
SUBSTITUTE SENATE BILL 6409

State of Washington

64th Legislature

2016 Regular Session

By Senate Ways & Means (originally sponsored by Senators Bailey, Frockt, Braun, Becker, Carlyle, and Chase; by request of Council of Presidents)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to administrative efficiencies in Washington
2 state public higher education; and amending RCW 28B.10.027,
3 28B.10.029, 39.26.110, 42.48.010, and 43.88.110.

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

5 **Sec. 1.** RCW 28B.10.027 and 2005 c 36 s 3 are each amended to
6 read as follows:

7 (1) All universities and colleges shall allocate as a
8 nondeductible item, out of any moneys appropriated for the original
9 construction or any major renovation or remodel work exceeding two
10 hundred thousand dollars of any building, an amount of one-half of
11 one percent of the construction appropriation to be expended by the
12 Washington state arts commission with the approval of the board of
13 regents or trustees for the acquisition of works of art.

14 (2) An institution of higher education, working with the
15 Washington arts commission, may expend up to ten percent of the
16 projected art allocation for a project during the design phase in
17 order to select an artist and design art to be integrated in the
18 building design. The one-half of one percent to be expended by the
19 Washington arts commission shall be adjusted downward by the amount
20 expended by a university or college during the design phase of the
21 capital project.

1 (3) The works of art may be placed on public lands of
2 institutions of higher education, integral to or attached to a public
3 building or structure of institutions of higher education, detached
4 within or outside a public building or structure of institutions of
5 higher education, part of a portable exhibition or collection, part
6 of a temporary exhibition, or loaned or exhibited in other public
7 facilities.

8 (4) In addition to the cost of the works of art, the one-half of
9 one percent of the appropriation shall be used to provide for the
10 administration of the visual arts program, including conservation of
11 the state art collection, by the Washington state arts commission and
12 all costs for installation of the work of art. For the purpose of
13 this section building shall not include sheds, warehouses, and other
14 buildings of a temporary nature.

15 **Sec. 2.** RCW 28B.10.029 and 2015 c 79 s 1 are each amended to
16 read as follows:

17 (1)(a) An institution of higher education may, consistent with
18 RCW 28B.10.925 and 28B.10.926, exercise independently those powers
19 otherwise granted to the director of enterprise services in chapters
20 43.19 and 39.26 RCW in connection with the purchase and disposition
21 of all material, supplies, services, and equipment needed for the
22 support, maintenance, and use of the respective institution of higher
23 education.

24 (b) Property disposition policies followed by institutions of
25 higher education shall be consistent with policies followed by the
26 department of enterprise services.

27 (c)(i) Except as provided in (c)(ii) and (iii) of this subsection
28 and elsewhere as provided by law, purchasing policies and procedures
29 followed by institutions of higher education shall be in compliance
30 with chapters 39.19, 39.26, and 43.03 RCW, and RCW 43.19.1917,
31 43.19.685, and 43.19.560 through 43.19.637.

32 (ii) Institutions of higher education may use all appropriate
33 means for making and paying for travel arrangements including, but
34 not limited to, electronic booking and reservations, advance payment
35 and deposits for tours, lodging, and other necessary expenses, and
36 other travel transactions based on standard industry practices and
37 federal accountable plan requirements. Such arrangements shall
38 support student, faculty, staff, and other participants' travel, by
39 groups and individuals, both domestic and international, in the most

1 cost-effective and efficient manner possible, regardless of the
2 source of funds.

3 (iii) Formal sealed, electronic, or web-based competitive bidding
4 is not necessary for purchases or personal services contracts by
5 institutions of higher education for less than one hundred thousand
6 dollars. However, for purchases and personal services contracts of
7 ten thousand dollars or more and less than one hundred thousand
8 dollars, quotations must be secured from at least three vendors to
9 assure establishment of a competitive price and may be obtained by
10 telephone, electronic, or written quotations, or any combination
11 thereof. As part of securing the three vendor quotations,
12 institutions of higher education must invite at least one quotation
13 each from a certified minority and a certified woman-owned vendor
14 that otherwise qualifies to perform the work. A record of competition
15 for all such purchases and personal services contracts of ten
16 thousand dollars or more and less than one hundred thousand dollars
17 must be documented for audit purposes.

18 (d) Purchases under chapter 39.26, 43.19, or 43.105 RCW by
19 institutions of higher education may be made by using contracts for
20 materials, supplies, services, or equipment negotiated or entered
21 into by, for, or through group purchasing organizations.

22 (e) The community and technical colleges shall comply with RCW
23 43.19.450.

24 (f) Except for the University of Washington, institutions of
25 higher education shall comply with RCW 43.19.769, 43.19.763, and
26 43.19.781.

27 (g) If an institution of higher education can satisfactorily
28 demonstrate to the director of the office of financial management
29 that the cost of compliance is greater than the value of benefits
30 from any of the following statutes, then it shall be exempt from
31 them: RCW 43.19.685 and 43.19.637.

32 ~~((h) Any institution of higher education that chooses to
33 exercise independent purchasing authority for a commodity or group of
34 commodities shall notify the director of enterprise services.
35 Thereafter the director of enterprise services shall not be required
36 to provide those services for that institution for the duration of
37 the enterprise services contract term for that commodity or group of
38 commodities.))~~

39 (2) The council of presidents and the state board for community
40 and technical colleges shall convene its correctional industries

1 business development advisory committee, and work collaboratively
2 with correctional industries, to:

3 (a) Reaffirm purchasing criteria and ensure that quality,
4 service, and timely delivery result in the best value for expenditure
5 of state dollars;

6 (b) Update the approved list of correctional industries products
7 from which higher education shall purchase; and

8 (c) Develop recommendations on ways to continue to build
9 correctional industries' business with institutions of higher
10 education.

11 (3) Higher education and correctional industries shall develop a
12 plan to build higher education business with correctional industries
13 to increase higher education purchases of correctional industries
14 products, based upon the criteria established in subsection (2) of
15 this section. The plan shall include the correctional industries'
16 production and sales goals for higher education and an approved list
17 of products from which higher education institutions shall purchase,
18 based on the criteria established in subsection (2) of this section.
19 Higher education and correctional industries shall report to the
20 legislature regarding the plan and its implementation no later than
21 January 30, 2005.

22 (4)(a) Institutions of higher education shall set as a target to
23 contract, beginning not later than June 30, 2006, to purchase one
24 percent of the total goods and services required by the institutions
25 each year produced or provided in whole or in part from class II
26 inmate work programs operated by the department of corrections.
27 Institutions of higher education shall set as a target to contract,
28 beginning not later than June 30, 2008, to purchase two percent of
29 the total goods and services required by the institutions each year
30 produced or provided in whole or in part from class II inmate work
31 programs operated by the department of corrections.

32 (b) Institutions of higher education shall endeavor to assure the
33 department of corrections has notifications of bid opportunities with
34 the goal of meeting or exceeding the purchasing target in (a) of this
35 subsection.

36 **Sec. 3.** RCW 39.26.110 and 2012 c 224 s 12 are each amended to
37 read as follows:

38 (1) The department must provide expertise and training on best
39 practices for state procurement.

1 (2) The department must establish either training or
2 certification programs, or both, to ensure consistency in procurement
3 practices for employees authorized to perform procurement functions
4 under the provisions of this chapter. When establishing training or
5 certification programs, the department may approve existing training
6 or certification programs at state agencies. When establishing
7 programs or approving existing programs, the department shall work
8 with agencies with existing training programs to ensure coordination
9 and minimize additional costs associated with training requirements.

10 (3) Beginning July 1, 2013, state agencies must require agency
11 employees responsible for developing, executing, or managing
12 procurements or contracts, or both, to complete department-approved
13 training or certification programs, or both. Beginning July 1, 2015,
14 no agency employee may execute or manage contracts unless the
15 employee has met the training or certification requirements or both
16 as set by the department. Any request for exception to this
17 requirement must be submitted to the director for approval before the
18 employee or group of employees executes or manages contracts.

19 (4) Notwithstanding subsections (1) through (3) of this section,
20 institutions of higher education may develop independent training or
21 certification programs, or both, to ensure consistency in procurement
22 practices for employees authorized to perform procurement functions
23 under applicable state and federal laws. Each institution of higher
24 education exercising its authority to develop independent training or
25 certification programs must require employees responsible for
26 developing, executing, or managing procurements or contracts, or
27 both, to complete such training or certification program.

28 **Sec. 4.** RCW 42.48.010 and 2007 c 17 s 6 are each amended to read
29 as follows:

30 For the purposes of this chapter, the following definitions
31 apply:

32 (1) "Individually identifiable" means that a record contains
33 information which reveals or can likely be associated with the
34 identity of the person or persons to whom the record pertains.

35 (2) "Legally authorized representative" means a person legally
36 authorized to give consent for the disclosure of personal records on
37 behalf of a minor or a legally incompetent adult.

38 (3) "Personal record" means any information obtained or
39 maintained by a state agency which refers to a person and which is

1 declared exempt from public disclosure, confidential, or privileged
2 under state or federal law.

3 (4) "Research" means a planned and systematic sociological,
4 psychological, epidemiological, biomedical, or other scientific
5 investigation carried out by a state agency, by a scientific research
6 professional associated with a bona fide scientific research
7 organization, or by a graduate student currently enrolled in an
8 advanced academic degree curriculum, with an objective to contribute
9 to scientific knowledge, the solution of social and health problems,
10 or the evaluation of public benefit and service programs. This
11 definition excludes methods of record analysis and data collection
12 that are subjective, do not permit replication, and are not designed
13 to yield reliable and valid results.

14 (5) "Research record" means an item or grouping of information
15 obtained for the purpose of research from or about a person or
16 extracted for the purpose of research from a personal record.

17 (6) "State agency" means: (a) The department of social and health
18 services; (b) the department of corrections; (c) ~~((an institution of
19 higher education as defined in RCW 28B.10.016; (d))~~) the department
20 of health; or ~~((e))~~ (d) the department of early learning.

21 **Sec. 5.** RCW 43.88.110 and 2014 c 162 s 4 are each amended to
22 read as follows:

23 This section sets forth the expenditure programs and the
24 allotment and reserve procedures to be followed by the executive
25 branch for public funds.

26 (1) Allotments of an appropriation for any fiscal period shall
27 conform to the terms, limits, or conditions of the appropriation.

28 (2) The director of financial management shall provide all
29 agencies with a complete set of operating and capital instructions
30 for preparing a statement of proposed expenditures at least thirty
31 days before the beginning of a fiscal period. The set of instructions
32 need not include specific appropriation amounts for the agency.

33 (3) Within forty-five days after the beginning of the fiscal
34 period or within forty-five days after the governor signs the omnibus
35 biennial appropriations act, whichever is later, all agencies shall
36 submit to the governor a statement of proposed expenditures at such
37 times and in such form as may be required by the governor.

1 (4) The office of financial management shall develop a method for
2 monitoring capital appropriations and expenditures that will capture
3 at least the following elements:

4 (a) Appropriations made for capital projects including
5 transportation projects;

6 (b) Estimates of total project costs including past, current,
7 ensuing, and future biennial costs;

8 (c) Comparisons of actual costs to estimated costs;

9 (d) Comparisons of estimated construction start and completion
10 dates with actual dates;

11 (e) Documentation of fund shifts between projects.

12 This data may be incorporated into the existing accounting system
13 or into a separate project management system, as deemed appropriate
14 by the office of financial management.

15 (5) The office of financial management, prior to approving
16 allotments for major capital construction projects valued over five
17 million dollars, with the exception of projects at institutions of
18 higher education as defined in RCW 28B.10.016, which may be valued up
19 to ten million dollars, shall institute procedures for reviewing such
20 projects at the predesign stage that will reduce long-term costs and
21 increase facility efficiency. The procedures shall include, but not
22 be limited to, the following elements:

23 (a) Evaluation of facility program requirements and consistency
24 with long-range plans;

25 (b) Utilization of a system of cost, quality, and performance
26 standards to compare major capital construction projects; and

27 (c) A requirement to incorporate value-engineering analysis and
28 constructability review into the project schedule.

29 (6) No expenditure may be incurred or obligation entered into for
30 such major capital construction projects including, without
31 exception, land acquisition, site development, predesign, design,
32 construction, and equipment acquisition and installation, until the
33 allotment of the funds to be expended has been approved by the office
34 of financial management. This limitation does not prohibit the
35 continuation of expenditures and obligations into the succeeding
36 biennium for projects for which allotments have been approved in the
37 immediate prior biennium.

38 (7) Minor works projects, as defined by the office of financial
39 management, may be valued up to five million dollars for institutions
40 of higher education as defined in RCW 28B.10.016.

1 (8) If at any time during the fiscal period the governor projects
2 a cash deficit in a particular fund or account as defined by RCW
3 43.88.050, the governor shall make across-the-board reductions in
4 allotments for that particular fund or account so as to prevent a
5 cash deficit, unless the legislature has directed the liquidation of
6 the cash deficit over one or more fiscal periods. Except for the
7 legislative and judicial branches and other agencies headed by
8 elective officials, the governor shall review the statement of
9 proposed operating expenditures for reasonableness and conformance
10 with legislative intent. The governor may request corrections of
11 proposed allotments submitted by the legislative and judicial
12 branches and agencies headed by elective officials if those proposed
13 allotments contain significant technical errors. Once the governor
14 approves the proposed allotments, further revisions may at the
15 request of the office of financial management or upon the agency's
16 initiative be made on a quarterly basis and must be accompanied by an
17 explanation of the reasons for significant changes. However, changes
18 in appropriation level authorized by the legislature, changes
19 required by across-the-board reductions mandated by the governor,
20 changes caused by executive increases to spending authority, and
21 changes caused by executive decreases to spending authority for
22 failure to comply with the provisions of chapter 36.70A RCW may
23 require additional revisions. Revisions shall not be made
24 retroactively. However, the governor may assign to a reserve status
25 any portion of an agency appropriation withheld as part of across-
26 the-board reductions made by the governor and any portion of an
27 agency appropriation conditioned on a contingent event by the
28 appropriations act. The governor may remove these amounts from
29 reserve status if the across-the-board reductions are subsequently
30 modified or if the contingent event occurs. The director of financial
31 management shall enter approved statements of proposed expenditures
32 into the state budgeting, accounting, and reporting system within
33 forty-five days after receipt of the proposed statements from the
34 agencies. If an agency or the director of financial management is
35 unable to meet these requirements, the director of financial
36 management shall provide a timely explanation in writing to the
37 legislative fiscal committees.

38 (~~(8)~~) (9) It is expressly provided that all agencies shall be
39 required to maintain accounting records and to report thereon in the
40 manner prescribed in this chapter and under the regulations issued

1 pursuant to this chapter. Within ninety days of the end of the fiscal
2 year, all agencies shall submit to the director of financial
3 management their final adjustments to close their books for the
4 fiscal year. Prior to submitting fiscal data, written or oral, to
5 committees of the legislature, it is the responsibility of the agency
6 submitting the data to reconcile it with the budget and accounting
7 data reported by the agency to the director of financial management.

8 ~~((9))~~ (10) The director of financial management may exempt
9 certain public funds from the allotment controls established under
10 this chapter if it is not practical or necessary to allot the funds.
11 Allotment control exemptions expire at the end of the fiscal biennium
12 for which they are granted. The director of financial management
13 shall report any exemptions granted under this subsection to the
14 legislative fiscal committees.

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