

CERTIFICATION OF ENROLLMENT
THIRD SUBSTITUTE HOUSE BILL 2382

65th Legislature
2018 Regular Session

Passed by the House March 5, 2018
Yeas 53 Nays 44

Speaker of the House of Representatives

Passed by the Senate March 2, 2018
Yeas 26 Nays 23

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **THIRD SUBSTITUTE HOUSE BILL 2382** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

THIRD SUBSTITUTE HOUSE BILL 2382

AS AMENDED BY THE SENATE

Passed Legislature - 2018 Regular Session

State of Washington

65th Legislature

2018 Regular Session

By House Transportation (originally sponsored by Representatives Ryu, Kagi, and Valdez)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to promoting the use of surplus public property
2 for public benefit; amending RCW 43.63A.510, 43.17.400, 35.94.040,
3 43.09.210, 43.43.115, and 43.82.010; and adding a new section to
4 chapter 39.33 RCW.

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

6 **PART 1 - INVENTORY OF STATE PROPERTY**

7 **Sec. 1.** RCW 43.63A.510 and 1993 c 461 s 2 are each amended to
8 read as follows:

9 (1) The department (~~shall~~) must work with the (~~departments of~~
10 ~~natural resources, transportation, social and health services,~~
11 ~~corrections, and general administration~~) designated agencies to
12 identify (~~and~~), catalog, and recommend best use of under-utilized,
13 state-owned land and property suitable for the development of
14 affordable housing for very low-income, low-income or moderate-income
15 households. The (~~departments of natural resources, transportation,~~
16 ~~social and health services, corrections, and general administration~~
17 ~~shall~~) designated agencies must provide an inventory of real
18 property that is owned or administered by each agency and is vacant
19 or available for lease or sale. The department must work with the
20 designated agencies to include in the inventories a consolidated list

1 of any property transactions executed by the agencies under the
2 authority of section 3 of this act, including the property appraisal,
3 the terms and conditions of sale, lease, or transfer, the value of
4 the public benefit, and the impact of transaction to the agency. The
5 inventories ((shall)) with revisions must be provided to the
6 department by November 1((, 1993, with inventory revisions provided
7 each November 1 thereafter))st of each year.

8 (2) The department must consolidate inventories into two groups:
9 Properties suitable for consideration in affordable housing
10 development; and properties not suitable for consideration in
11 affordable housing development. In making this determination, the
12 department must use industry accepted standards such as: Location,
13 approximate lot size, current land use designation, and current
14 zoning classification of the property. The department shall provide a
15 recommendation, based on this grouping, to the office of financial
16 management and appropriate policy and fiscal committees of the
17 legislature by December 1st of each year.

18 (3) Upon written request, the department shall provide a copy of
19 the inventory of state-owned and publicly owned lands and buildings
20 to parties interested in developing the sites for affordable housing.

21 ((+3)) (4) As used in this section:

22 (a) "Affordable housing" means residential housing that is rented
23 or owned by a person who qualifies as a very low-income, low-income,
24 or moderate-income household or who is from a special needs
25 population, and whose monthly housing costs, including utilities
26 other than telephone, do not exceed thirty percent of the household's
27 monthly income.

28 (b) "Very low-income household" means a single person, family, or
29 unrelated persons living together whose income is at or below fifty
30 percent of the median income, adjusted for household size, for the
31 county where the affordable housing is located.

32 (c) "Low-income household" means a single person, family, or
33 unrelated persons living together whose income is more than fifty
34 percent but is at or below eighty percent of the median income where
35 the affordable housing is located.

36 (d) "Moderate-income household" means a single person, family, or
37 unrelated persons living together whose income is more than eighty
38 percent but is at or below one hundred fifteen percent of the median
39 income where the affordable housing is located.

1 (e) "Affordable housing development" means state-owned real
2 property appropriate for sale, transfer, or lease to an affordable
3 housing developer capable of:

4 (i) Receiving the property within one hundred eighty days; and
5 (ii) Creating affordable housing units for occupancy within
6 thirty-six months from the time of transfer.

7 (f) "Designated agencies" means the Washington state patrol, the
8 state parks and recreation commission, and the departments of natural
9 resources, social and health services, corrections, and enterprise
10 services.

11 **PART 2 - RIGHT OF FIRST REFUSAL FOR GOVERNMENT AGENCIES**

12 **Sec. 2.** RCW 43.17.400 and 2015 c 225 s 64 are each amended to
13 read as follows:

14 ~~(1) ((The definitions in this subsection apply throughout this~~
15 ~~section unless the context clearly requires otherwise.~~

16 ~~(a) "Disposition" means sales, exchanges, or other actions~~
17 ~~resulting in a transfer of land ownership.~~

18 ~~(b) "State agencies" includes:~~

19 ~~(i) The department of natural resources established in chapter~~
20 ~~43.30 RCW;~~

21 ~~(ii) The department of fish and wildlife established in chapter~~
22 ~~43.300 RCW;~~

23 ~~(iii) The department of transportation established in chapter~~
24 ~~47.01 RCW;~~

25 ~~(iv) The parks and recreation commission established in chapter~~
26 ~~79A.05 RCW; and~~

27 ~~(v) The department of enterprise services established in this~~
28 ~~chapter.~~

29 ~~(2) State agencies proposing disposition of state-owned land must~~
30 ~~provide written notice of the proposed disposition to the legislative~~
31 ~~authorities of the counties, cities, and towns in which the land is~~
32 ~~located at least sixty days before entering into the disposition~~
33 ~~agreement.)) Before any state agency may dispose of surplus state-~~
34 owned real property to a private or any nongovernmental party, the
35 agency must provide written notice to the following governmental
36 entities at least sixty days before entering into any proposed
37 disposition agreement:

38 (a) All other state agencies;

1 (b) Each federal agency operating within the state; and

2 (c) The governing authority of each county, city, town, special
3 purpose district, and federally recognized Indian tribe in which the
4 land is located.

5 (2) The state agency must dispose of the property, for continued
6 public benefit as defined in section 3 of this act, to any
7 governmental entity responding within the notification period, upon
8 mutual agreement reached within a reasonable time period after the
9 response is received. Priority must be given to state agencies. The
10 disposition may be for any terms and conditions agreed upon by the
11 proper authorities of each party, in accordance with RCW 39.33.010,
12 except where the disposition at fair market value is required by law.

13 (3) The requirements of this section are in addition and
14 supplemental to other requirements of the laws of this state.

15 (4) For purposes of this section, "disposition" means the sale,
16 exchange, or other action resulting in a transfer of ownership.

17 (5) The requirements of this section do not apply to the
18 department of transportation.

19 **PART 3 - DISPOSAL OF PUBLIC PROPERTY FOR PUBLIC BENEFIT**

20 NEW SECTION. Sec. 3. A new section is added to chapter 39.33
21 RCW to read as follows:

22 (1) Any state agency, municipality, or political subdivision,
23 with authority to dispose of surplus public property, may transfer,
24 lease, or other disposal of such property for a public benefit
25 purpose, consistent with and subject to this section. Any such
26 transfer, lease, or other disposal may be made to a public, private,
27 or nongovernmental body on any mutually agreeable terms and
28 conditions, including a no cost transfer, subject to and consistent
29 with this section. Consideration must include appraisal costs, debt
30 service, all closing costs, and any other liabilities to the agency,
31 municipality, or political subdivision. However, the property may not
32 be so transferred, leased, or disposed of if such transfer, lease, or
33 disposal would violate any bond covenant or encumber or impair any
34 contract.

35 (2) A deed, lease, or other instrument transferring or conveying
36 property pursuant to subsection (1) of this section must include:

37 (a) A covenant or other requirement that the property shall be
38 used for the designated public benefit purpose; and

1 (b) Remedies that apply if the recipient of the property fails to
2 use it for the designated public purpose or ceases to use it for such
3 purpose.

4 (3) To implement the authority granted by this section, the
5 governing body or legislative authority of a municipality or
6 political subdivision must enact rules to regulate the disposition of
7 property for public benefit purposes. Any transfer, lease, or other
8 disposition of property authorized under this section must be
9 consistent with existing locally adopted comprehensive plans as
10 described in RCW 36.70A.070.

11 (4) This section is deemed to provide a discretionary alternative
12 method for the doing of the things authorized herein, and shall not
13 be construed as imposing any additional condition upon the exercise
14 of any other powers vested in any state agency, municipality, or
15 political subdivision.

16 (5) No transfer, lease, or other disposition of property for
17 public benefit purposes made pursuant to any other provision of law
18 prior to the effective date of this section may be construed to be
19 invalid solely because the parties thereto did not comply with the
20 procedures of this section.

21 (6) The transfer at no cost, lease, or other disposal of surplus
22 real property for public benefit purposes is deemed a lawful purpose
23 of any state agency, municipality, or political subdivision, for
24 which accounts are kept on an enterprise fund or equivalent basis,
25 regardless of the primary purpose or function of such agency.

26 (7) This section does not apply to the sale or transfer of any
27 state forestlands, any state lands or property granted to the state
28 by the federal government for the purposes of common schools or
29 education, or subject to a legal restriction that would be violated
30 by compliance with this section.

31 (8) For purposes of this section:

32 (a) "Public benefit" means affordable housing for low-income and
33 very low-income households as defined in RCW 43.63A.510, and related
34 facilities that support the goals of affordable housing development
35 in providing economic and social stability for low-income persons;
36 and

37 (b) "Surplus public property" means excess real property that is
38 not required for the needs of or the discharge of the
39 responsibilities of the state agency, municipality, or political
40 subdivision.

1 **Sec. 4.** RCW 35.94.040 and 1973 1st ex.s. c 95 s 1 are each
2 amended to read as follows:

3 (1) Whenever a city shall determine, by resolution of its
4 legislative authority, that any lands, property, or equipment
5 originally acquired for public utility purposes is surplus to the
6 city's needs and is not required for providing continued public
7 utility service, then such legislative authority by resolution and
8 after a public hearing may cause such lands, property, or equipment
9 to be leased, sold, or conveyed. Such resolution shall state the fair
10 market value or the rent or consideration to be paid and such other
11 terms and conditions for such disposition as the legislative
12 authority deems to be in the best public interest.

13 (2) The provisions of RCW 35.94.020 and 35.94.030 shall not apply
14 to dispositions authorized by this section.

15 (3) This section does not apply to property transferred, leased,
16 or otherwise disposed in accordance with section 3 of this act.

17 **Sec. 5.** RCW 43.09.210 and 2000 c 183 s 2 are each amended to
18 read as follows:

19 (1) Separate accounts shall be kept for every appropriation or
20 fund of a taxing or legislative body showing date and manner of each
21 payment made therefrom, the name, address, and vocation of each
22 person, organization, corporation, or association to whom paid, and
23 for what purpose paid.

24 (2) Separate accounts shall be kept for each department, public
25 improvement, undertaking, institution, and public service industry
26 under the jurisdiction of every taxing body.

27 (3) All service rendered by, or property transferred from, one
28 department, public improvement, undertaking, institution, or public
29 service industry to another, shall be paid for at its true and full
30 value by the department, public improvement, undertaking,
31 institution, or public service industry receiving the same, and no
32 department, public improvement, undertaking, institution, or public
33 service industry shall benefit in any financial manner whatever by an
34 appropriation or fund made for the support of another.

35 (4) All unexpended balances of appropriations shall be
36 transferred to the fund from which appropriated, whenever the account
37 with an appropriation is closed.

38 (5) This section does not apply to:

1 (a) Agency surplus personal property handled under RCW
2 43.19.1919(~~(+5)~~) (1)(e); or

3 (b) The transfer, lease, or other disposal of surplus property
4 for public benefit purposes, as provided under section 3 of this act.

5 **Sec. 6.** RCW 43.43.115 and 1993 c 438 s 1 are each amended to
6 read as follows:

7 Whenever real property owned by the state of Washington and under
8 the jurisdiction of the Washington state patrol is no longer
9 required, it may be sold at fair market value, or otherwise disposed
10 as permitted under section 3 of this act. Any such sale or disposal
11 must be in accordance with RCW 43.17.400. All proceeds received from
12 the sale of real property, less any real estate broker commissions up
13 to four percent of the sale price, shall be deposited into the state
14 patrol highway account: PROVIDED, That if accounts or funds other
15 than the state patrol highway account have contributed to the
16 purchase or improvement of the real property, the office of financial
17 management shall determine the proportional equity of each account or
18 fund in the property and improvements, and shall direct the proceeds
19 to be deposited proportionally therein.

20 **Sec. 7.** RCW 43.82.010 and 2015 c 99 s 1 are each amended to read
21 as follows:

22 (1) The director of enterprise services, on behalf of the agency
23 involved and after consultation with the office of financial
24 management, shall purchase, lease, lease purchase, rent, or otherwise
25 acquire all real estate, improved or unimproved, as may be required
26 by elected state officials, institutions, departments, commissions,
27 boards, and other state agencies, or federal agencies where joint
28 state and federal activities are undertaken and may grant easements
29 and transfer, exchange, sell, lease, or sublease all or part of any
30 surplus real estate for those state agencies which do not otherwise
31 have the specific authority to dispose of real estate. Any such
32 transfer, exchange, or sale must comply with RCW 43.17.400, and may
33 be made in accordance with section 3 of this act. This section does
34 not transfer financial liability for the acquired property to the
35 department of enterprise services.

36 (2) Except for real estate occupied by federal agencies, the
37 director shall determine the location, size, and design of any real
38 estate or improvements thereon acquired or held pursuant to

1 subsection (1) of this section. Facilities acquired or held pursuant
2 to this chapter, and any improvements thereon, shall conform to
3 standards adopted by the director and approved by the office of
4 financial management governing facility efficiency unless a specific
5 exemption from such standards is provided by the director of
6 enterprise services. The director of enterprise services shall report
7 to the office of financial management and the appropriate committees
8 of the legislature annually on any exemptions granted pursuant to
9 this subsection.

10 (3) Except for leases permitted under subsection (4) of this
11 section, the director of enterprise services may fix the terms and
12 conditions of each lease entered into under this chapter, except that
13 no lease shall extend greater than twenty years in duration. The
14 director of enterprise services may enter into a long-term lease
15 greater than ten years in duration upon a determination by the
16 director of the office of financial management that the long-term
17 lease provides a more favorable rate than would otherwise be
18 available, it appears to a substantial certainty that the facility is
19 necessary for use by the state for the full length of the lease term,
20 and the facility meets the standards adopted pursuant to subsection
21 (2) of this section. The director of enterprise services may enter
22 into a long-term lease greater than ten years in duration if an
23 analysis shows that the life-cycle cost of leasing the facility is
24 less than the life-cycle cost of purchasing or constructing a
25 facility in lieu of leasing the facility.

26 (4) The director of enterprise services may fix the terms of
27 leases for property under the department of enterprise services'
28 control at the former Northern State Hospital site for up to sixty
29 years.

30 (5) Except as permitted under chapter 39.94 RCW, no lease for or
31 on behalf of any state agency may be used or referred to as
32 collateral or security for the payment of securities offered for sale
33 through a public offering. Except as permitted under chapter 39.94
34 RCW, no lease for or on behalf of any state agency may be used or
35 referred to as collateral or security for the payment of securities
36 offered for sale through a private placement without the prior
37 written approval of the state treasurer. However, this limitation
38 shall not prevent a lessor from assigning or encumbering its interest
39 in a lease as security for the repayment of a promissory note
40 provided that the transaction would otherwise be an exempt

1 transaction under RCW 21.20.320. The state treasurer shall adopt
2 rules that establish the criteria under which any such approval may
3 be granted. In establishing such criteria the state treasurer shall
4 give primary consideration to the protection of the state's credit
5 rating and the integrity of the state's debt management program. If
6 it appears to the state treasurer that any lease has been used or
7 referred to in violation of this subsection or rules adopted under
8 this subsection, then he or she may recommend that the governor cause
9 such lease to be terminated. The department of enterprise services
10 shall promptly notify the state treasurer whenever it may appear to
11 the department that any lease has been used or referred to in
12 violation of this subsection or rules adopted under this subsection.

13 (6) It is the policy of the state to encourage the colocation and
14 consolidation of state services into single or adjacent facilities,
15 whenever appropriate, to improve public service delivery, minimize
16 duplication of facilities, increase efficiency of operations, and
17 promote sound growth management planning.

18 (7) The director of enterprise services shall provide coordinated
19 long-range planning services to identify and evaluate opportunities
20 for collocating and consolidating state facilities. Upon the renewal
21 of any lease, the inception of a new lease, or the purchase of a
22 facility, the director of enterprise services shall determine whether
23 an opportunity exists for collocating the agency or agencies in a
24 single facility with other agencies located in the same geographic
25 area. If a colocation opportunity exists, the director of enterprise
26 services shall consult with the affected state agencies and the
27 office of financial management to evaluate the impact colocation
28 would have on the cost and delivery of agency programs, including
29 whether program delivery would be enhanced due to the centralization
30 of services. The director of enterprise services, in consultation
31 with the office of financial management, shall develop procedures for
32 implementing colocation and consolidation of state facilities.

33 (8) The director of enterprise services is authorized to
34 purchase, lease, rent, or otherwise acquire improved or unimproved
35 real estate as owner or lessee and to lease or sublet all or a part
36 of such real estate to state or federal agencies. The director of
37 enterprise services shall charge each using agency its proportionate
38 rental which shall include an amount sufficient to pay all costs,
39 including, but not limited to, those for utilities, janitorial and
40 accounting services, and sufficient to provide for contingencies;

1 which shall not exceed five percent of the average annual rental, to
2 meet unforeseen expenses incident to management of the real estate.

3 (9) If the director of enterprise services determines that it is
4 necessary or advisable to undertake any work, construction,
5 alteration, repair, or improvement on any real estate acquired
6 pursuant to subsection (1) or (8) of this section, the director shall
7 cause plans and specifications thereof and an estimate of the cost of
8 such work to be made and filed in his or her office and the state
9 agency benefiting thereby is hereby authorized to pay for such work
10 out of any available funds: PROVIDED, That the cost of executing such
11 work shall not exceed the sum of twenty-five thousand dollars. Work,
12 construction, alteration, repair, or improvement in excess of twenty-
13 five thousand dollars, other than that done by the owner of the
14 property if other than the state, shall be performed in accordance
15 with the public works law of this state.

16 (10) In order to obtain maximum utilization of space, the
17 director of enterprise services shall make space utilization studies,
18 and shall establish standards for use of space by state agencies.
19 Such studies shall include the identification of opportunities for
20 colocation and consolidation of state agency office and support
21 facilities.

22 (11) The director of enterprise services may construct new
23 buildings on, or improve existing facilities, and furnish and equip,
24 all real estate under his or her management. Prior to the
25 construction of new buildings or major improvements to existing
26 facilities or acquisition of facilities using a lease purchase
27 contract, the director of enterprise services shall conduct an
28 evaluation of the facility design and budget using life-cycle cost
29 analysis, value-engineering, and other techniques to maximize the
30 long-term effectiveness and efficiency of the facility or
31 improvement.

32 (12) All conveyances and contracts to purchase, lease, rent,
33 transfer, exchange, or sell real estate and to grant and accept
34 easements shall be approved as to form by the attorney general,
35 signed by the director of enterprise services or the director's
36 designee, and recorded with the county auditor of the county in which
37 the property is located.

38 (13) The director of enterprise services may delegate any or all
39 of the functions specified in this section to any agency upon such
40 terms and conditions as the director deems advisable. By January 1st

1 of each year, beginning January 1, 2008, the department shall submit
2 an annual report to the office of financial management and the
3 appropriate committees of the legislature on all delegated leases.

4 (14) This section does not apply to the acquisition of real
5 estate by:

6 (a) The state college and universities for research or
7 experimental purposes;

8 (b) The state liquor (~~control~~) and cannabis board for liquor
9 stores and warehouses;

10 (c) The department of natural resources, the department of fish
11 and wildlife, the department of transportation, and the state parks
12 and recreation commission for purposes other than the leasing of
13 offices, warehouses, and real estate for similar purposes; and

14 (d) The department of commerce for community college health
15 career training programs, offices for the department of commerce or
16 other appropriate state agencies, and other nonprofit community uses,
17 including community meeting and training facilities, where the real
18 estate is acquired during the 2013-2015 fiscal biennium.

19 (15) Notwithstanding any provision in this chapter to the
20 contrary, the department of enterprise services may negotiate ground
21 leases for public lands on which property is to be acquired under a
22 financing contract pursuant to chapter 39.94 RCW under terms approved
23 by the state finance committee.

24 (16) The department of enterprise services shall report annually
25 to the office of financial management and the appropriate fiscal
26 committees of the legislature on facility leases executed for all
27 state agencies for the preceding year, lease terms, and annual lease
28 costs. The report must include leases executed under RCW 43.82.045
29 and subsection (13) of this section.

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