpower and materials; and the director shall authorize expenditures
19 for employee training to the end that the state may benefit from
20 training facilities made available to state employees;

21 (c) Establish policies for allowing the contracting of child care
22 services;

23 (d) Report to the governor with regard to duplication of effort or
24 lack of coordination among agencies;

25 (e) Review any pay and classification plans, and changes
26 thereunder, developed by any agency for their fiscal impact: PROVIDED,
27 That none of the provisions of this subsection shall affect merit
28 systems of personnel management now existing or hereafter established
29 by statute relating to the fixing of qualifications requirements for
30 recruitment, appointment, or promotion of employees of any agency. The
31 director shall advise and confer with agencies including appropriate
32 standing committees of the legislature as may be designated by the
33 speaker of the house and the president of the senate regarding the
34 fiscal impact of such plans and may amend or alter the plans, except
35 that for the following agencies no amendment or alteration of the plans
36 may be made without the approval of the agency concerned: Agencies
37 headed by elective officials;

1 (f) Fix the number and classes of positions or authorized employee
2 years of employment for each agency and during the fiscal period amend
3 the determinations previously fixed by the director except that the
4 director shall not be empowered to fix the number or the classes for
5 the following: Agencies headed by elective officials;

6 (g) Adopt rules to effectuate provisions contained in (a) through
7 (f) of this subsection.

8 (5) The treasurer shall:

9 (a) Receive, keep, and disburse all public funds of the state not
10 expressly required by law to be received, kept, and disbursed by some
11 other persons: PROVIDED, That this subsection shall not apply to those
12 public funds of the institutions of higher learning which are not
13 subject to appropriation;

14 (b) Receive, disburse, or transfer public funds under the
15 treasurer's supervision or custody;

16 (c) Keep a correct and current account of all moneys received and
17 disbursed by the treasurer, classified by fund or account;

18 (d) Coordinate agencies' acceptance and use of credit cards and
19 other payment methods, if the agencies have received authorization
20 under RCW 43.41.180;

21 (e) Perform such other duties as may be required by law or by
22 regulations issued pursuant to this law.

23 It shall be unlawful for the treasurer to disburse public funds in
24 the treasury except upon forms or by alternative means duly prescribed
25 by the director of financial management. These forms or alternative
26 means shall provide for authentication and certification by the agency
27 head or the agency head's designee that the services have been rendered
28 or the materials have been furnished; or, in the case of loans or
29 grants, that the loans or grants are authorized by law; or, in the case
30 of payments for periodic maintenance services to be performed on state
31 owned equipment, that a written contract for such periodic maintenance
32 services is currently in effect; and the treasurer shall not be liable
33 under the treasurer's surety bond for erroneous or improper payments so
34 made. When services are lawfully paid for in advance of full
35 performance by any private individual or business entity other than
36 equipment maintenance providers or as provided for by RCW 42.24.035,
37 such individual or entity other than central stores rendering such
38 services shall make a cash deposit or furnish surety bond coverage to

1 the state as shall be fixed in an amount by law, or if not fixed by
2 law, then in such amounts as shall be fixed by the director of the
3 department of general administration but in no case shall such required
4 cash deposit or surety bond be less than an amount which will fully
5 indemnify the state against any and all losses on account of breach of
6 promise to fully perform such services. No payments shall be made in
7 advance for any equipment maintenance services to be performed more
8 than twelve months after such payment, except institutions of higher
9 education as defined in RCW 28B.10.016 may make payments in advance for
10 equipment maintenance services to be performed up to sixty months after
11 such payment. Any such bond so furnished shall be conditioned that the
12 person, firm or corporation receiving the advance payment will apply it
13 toward performance of the contract. The responsibility for recovery of
14 erroneous or improper payments made under this section shall lie with
15 the agency head or the agency head's designee in accordance with
16 regulations issued pursuant to this chapter. Nothing in this section
17 shall be construed to permit a public body to advance funds to a
18 private service provider pursuant to a grant or loan before services
19 have been rendered or material furnished.

20 (6) The state auditor shall:

21 (a) Report to the legislature the results of current post audits
22 that have been made of the financial transactions of each agency; to
23 this end the auditor may, in the auditor's discretion, examine the
24 books and accounts of any agency, official, or employee charged with
25 the receipt, custody, or safekeeping of public funds. Where feasible
26 in conducting examinations, the auditor shall utilize data and findings
27 from the internal control system prescribed by the office of financial
28 management. The current post audit of each agency may include a
29 section on recommendations to the legislature as provided in (c) of
30 this subsection.

31 (b) Give information to the legislature, whenever required, upon
32 any subject relating to the financial affairs of the state.

33 (c) Make the auditor's official report on or before the thirty-
34 first of December which precedes the meeting of the legislature. The
35 report shall be for the last complete fiscal period and shall include
36 determinations as to whether agencies, in making expenditures, complied
37 with the laws of this state. The state auditor is authorized to
38 perform or participate in performance verifications and performance

1 audits as expressly authorized by the legislature in the omnibus
2 biennial appropriations acts or in the performance audit work plan
3 approved by the joint legislative audit and review committee. The
4 state auditor, upon completing an audit for legal and financial
5 compliance under chapter 43.09 RCW or a performance verification, may
6 report to the joint legislative audit and review committee or other
7 appropriate committees of the legislature, in a manner prescribed by
8 the joint legislative audit and review committee, on facts relating to
9 the management or performance of governmental programs where such facts
10 are discovered incidental to the legal and financial audit or
11 performance verification. The auditor may make such a report to a
12 legislative committee only if the auditor has determined that the
13 agency has been given an opportunity and has failed to resolve the
14 management or performance issues raised by the auditor. If the auditor
15 makes a report to a legislative committee, the agency may submit to the
16 committee a response to the report. This subsection (6) shall not be
17 construed to authorize the auditor to allocate other than de minimis
18 resources to performance audits except as expressly authorized in the
19 appropriations acts or in the performance audit work plan. The results
20 of a performance audit conducted by the state auditor that has been
21 requested by the joint legislative audit and review committee must only
22 be transmitted to the joint legislative audit and review committee.

23 (d) Be empowered to take exception to specific expenditures that
24 have been incurred by any agency or to take exception to other
25 practices related in any way to the agency's financial transactions and
26 to cause such exceptions to be made a matter of public record,
27 including disclosure to the agency concerned and to the director of
28 financial management. It shall be the duty of the director of
29 financial management to cause corrective action to be taken within six
30 months, such action to include, as appropriate, the withholding of
31 funds as provided in RCW 43.88.110. The director of financial
32 management shall annually report by December 31st the status of audit
33 resolution to the appropriate committees of the legislature, the state
34 auditor, and the attorney general. The director of financial
35 management shall include in the audit resolution report actions taken
36 as a result of an audit including, but not limited to, types of
37 personnel actions, costs and types of litigation, and value of recouped
38 goods or services.

1 (e) Promptly report any irregularities to the attorney general.

2 (f) Investigate improper governmental activity under chapter 42.40
3 RCW.

4 (~~(g)~~) In addition to the authority given to the state auditor in
5 this subsection (6), the state auditor is authorized to conduct
6 performance audits identified in RCW 43.09.470. Nothing in this
7 subsection (6) shall limit, impede, or restrict the state auditor from
8 conducting performance audits identified in RCW 43.09.470.

9 (7) The joint legislative audit and review committee may:

10 (a) Make post audits of the financial transactions of any agency
11 and management surveys and program reviews as provided for in chapter
12 44.28 RCW as well as performance audits and program evaluations. To
13 this end the joint committee may in its discretion examine the books,
14 accounts, and other records of any agency, official, or employee.

15 (b) Give information to the legislature or any legislative
16 committee whenever required upon any subject relating to the
17 performance and management of state agencies.

18 (c) Make a report to the legislature which shall include at least
19 the following:

20 (i) Determinations as to the extent to which agencies in making
21 expenditures have complied with the will of the legislature and in this
22 connection, may take exception to specific expenditures or financial
23 practices of any agencies; and

24 (ii) Such plans as it deems expedient for the support of the
25 state's credit, for lessening expenditures, for promoting frugality and
26 economy in agency affairs, and generally for an improved level of
27 fiscal management.

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