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**SUBSTITUTE SENATE BILL 5081**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Miloscia, Hill, Bailey, Becker, and Dammeier)

AN ACT Relating to increasing transparency of state government expenditures related to state employees, state vendors and other public entities; amending RCW 43.82.150, 39.26.140, 39.26.150, 39.26.200, 39.26.210, and 39.19.060; reenacting and amending RCW 41.06.133; adding new sections to chapter 43.88 RCW; adding new sections to chapter 44.48 RCW; and adding a new section to chapter 39.26 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 43.88 RCW to read as follows:

(1) In order to facilitate public inspection of state collective bargaining agreements, the office of financial management must maintain a web site that is accessible to the public of all agreements collectively bargained under the authority of chapters 41.80 and 47.64 RCW and RCW 41.56.026, 41.56.028, 41.56.029, 41.56.473, 41.56.510, and 74.39A.270.

(2) In order to facilitate public understanding of state collective bargaining agreements, the office of financial management must prepare a summary of each agreement subject to subsection (1) of this section for posting on the web site. The summary must identify the following information for each agreement:

(a) The term of agreement;

(b) The bargaining units covered by the agreement by state agency;

(c) Base compensation;

(d) Eligibility for and rate of overtime pay;

(e) Eligibility for and rate of compensatory time;

(f) Eligibility for and rate of any other compensation, including but not limited to shift premium pay, on-call pay, stand-by pay, assignment pay, special pay, or employer provided housing or meals;

(g) Eligibility for and rate of pay for each paid leave provision;

(h) Eligibility for and rate of pay for any cash out provisions for compensatory time or paid leave;

(i) Temporary layoff provision;

(j) Any impasse procedure subject to bargaining;

(k) Employer and employee health care benefits expressed as a percentage of cost or as a dollar amount;

(l) Any retirement benefit subject to bargaining;

(m) A brief description of each component and its cost that comprise the amount funded by the legislature to implement the compensation and fringe benefits of the agreement;

(n) Number of bargaining unit members covered by the agreement as of the date the agreement is implemented; and

(o) Content of any agency specific supplemental agreements affecting (a) through (m) of this subsection.

(3) Information may include links to salary schedules, pay ranges, and other information on state or federal agency web sites to summarize information. Information may include links to specific language within an agreement to summarize information.

(4) The web site must be updated within sixty days of implementation of any agreement or revisions to an agreement.

(5) No later than January 1, 2016, the information under this section must be incorporated into the state expenditure information web site maintained by the legislative evaluation and accountability program committee under RCW 44.48.150.

(6) The summaries of collective bargaining agreements must not disclose personally identifiable information of any bargaining unit member.

**Sec.**  RCW 43.82.150 and 2007 c 506 s 7 are each amended to read as follows:

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

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

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

(4) No later than January 1, 2016, the inventory under this section must be incorporated into the state expenditure information web site maintained by the legislative evaluation and accountability program committee under RCW 44.48.150.

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

**Sec.**  RCW 39.26.140 and 2012 c 224 s 16 are each amended to read as follows:

(1) Agencies must submit sole source contracts to the department and make the contracts available for public inspection not less than ten working days before the proposed starting date of the contract. Agencies must provide documented justification for sole source contracts to the department when the contract is submitted, and must include evidence that the agency posted the contract opportunity at a minimum on the state's enterprise vendor registration and bid notification system.

(2) The department must approve sole source contracts before any such contract becomes binding and before any services may be performed or goods provided under the contract. These requirements shall also apply to all sole source contracts except as otherwise exempted by the director.

(3) The director may provide an agency an exemption from the requirements of this section for a contract or contracts. Requests for exemptions must be submitted to the director in writing.

(4) Contracts awarded by institutions of higher education from nonstate funds are exempt from the requirements of this section.

(5) No later than January 1, 2016, the department must maintain a web site of sole source contracts that is accessible to the public to enable inspection as required in subsection (1) of this section.

**Sec.**  RCW 39.26.150 and 2012 c 224 s 17 are each amended to read as follows:

(1) Agencies must provide public notice for all competitive solicitations. Agencies must post all contract opportunities on the state's enterprise vendor registration and bid notification system. In addition, agencies may notify contractors and potential bidders by sending notices by mail, electronic transmission, newspaper advertisements, or other means as may be appropriate.

(2) Agencies should try to anticipate changes in a requirement before the bid submittal date and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the agency, it is not possible to provide reasonable notice, the submittal date for receipt of bids may be postponed and all bidders notified.

(3) No later than January 1, 2016, the department must maintain a web site of all current contract opportunities on the state's enterprise vendor registration and bid notification system that is accessible to the public without requiring registration as a vendor or other entity within the system.

**Sec.**  RCW 39.26.200 and 2013 2nd sp.s. c 34 s 1 are each amended to read as follows:

(1)(a) The director shall provide notice to the contractor of the director's intent to debar with the specific reason for the debarment. The department must establish the debarment process by rule.

(b) After reasonable notice to the contractor and reasonable opportunity for that contractor to be heard, the director has the authority to debar a contractor for cause from consideration for award of contracts. The debarment must be for a period of not more than three years.

(2) The director may debar a contractor based on a finding of one or more of the following causes:

(a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(b) Conviction or a final determination in a civil action under state or federal statutes of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the federal false claims act, 31 U.S.C. Sec. 3729 et seq., or the state medicaid fraud false claims act, chapter 74.66 RCW, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects responsibility as a state contractor;

(c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(d) Two or more violations within the previous five years of the federal labor relations act as determined by the national labor relations board or court of competent jurisdiction;

(e) Violation of contract provisions, as set forth in this subsection, of a character that is regarded by the director to be so serious as to justify debarment action:

(i) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, however the failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;

(f) Violation of ethical standards set forth in RCW 39.26.020; and

(g) Any other cause the director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations.

(3) The director must issue a written decision to debar. The decision must:

(a) State the reasons for the action taken; and

(b) Inform the debarred contractor of the contractor's rights to judicial or administrative review.

(4) No later than January 1, 2016, the department must maintain a web site of all contractors currently debarred by the director that is accessible to the public.

**Sec.**  RCW 39.26.210 and 2012 c 224 s 23 are each amended to read as follows:

(1) Agencies must annually submit to the department a list of all contracts that the agency has entered into or renewed. "Contracts," for the purposes of this section, does not include purchase orders. The department must maintain a web site with a publicly available list of all contracts entered into by agencies during each fiscal year, except that contracts for the employment of expert witnesses for the purposes of litigation shall not be made publicly available to the extent that information is exempt from disclosure under state law. Except as otherwise exempt, the data must identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any substantive modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis.

(2) The department may conduct audits of its master contracts and convenience contracts to ensure that the contractor is in compliance with the contract terms and conditions, including but not limited to providing only the goods and services specified in the contract at the contract price.

NEW SECTION. **Sec.**  A new section is added to chapter 44.48 RCW to read as follows:

By January 1, 2016, in collaboration with the department of enterprise services, the legislative evaluation and accountability program committee must establish and make available to the public a state contracting information web site. The web site must direct the public to existing databases and web sites of current contracting opportunities, sole source contract inspection opportunities, debarred contractors, the inventory of state agency contracts entered into or renewed, minority and women-owned business contracting performance and compliance under section 10 of this act, the list of performance-based incentives, bonuses or awards paid under contract under section 11 of this act, and any other information that will increase public accessibility to state contracting opportunities or expenditures. If determined feasible and efficient, the legislative evaluation and accountability program committee may host department of enterprise services web sites related to state agency contracts or publish existing databases in different forms and formats to increase public accessibility to the information.

NEW SECTION. **Sec.**  A new section is added to chapter 44.48 RCW to read as follows:

(1) In order to facilitate transparency and accessibility to state expenditures to other public entities, no later than September 30th of each year, the following agencies must report to the legislative evaluation and accountability program committee the amount of funds distributed or expended in the prior fiscal year for each local government or other entity for the following programs and expenditures:

(a) Administrative office of the courts:

(i) State contributions for county superior court judge salaries and benefits;

(ii) County legal financial obligation grants under RCW 2.56.190;

(iii) Court-appointed special advocate coordinator grants;

(iv) Court interpreter assistance reimbursements under RCW 2.42.120(7) and 2.43.040(5);

(v) State contributions for district court judges and qualifying elected municipal court judge salaries under RCW 2.56.030(22);

(vi) Family and juvenile court improvement grants under RCW 2.56.230; and

(vii) Distributions to counties and/or county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions.

(b) Office of public defense:

(i) Parents representation program costs; and

(ii) Public defense improvement grants under chapter 10.101 RCW.

(c) Department of retirement systems: State contributions to the law enforcement officers' and firefighters' retirement system reported separately for each employer, based on the compensation reported by that employer.

(d) Secretary of state: Reimbursements to counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures in odd-numbered year elections.

(e) Military department:

(i) Financial assistance to counties to replace analog 911 telephone and network equipment with next generation 911 capable technology; and

(ii) Financial assistance to counties under contract for expenses authorized for reimbursement under RCW 38.52.540 and 38.52.545.

(f) Department of commerce:

(i) Vehicle electrification demonstration grants under RCW 43.325.110;

(ii) Growth management act grants;

(iii) Energy efficiency and solar grants to local governments, institutions of higher education, and state agencies; and

(iv) Victim/witness assistance programs under RCW 7.68.035.

(g) Criminal justice training center: Cost of cadet basic law enforcement academy training.

(2) State agencies must collaborate with the legislative evaluation and accountability program committee and the appropriate fiscal committees of the legislature to determine a method to assign a distribution amount by entity in those instances when the amount or entity is not readily identifiable. The method used must be disclosed in the description of the distribution. The legislative evaluation and accountability program committee may allow the report required in subsection (1) of this section be provided in alternative forms, such as extracting expenditure data from the state's accounting and financial reporting systems.

(3) In their report to the legislative evaluation and accountability program committee, state agencies must provide a brief description of any changes to the program or expenditure from its prior report that affects distribution eligibility or methodology.

**Sec.**  RCW 41.06.133 and 2011 1st sp.s. c 43 s 407 and 2011 1st sp.s. c 39 s 5 are each reenacted and amended to read as follows:

(1) The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The reduction, dismissal, suspension, or demotion of an employee;

(b) Training and career development;

(c) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except as follows:

(i) Entry-level state park rangers shall serve a probationary period of twelve months; and

(ii) The probationary period of campus police officer appointees who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required. The director shall adopt rules to ensure that employees promoting to campus police officer who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall have the trial service period extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required;

(d) Transfers;

(e) Promotional preferences;

(f) Sick leaves and vacations;

(g) Hours of work;

(h) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;

(i) The number of names to be certified for vacancies;

(j) Subject to RCW 41.04.820, adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW;

(k) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service. From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any exempt position under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(i) The salary increase can be paid within existing resources;

(ii) The salary increase will not adversely impact the provision of client services; and

(iii) For any state agency of the executive branch, not including institutions of higher education, the salary increase is approved by the director of the office of financial management;

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases;

Any agency granting a salary increase from July 1, 2011, through June 30, 2013, to a position exempt under this chapter shall submit a report to the fiscal committees of the legislature by July 31, 2012, and July 31, 2013, detailing the positions for which salary increases were granted during the preceding fiscal year, the size of the increases, and the reasons for giving the increases;

(l) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(m) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

(2) Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

(3) Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The supersession of such rules shall only affect employees in the respective collective bargaining units.

(4)(a) The director shall require that each state agency report annually the following data:

(i) The number of classified, Washington management service, and exempt employees in the agency and the change compared to the previous report;

(ii) The number of bonuses and performance-based incentives awarded to agency staff and the base wages of such employees; and

(iii) The cost of each bonus or incentive awarded.

(b) A report that compiles the data in (a) of this subsection for all agencies will be provided annually to the governor and the appropriate committees of the legislature and must be posted for the public on the office of financial management's agency web site.

(c) No later than January 1, 2016, the report must be incorporated into the state expenditure information web site maintained by the legislative evaluation and accountability program committee under RCW 44.48.150.

(5) From February 15, 2010, until June 30, 2013, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

From July 1, 2011, until June 30, 2013, no performance-based awards or incentives may be granted by the director or employers to employees pursuant to a performance management confirmation granted by the department of personnel under WAC 357-37-055.

**Sec.**  RCW 39.19.060 and 1996 c 288 s 28 are each amended to read as follows:

(1) Each state agency and educational institution shall comply with the annual goals established for that agency or institution under this chapter for public works and procuring goods or services. This chapter applies to all public works and procurement by state agencies and educational institutions, including all contracts and other procurement under chapters 28B.10, 39.04, ((~~39.29~~)) 39.26, 43.19, and 47.28 RCW.

(2) Each state agency shall adopt a plan, developed in consultation with the director and the advisory committee, to insure that minority and women-owned businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in the execution of public contracts for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participation of certified minority and women-owned businesses.

(3) Of all state agencies and educational institutions, the office must annually identify those: (a) In the lowest quintile of utilization of minority and women-owned contractors as a percentage of all contracts issued by the agency; (b) in the lowest quintile of the dollar value awarded to minority and women-owned contractors as a percentage of the dollar value of all contracts issued by the agency; and (c) that are performing significantly below their established goals, as determined by the office. The office must meet with each identified agency to review its plan and identify available tools and actions for increasing participation.

(4) The office shall annually notify the governor, the state auditor, and the joint legislative audit and review committee of all agencies and educational institutions not in compliance with this chapter.

(5) No later than January 1, 2016, the office must maintain a web site of the information compiled in subsection (3) of this section and the list of agencies and educational institutions not in compliance with this chapter that is accessible to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 39.26 RCW to read as follows:

Agencies must annually submit to the department a list of performance-based incentives, bonuses, or awards paid under contract to contractors. "Contracts," for the purposes of this section, does not include purchase orders. The department must maintain the web site with a publicly available list of all performance-based incentives, bonuses, or awards paid under contract to contractors by agencies during each fiscal year, except that contracts for the employment of expert witnesses for the purposes of litigation shall not be made publicly available to the extent that information is exempt from disclosure under state law. Except as otherwise exempt, the data must identify the contracting agency; the contractor; the purpose of the contract; effective dates and periods of performance; a description of the performance incentive, bonus, or award clause; and the amount paid.

NEW SECTION. **Sec.**  A new section is added to chapter 43.88 RCW to read as follows:

(1) In order to facilitate public understanding, the office of financial management must prepare summaries of compensation and fringe benefits provided to nonrepresented employees of executive branch agencies, excluding institutions of higher education. A summary must be prepared for employees who are members of the Washington management service and a separate summary must be prepared for employees who are exempt from civil service. The summaries must contain the following information:

(a) The number of employees by agency as of the month in which the information is posted;

(b) Base compensation;

(c) Eligibility for and rate of overtime pay;

(d) Eligibility for and rate of compensatory time;

(e) Eligibility for and rate of any other compensation, including but not limited to shift premium pay, on-call pay, standby pay, assignment pay, special pay, or employer-provided housing or meals;

(f) Eligibility for and rate of pay for each paid leave provision;

(g) Eligibility for and rate of pay for any cash out provisions for compensatory time or paid leave;

(h) Temporary layoff provision;

(i) Employer and employee health care benefits expressed as a percentage of cost or as a dollar amount; and

(j) A brief description of each component and the biennial cost of any across-the-board increase in compensation and fringe benefits.

(2) Information may include links to salary schedules, pay ranges, and other information on state or federal agency web sites to summarize information.

(3) The first summaries must be posted on the office's web site within sixty days of the beginning of each fiscal biennium. The summary must be updated each fiscal biennium thereafter or whenever any action is taken that affects subsection (1)(b) through (j) of this section.

(4) No later than January 1, 2016, the information under this section must be incorporated into the state expenditure information web site maintained by the legislative evaluation and accountability program committee under RCW 44.48.150.

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