
SENATE BILL 5915

State of Washington

65th Legislature

2017 Regular Session

By Senator Braun

Read first time 03/30/17. Referred to Committee on Ways & Means.

1 AN ACT Relating to reorganizing and streamlining central service
2 functions, powers, and duties of state government; amending RCW
3 41.04.020, 41.04.220, 41.04.460, 41.04.720, 41.04.770, 41.06.400,
4 41.06.080, 41.06.395, 41.06.410, 43.41.450, 39.26.005, 39.26.010,
5 39.26.050, 39.26.060, 39.26.080, 39.26.090, 39.26.110, 39.26.130,
6 39.26.140, 39.26.180, 43.82.010, 43.82.055, and 43.82.150; adding new
7 sections to chapter 43.41 RCW; providing an effective date; and
8 declaring an emergency.

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

10 **PART I**

11 **HUMAN RESOURCE FUNCTIONS**

12 **Sec. 101.** RCW 41.04.020 and 2011 1st sp.s. c 43 s 471 are each
13 amended to read as follows:

14 Any employee or group of employees of the state of Washington or
15 any of its political subdivisions, or of any institution supported,
16 in whole or in part, by the state or any of its political
17 subdivisions, may authorize the deduction from his or her salaries or
18 wages and payment to another, the amount or amounts of his or her
19 subscription payments or contributions to any person, firm, or
20 corporation administering, furnishing, or providing (1) medical,

1 surgical, and hospital care or either of them, or (2) life insurance
2 or accident and health disability insurance, or (3) any individual
3 retirement account selected by the employee or the employee's spouse
4 established under applicable state or federal law: PROVIDED, That
5 such authorization by said employee or group of employees, shall be
6 first approved by the head of the department, division office or
7 institution of the state or any political subdivision thereof,
8 employing such person or group of persons, and filed with the
9 (~~department of enterprise services~~) office of financial management;
10 or in the case of political subdivisions of the state of Washington,
11 with the auditor of such political subdivision or the person
12 authorized by law to draw warrants against the funds of said
13 political subdivision.

14 **Sec. 102.** RCW 41.04.220 and 2015 c 225 s 52 are each amended to
15 read as follows:

16 Any governmental entity other than state agencies((~~τ~~)) may use
17 the services of the (~~department of enterprise services~~) office of
18 financial management upon the approval of the director((~~τ~~)) in
19 procuring health benefit programs as provided by RCW 41.04.180,
20 28A.400.350, and 28B.10.660: PROVIDED, That the (~~department of~~
21 ~~enterprise services~~) office of financial management may charge for
22 the administrative cost incurred in the procuring of such services.

23 **Sec. 103.** RCW 41.04.460 and 2011 1st sp.s. c 43 s 472 are each
24 amended to read as follows:

25 The (~~department of enterprise services~~) office of financial
26 management, through the combined benefits communication project,
27 shall prepare information encouraging individual financial planning
28 for retirement and describing the potential consequences of early
29 retirement, including members' assumption of health insurance costs,
30 members' receipt of reduced retirement benefits, and the increased
31 period of time before members will become eligible for cost-of-living
32 adjustments. The department of retirement systems shall distribute
33 the information to members who are eligible to retire under the
34 provisions of chapter 234, Laws of 1992. Prior to retiring, such
35 members who elect to retire shall sign a statement acknowledging
36 their receipt and understanding of the information.

1 **Sec. 104.** RCW 41.04.720 and 2011 1st sp.s. c 43 s 439 are each
2 amended to read as follows:

3 The director of (~~enterprise services~~) the office of financial
4 management shall:

5 (1) Administer the state employee assistance program to assist
6 employees who have personal problems that adversely affect their job
7 performance or have the potential of doing so;

8 (2) Develop policies, procedures, and activities for the program;

9 (3) Encourage and promote the voluntary use of the employee
10 assistance program by increasing employee awareness and disseminating
11 educational materials;

12 (4) Provide technical assistance and training to agencies on how
13 to use the employee assistance program;

14 (5) Assist and encourage supervisors to identify and refer
15 employees with problems that impair their performance by
16 incorporating proper use of the program in management training,
17 management performance criteria, ongoing communication with agencies,
18 and other appropriate means;

19 (6) Offer substance abuse prevention and awareness activities to
20 be provided through the employee assistance program and the state
21 employee wellness program;

22 (7) Monitor and evaluate the effectiveness of the program,
23 including the collection, analysis, and publication of relevant
24 statistical information; and

25 (8) Consult with state agencies, institutions of higher
26 education, and employee organizations in carrying out the purposes of
27 RCW 41.04.700 through 41.04.730.

28 **Sec. 105.** RCW 41.04.770 and 2011 1st sp.s. c 43 s 440 are each
29 amended to read as follows:

30 The department of social and health services and the (~~department~~
31 ~~of enterprise services~~) office of financial management shall, after
32 consultation with supported employment provider associations and
33 other interested parties, encourage, educate, and assist state
34 agencies in implementing supported employment programs. The
35 (~~department of enterprise services~~) office of financial management
36 shall provide human resources technical assistance to agencies
37 implementing supported employment programs.

1 **Sec. 106.** RCW 41.06.400 and 2011 1st sp.s. c 43 s 423 are each
2 amended to read as follows:

3 (1) In addition to other powers and duties specified in this
4 chapter, (~~the department of enterprise services in consultation~~
5 ~~with~~) the office of financial management shall:

6 (a) By rule, prescribe the purpose and minimum standards for
7 training and career development programs and, in so doing, regularly
8 consult with and consider the needs of individual agencies and
9 employees;

10 (b) Provide training and career development programs which may be
11 conducted more efficiently and economically on an interagency basis;

12 (c) Promote interagency sharing of resources for training and
13 career development;

14 (d) Monitor and review the impact of training and career
15 development programs to ensure that the responsibilities of the state
16 to provide equal employment opportunities are diligently carried out.

17 (2) At an agency's request, the department of enterprise services
18 may provide training and career development programs for an agency's
19 internal use which may be conducted more efficiently and economically
20 by the department of enterprise services.

21 **Sec. 107.** RCW 41.06.080 and 2011 1st sp.s. c 43 s 403 are each
22 amended to read as follows:

23 Notwithstanding the provisions of this chapter, the office of
24 financial management (~~and the department of enterprise services~~)
25 may make their human resource services available on request, on a
26 reimbursable basis, to:

27 (1) Either the legislative or the judicial branch of the state
28 government;

29 (2) Any county, city, town, or other municipal subdivision of the
30 state;

31 (3) The institutions of higher learning;

32 (4) Any agency, class, or position set forth in RCW 41.06.070.

33 **Sec. 108.** RCW 41.06.395 and 2011 1st sp.s. c 43 s 422 are each
34 amended to read as follows:

35 The director shall adopt rules establishing guidelines for
36 policies, procedures, and mandatory training programs on sexual
37 harassment for state employees to be adopted by state agencies. The
38 (~~department of enterprise services~~) office of financial management

1 shall establish reporting requirements for state agencies on
2 compliance with RCW 43.01.135.

3 **Sec. 109.** RCW 41.06.410 and 2011 1st sp.s. c 43 s 424 are each
4 amended to read as follows:

5 Each agency subject to the provisions of this chapter shall:

6 (1) Prepare an employee training and career development plan
7 which shall at least meet minimum standards established by the
8 (~~department of enterprise services~~) office of financial management;

9 (2) Provide for training and career development for its employees
10 in accordance with the agency plan;

11 (3) Budget for training and career development in accordance with
12 procedures of the office of financial management.

13 **Sec. 110.** RCW 43.41.450 and 2016 sp.s. c 36 s 927 are each
14 amended to read as follows:

15 The office of financial management central service account is
16 created in the state treasury. The account is to be used by the
17 office as a revolving fund for the payment of salaries, wages, and
18 other costs required for the operation and maintenance of statewide
19 budgeting, accounting, forecasting, policy, and other functions and
20 activities in the office. All receipts from agency fees and charges
21 for services collected from public agencies must be deposited into
22 the account. The director shall fix the terms and charges to agencies
23 based on each agency's share of the office statewide cost allocation
24 plan for federal funds. Moneys in the account may be spent only after
25 appropriation.

26 **PART II**
27 **IT PROCUREMENT FUNCTIONS**

28 **Sec. 201.** RCW 39.26.005 and 2012 c 224 s 1 are each amended to
29 read as follows:

30 It is the intent of this chapter to promote open competition and
31 transparency for all contracts for goods and services entered into by
32 state agencies, unless specifically exempted under this chapter. It
33 is further the intent of this chapter to centralize within one
34 agency, wherever possible, the authority and responsibility for the
35 development and oversight of policies related to state procurement
36 and contracting. To ensure the highest ethical standards, proper

1 accounting for contract expenditures, and for ease of public review,
2 it is further the intent to centralize the location of information
3 about state procurements and contracts. It is also the intent of the
4 legislature to provide state agency contract data to the public in a
5 searchable manner.

6 In addition, the legislature intends that the state develop
7 procurement policies, procedures, and materials that encourage and
8 facilitate state agency purchase of goods and services from
9 Washington small businesses.

10 It is the intent of sections 201 through 210 of this act to
11 provide additional oversight of the procurement and contracting for
12 information technology goods and services by the state chief
13 information officer.

14 **Sec. 202.** RCW 39.26.010 and 2015 c 79 s 5 are each amended to
15 read as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Agency" means any state office or activity of the executive
19 and judicial branches of state government, including state agencies,
20 departments, offices, divisions, boards, commissions, institutions of
21 higher education as defined in RCW 28B.10.016, and correctional and
22 other types of institutions.

23 (2) "Bid" means an offer, proposal, or quote for goods or
24 services in response to a solicitation issued for such goods or
25 services by the department or an agency of Washington state
26 government.

27 (3) "Bidder" means an individual or entity who submits a bid,
28 quotation, or proposal in response to a solicitation issued for such
29 goods or services by the department or an agency of Washington state
30 government.

31 (4) "Client services" means services provided directly to agency
32 clients including, but not limited to, medical and dental services,
33 employment and training programs, residential care, and subsidized
34 housing.

35 (5) "Community rehabilitation program of the department of social
36 and health services" means any entity that:

37 (a) Is registered as a nonprofit corporation with the secretary
38 of state; and

1 (b) Is recognized by the department of social and health
2 services, division of vocational rehabilitation as eligible to do
3 business as a community rehabilitation program.

4 (6) "Competitive solicitation" means a documented formal process
5 providing an equal and open opportunity to bidders and culminating in
6 a selection based on predetermined criteria.

7 (7) "Contractor" means an individual or entity awarded a contract
8 with an agency to perform a service or provide goods.

9 (8) "Debar" means to prohibit a contractor, individual, or other
10 entity from submitting a bid, having a bid considered, or entering
11 into a state contract during a specified period of time as set forth
12 in a debarment order.

13 (9) "Department" means the department of enterprise services.

14 (10) "Director" means the director of the department of
15 enterprise services.

16 (11) "Estimated useful life" of an item means the estimated time
17 from the date of acquisition to the date of replacement or disposal,
18 determined in any reasonable manner.

19 (12) "Goods" means products, materials, supplies, or equipment
20 provided by a contractor.

21 (13) "In-state business" means a business that has its principal
22 office located in Washington.

23 (14) "Life-cycle cost" means the total cost of an item to the
24 state over its estimated useful life, including costs of selection,
25 acquisition, operation, maintenance, and where applicable, disposal,
26 as far as these costs can reasonably be determined, minus the salvage
27 value at the end of its estimated useful life.

28 (15) "Master contracts" means a contract for specific goods or
29 services, or both, that is solicited and established by the
30 department in accordance with procurement laws and rules on behalf of
31 and for general use by agencies as specified by the department.

32 (16) "Microbusiness" means any business entity, including a sole
33 proprietorship, corporation, partnership, or other legal entity,
34 that: (a) Is owned and operated independently from all other
35 businesses; and (b) has a gross revenue of less than one million
36 dollars annually as reported on its federal tax return or on its
37 return filed with the department of revenue.

38 (17) "Minibusines" means any business entity, including a sole
39 proprietorship, corporation, partnership, or other legal entity,
40 that: (a) Is owned and operated independently from all other

1 businesses; and (b) has a gross revenue of less than three million
2 dollars, but one million dollars or more annually as reported on its
3 federal tax return or on its return filed with the department of
4 revenue.

5 (18) "Polychlorinated biphenyls" means any polychlorinated
6 biphenyl congeners and homologs.

7 (19) "Practical quantification limit" means the lowest
8 concentration that can be reliably measured within specified limits
9 of precision, accuracy, representativeness, completeness, and
10 comparability during routine laboratory operating conditions.

11 (20) "Purchase" means the acquisition of goods or services,
12 including the leasing or renting of goods.

13 (21) "Services" means labor, work, analysis, or similar
14 activities provided by a contractor to accomplish a specific scope of
15 work.

16 (22) "Small business" means an in-state business, including a
17 sole proprietorship, corporation, partnership, or other legal entity,
18 that:

19 (a) Certifies, under penalty of perjury, that it is owned and
20 operated independently from all other businesses and has either:

21 (i) Fifty or fewer employees; or

22 (ii) A gross revenue of less than seven million dollars annually
23 as reported on its federal income tax return or its return filed with
24 the department of revenue over the previous three consecutive years;
25 or

26 (b) Is certified with the office of women and minority business
27 enterprises under chapter 39.19 RCW.

28 (23) "Sole source" means a contractor providing goods or services
29 of such a unique nature or sole availability at the location required
30 that the contractor is clearly and justifiably the only practicable
31 source to provide the goods or services.

32 (24) "Washington grown" has the definition in RCW 15.64.060.

33 (25) "Information technology" has the definition in RCW
34 43.105.020.

35 (26) "Office" means the office of the state chief information
36 officer within the consolidated technology services agency.

37 **Sec. 203.** RCW 39.26.050 and 2012 c 224 s 6 are each amended to
38 read as follows:

1 (1) In addition to the powers and duties provided in chapter
2 43.19 RCW, the department shall make available goods and services to
3 support state agencies, and may enter into agreements with any other
4 local or federal governmental agency or entity or a public benefit
5 nonprofit organization, in compliance with RCW 39.34.055, and any
6 tribes located in the state, to furnish such products and services as
7 deemed appropriate by both parties. The department must consult with
8 the office when it makes available information technology goods and
9 services to ensure consistency with standards and policies to govern
10 information technology as established by the office in accordance
11 with RCW 43.105.054.

12 (2) The department shall ensure full cost recovery from state
13 agencies, other local or federal governmental agency or entity,
14 public benefit nonprofit organizations, or any tribes located in the
15 state, for activities performed pursuant to subsection (1) of this
16 section. Cost recovery must ensure that the department is reimbursed
17 its full cost for providing the goods and services furnished as
18 determined by the department. Cost recovery may be collected through
19 the state agency, other governmental entity, nonprofit organization,
20 or through the contractor.

21 (3) All governmental entities of this state may enter into
22 agreements under this section with the department, unless otherwise
23 prohibited.

24 **Sec. 204.** RCW 39.26.060 and 2012 c 224 s 7 are each amended to
25 read as follows:

26 (1) On behalf of the state, the department may participate in,
27 sponsor, conduct, or administer a cooperative purchasing agreement
28 for the procurement of any goods or services with one or more states,
29 state agencies, local governments, local government agencies, federal
30 agencies, or tribes located in the state, in accordance with an
31 agreement entered into between the participants. The cooperative
32 purchasing may include, but is not limited to, joint or multiparty
33 contracts between the entities, and master contracts or convenience
34 contracts that are made available to other public agencies.

35 (2) All cooperative purchasing conducted under this chapter must
36 be through contracts awarded through a competitive solicitation
37 process.

38 (3) Cooperative purchasing for information technology goods and
39 services must be coordinated with the office.

1 **Sec. 205.** RCW 39.26.080 and 2012 c 224 s 9 are each amended to
2 read as follows:

3 (1) The director is responsible for the development and oversight
4 of policy for the procurement of goods and services by all state
5 agencies under this chapter. When establishing policies, standards,
6 and procedures, the director shall account for differentiation in
7 procurement practices and needs among state agencies and strive to
8 establish policies, standards, and procedures that promote greater
9 efficiency in procurement. Policies, standards, and procedures for
10 the procurement of information technology goods and services must be
11 developed in consultation with and approved by the office.

12 (2) The director is authorized to adopt rules, policies, and
13 guidelines governing the procurement, contracting, and contract
14 management of any and all goods and services procured by state
15 agencies under this chapter. Policies and guidelines governing the
16 procurement, contracting, and contract management of information
17 technology goods and services must be developed in consultation with
18 and approved by the office.

19 (3) The director or designee is the sole authority to enter into
20 master contracts on behalf of the state. The director may delegate
21 the authority to enter into master contracts for information
22 technology goods and services to the consolidated technology services
23 agency. The consolidated technology services agency shall comply with
24 this chapter when establishing master contracts.

25 (4) Master contracts for information technology goods and
26 services may not be designated "mandatory use" without approval of
27 the office.

28 **Sec. 206.** RCW 39.26.090 and 2012 c 224 s 10 are each amended to
29 read as follows:

30 The director shall:

31 (1) Establish overall state policies, standards, and procedures
32 regarding the procurement of goods and services by all state
33 agencies;

34 (2) Develop policies and standards for the use of credit cards or
35 similar methods to make purchases;

36 (3) Establish procurement processes for information technology
37 goods and services, using technology standards and policies
38 established by the office of the chief information officer under

1 chapter ((43.41A)) 43.105 RCW. The procurement processes must be
2 established in consultation with and approved by the office;

3 (4) Enter into contracts or delegate the authority to enter into
4 contracts on behalf of the state to facilitate the purchase, lease,
5 rent, or otherwise acquire all goods and services and equipment
6 needed for the support, maintenance, and use of all state agencies,
7 except as provided in RCW 39.26.100;

8 (5) Have authority to delegate to agencies authorization to
9 purchase goods and services. The authorization must specify
10 restrictions as to dollar amount or to specific types of goods and
11 services, based on a risk assessment process developed by the
12 department. Acceptance of the purchasing authorization by an agency
13 does not relieve the agency from conformance with this chapter or
14 from policies established by the director. Also, the director may not
15 delegate to a state agency the authorization to purchase goods and
16 services if the agency is not in substantial compliance with overall
17 procurement policies as established by the director. The delegation
18 of authority to an agency for the purchase of information technology
19 goods and services granted under this subsection must be approved by
20 the office. The office has the authority to change or withdraw the
21 delegated authority for the purchase of information technology goods
22 and services;

23 (6) Develop procurement policies and procedures, such as
24 unbundled contracting and subcontracting, that encourage and
25 facilitate the purchase of goods and services from Washington small
26 businesses, microbusinesses, and minibusinesses, and minority and
27 women-owned businesses to the maximum extent practicable and
28 consistent with international trade agreement commitments;

29 (7) Develop and implement an enterprise system for electronic
30 procurement;

31 (8) Provide for a commodity classification system and provide for
32 the adoption of goods and services commodity standards;

33 (9) Establish overall state policy for compliance by all agencies
34 regarding:

35 (a) Food procurement procedures and materials that encourage and
36 facilitate the purchase of Washington grown food by state agencies
37 and institutions to the maximum extent practicable and consistent
38 with international trade agreement commitments; and

39 (b) Policies requiring all food contracts to include a plan to
40 maximize to the extent practicable and consistent with international

1 trade agreement commitments the availability of Washington grown food
2 purchased through the contract;

3 (10) Develop guidelines and criteria for the purchase of
4 vehicles, high gas mileage vehicles, and alternate vehicle fuels and
5 systems, equipment, and materials, that reduce overall energy-related
6 costs and energy use by the state, including investigations into all
7 opportunities to aggregate the purchasing of clean technologies by
8 state and local governments, and including the requirement that new
9 passenger vehicles purchased by the state meet the minimum standards
10 for passenger automobile fuel economy established by the United
11 States secretary of transportation pursuant to the energy policy and
12 conservation act (15 U.S.C. Sec. 2002); and

13 (11) Develop and enact rules to implement the provisions of this
14 chapter.

15 **Sec. 207.** RCW 39.26.110 and 2012 c 224 s 12 are each amended to
16 read as follows:

17 (1) The department must provide expertise and training on best
18 practices for state procurement. The department must coordinate with
19 the office regarding training on the best practices for state
20 procurement of information technology goods and services.

21 (2) The department must establish either training or
22 certification programs, or both, to ensure consistency in procurement
23 practices for employees authorized to perform procurement functions
24 under the provisions of this chapter. When establishing training or
25 certification programs, the department may approve existing training
26 or certification programs at state agencies. When establishing
27 programs or approving existing programs, the department shall work
28 with agencies with existing training programs to ensure coordination
29 and minimize additional costs associated with training requirements.
30 Training or certificate programs focused on the procurement of
31 information technology goods and services must be developed and
32 provided in partnership with the office.

33 (3) Beginning July 1, 2013, state agencies must require agency
34 employees responsible for developing, executing, or managing
35 procurements or contracts, or both, to complete department-approved
36 training or certification programs, or both. Beginning July 1, 2015,
37 no agency employee may execute or manage contracts unless the
38 employee has met the training or certification requirements or both
39 as set by the department. Any request for exception to this

1 requirement must be submitted to the director for approval before the
2 employee or group of employees executes or manages contracts.

3 **Sec. 208.** RCW 39.26.130 and 2012 c 224 s 15 are each amended to
4 read as follows:

5 (1) An agency may make emergency purchases as defined in
6 subsection (3) of this section. When an emergency purchase is made,
7 the agency head shall submit written notification of the purchase
8 within three business days of the purchase to the director and
9 provide a copy to the office for purchases of information technology
10 goods or services. This notification must contain a description of
11 the purchase, a description of the emergency and the circumstances
12 leading up to the emergency, and an explanation of why the
13 circumstances required an emergency purchase.

14 (2) Emergency contracts must be submitted to the department and
15 made available for public inspection within three working days
16 following the commencement of work or execution of the contract,
17 whichever occurs first.

18 (3) As used in this section, "emergency" means a set of
19 unforeseen circumstances beyond the control of the agency that
20 either:

21 (a) Present a real, immediate, and extreme threat to the proper
22 performance of essential functions; or

23 (b) May reasonably be expected to result in material loss or
24 damage to property, bodily injury, or loss of life, if immediate
25 action is not taken.

26 **Sec. 209.** RCW 39.26.140 and 2012 c 224 s 16 are each amended to
27 read as follows:

28 (1) Agencies must submit sole source contracts to the department
29 and make the contracts available for public inspection not less than
30 ten working days before the proposed starting date of the contract.
31 Agencies must provide documented justification for sole source
32 contracts to the department when the contract is submitted, and must
33 include evidence that the agency posted the contract opportunity at a
34 minimum on the state's enterprise vendor registration and bid
35 notification system. The department must provide a copy of the
36 submittal for a sole source contract for information technology goods
37 and services to the office for review, and the office shall notify

1 the department if the contract should be denied or if additional
2 justification is needed before the contract may be approved.

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

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

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

13 **Sec. 210.** RCW 39.26.180 and 2012 c 224 s 20 are each amended to
14 read as follows:

15 (1) The department must adopt uniform policies and procedures for
16 the effective and efficient management of contracts by all state
17 agencies. Additional policies and procedures related to the
18 management of information technology contracts must be developed in
19 consultation with and approved by the office. The policies and
20 procedures must, at a minimum, include:

21 (a) Precontract procedures for selecting potential contractors
22 based on their qualifications and ability to perform;

23 (b) Model complaint and protest procedures;

24 (c) Alternative dispute resolution processes;

25 (d) Incorporation of performance measures and measurable
26 benchmarks in contracts;

27 (e) Model contract terms to ensure contract performance and
28 compliance with state and federal standards;

29 (f) Executing contracts using electronic signatures;

30 (g) Criteria for contract amendments;

31 (h) Postcontract procedures;

32 (i) Procedures and criteria for terminating contracts for cause
33 or otherwise; and

34 (j) Any other subject related to effective and efficient contract
35 management.

36 (2) An agency may not enter into a contract under which the
37 contractor could charge additional costs to the agency, the
38 department, the joint legislative audit and review committee, or the
39 state auditor for access to data generated under the contract. A

1 contractor under such a contract must provide access to data
2 generated under the contract to the contracting agency, the joint
3 legislative audit and review committee, and the state auditor.

4 (3) To the extent practicable, agencies should enter into
5 performance-based contracts. Performance-based contracts identify
6 expected deliverables and performance measures or outcomes.
7 Performance-based contracts also use appropriate techniques, which
8 may include but are not limited to, either consequences or incentives
9 or both to ensure that agreed upon value to the state is received.
10 Payment for goods and services under performance-based contracts
11 should be contingent on the contractor achieving performance
12 outcomes.

13 (4) An agency and contractor may execute a contract using
14 electronic signatures.

15 (5) As used in subsection (2) of this section, "data" includes
16 all information that supports the findings, conclusions, and
17 recommendations of the contractor's reports, including computer
18 models and the methodology for those models.

19 NEW SECTION. **Sec. 211.** A new section is added to chapter 43.41
20 RCW to read as follows:

21 (1) The information technology investment account is created in
22 the custody of the state treasurer. All receipts from legislative
23 appropriations and transfers must be deposited into the account. Only
24 the director of financial management or the director's designee may
25 authorize expenditures from the account. The account is subject to
26 allotment procedures under chapter 43.88 RCW, but an appropriation is
27 not required for expenditures.

28 (2) Funds in the account are provided solely for the information
29 technology projects as provided in the omnibus appropriations act.

30 (3) Agencies may apply to the office of financial management to
31 receive funds from the information technology investment account.
32 Preference must be given to projects that utilize commercial off-the-
33 shelf or software as a service technology solution.

34 (4) Allocations and allotments may be made only during discrete
35 stages of projects, which at a minimum must include a planning stage,
36 procurement stage, and implementation and integration stage. At least
37 fourteen days prior to an allocation or allotment of funds to an
38 agency, the office of financial management, jointly with the office
39 of the chief information officer, must deliver to the legislative

1 fiscal committees the following information for each project
2 receiving an allocation from the account:

3 (a) A technology budget using a method similar to the state
4 capital budget, identifying project costs, funding sources, and
5 anticipated deliverables through each stage of the investment and
6 across fiscal periods and biennia from project initiation to
7 implementation. If the project affects more than one agency, a
8 technology budget must be prepared for each agency;

9 (b) The technology implementation plan that includes:

10 (i) An organizational chart of the project management team that
11 identifies team members and their roles and responsibilities;

12 (ii) The office of the chief information officer staff assigned
13 to the project;

14 (iii) An implementation schedule covering activities, critical
15 milestones, and deliverables at each stage of the project for the
16 life of the project at each agency affected by the project; and

17 (iv) Performance measures used to determine that the project is
18 on time, within budget, and meeting expectations for quality of work
19 product;

20 (c) A letter from the office of the chief information officer
21 certifying that:

22 (i) The project is consistent with the state's enterprise
23 architecture and other policies developed by the office of the chief
24 information officer;

25 (ii) The agency has the organizational capacity, preparedness,
26 and leadership to implement the project successfully;

27 (iii) The agency has adequately assessed and minimized the risks
28 inherent with the project;

29 (iv) The project has the management, staffing, and oversight
30 resources needed for the cost, complexity, and risks associated with
31 the project;

32 (v) The project has implementation schedules and performance
33 measures for timeliness, deliverables, quality, and budget;

34 (vi) The agency has an adequate risk management plan that also
35 enables the office of the chief information officer to assess,
36 intervene, and take necessary action when performance measures are
37 not being met; and

38 (vii) For any investment that does not use commercial off-the-
39 shelf or software as a service technology solution, the proposed

1 project represents the best business solution and should not be
2 delayed.

3 (5) For any project that exceeds two million dollars in total
4 funds to complete, requires more than one biennium to complete, or is
5 financed through financial contracts, bonds, or other indebtedness:

6 (a) Quality assurance for the project must report independently
7 to the office of the chief information officer;

8 (b) The office of the chief information officer must review and,
9 if necessary, revise the proposed project to ensure it is flexible
10 and adaptable to advances in technology;

11 (c) The technology budget must specifically identify the uses of
12 any financing proceeds. No more than thirty percent of the financing
13 proceeds may be used for payroll-related costs for state employees
14 assigned to project management, installation, testing, or training;

15 (d) The agency must consult with the office of the state
16 treasurer during the competitive procurement process to evaluate
17 early in the process whether products and services to be solicited
18 and the responsive bids from a solicitation may be financed; and

19 (e) The agency must consult with the contracting division of the
20 department of enterprise services for a review of all contracts and
21 agreements related to the project's information technology
22 procurements.

23 (6) The office of the chief information officer may suspend or
24 terminate a project at any time if the office of the chief
25 information officer determines that the project is not meeting or is
26 not expected to meet anticipated performance measures. Once
27 suspension or termination occurs, the agency shall not make
28 additional expenditures on the project without approval of the state
29 chief information officer. If a project is terminated, the office of
30 financial management must terminate the agency's allocation from the
31 information technology investment account and the agency shall return
32 any remaining funds to the account to be reallocated to other
33 projects by the office of financial management.

34 (7) Any cost to administer, oversee, or implement a project must
35 be paid from the information technology investment account.

36

37

PART III
REAL ESTATE FUNCTIONS

1 **Sec. 301.** RCW 43.82.010 and 2015 c 99 s 1 are each amended to
2 read as follows:

3 (1) The director of enterprise services, on behalf of the agency
4 involved and after consultation with the office of financial
5 management, shall purchase, lease, lease purchase, rent, or otherwise
6 acquire all real estate, improved or unimproved, as may be required
7 by elected state officials, institutions, departments, commissions,
8 boards, and other state agencies, or federal agencies where joint
9 state and federal activities are undertaken and may grant easements
10 and transfer, exchange, sell, lease, or sublease all or part of any
11 surplus real estate for those state agencies which do not otherwise
12 have the specific authority to dispose of real estate. This section
13 does not transfer financial liability for the acquired property to
14 the department of enterprise services.

15 (2) Except for real estate occupied by federal agencies, the
16 director shall determine the location, size, and design of any real
17 estate or improvements thereon acquired or held pursuant to
18 subsection (1) of this section. ~~((Facilities acquired or held
19 pursuant to this chapter, and any improvements thereon, shall conform
20 to standards adopted by the director and approved by the office of
21 financial management governing facility efficiency unless a specific
22 exemption from such standards is provided by the director of
23 enterprise services. The director of enterprise services shall report
24 to the office of financial management and the appropriate committees
25 of the legislature annually on any exemptions granted pursuant to
26 this subsection.))~~

27 (3) Except for leases permitted under subsection (4) of this
28 section, the director of enterprise services may fix the terms and
29 conditions of each lease entered into under this chapter, except that
30 no lease shall extend greater than twenty years in duration. The
31 director of enterprise services may enter into a long-term lease
32 greater than ten years in duration upon a determination by the
33 director of the office of financial management that the long-term
34 lease provides a more favorable rate than would otherwise be
35 available, it appears to a substantial certainty that the facility is
36 necessary for use by the state for the full length of the lease term,
37 and the facility meets the standards adopted pursuant to subsection
38 (2) of this section. The director of enterprise services may enter
39 into a long-term lease greater than ten years in duration if an
40 analysis shows that the life-cycle cost of leasing the facility is

1 less than the life-cycle cost of purchasing or constructing a
2 facility in lieu of leasing the facility.

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

7 (5) Except as permitted under chapter 39.94 RCW, no lease for or
8 on behalf of any state agency may be used or referred to as
9 collateral or security for the payment of securities offered for sale
10 through a public offering. Except as permitted under chapter 39.94
11 RCW, no lease for or on behalf of any state agency may be used or
12 referred to as collateral or security for the payment of securities
13 offered for sale through a private placement without the prior
14 written approval of the state treasurer. However, this limitation
15 shall not prevent a lessor from assigning or encumbering its interest
16 in a lease as security for the repayment of a promissory note
17 provided that the transaction would otherwise be an exempt
18 transaction under RCW 21.20.320. The state treasurer shall adopt
19 rules that establish the criteria under which any such approval may
20 be granted. In establishing such criteria the state treasurer shall
21 give primary consideration to the protection of the state's credit
22 rating and the integrity of the state's debt management program. If
23 it appears to the state treasurer that any lease has been used or
24 referred to in violation of this subsection or rules adopted under
25 this subsection, then he or she may recommend that the governor cause
26 such lease to be terminated. The department of enterprise services
27 shall promptly notify the state treasurer whenever it may appear to
28 the department that any lease has been used or referred to in
29 violation of this subsection or rules adopted under this subsection.

30 (6) It is the policy of the state to encourage the colocation and
31 consolidation of state services into single or adjacent facilities,
32 whenever appropriate, to improve public service delivery, minimize
33 duplication of facilities, increase efficiency of operations, and
34 promote sound growth management planning.

35 ~~(7) ((The director of enterprise services shall provide~~
36 ~~coordinated long range planning services to identify and evaluate~~
37 ~~opportunities for colocating and consolidating state facilities. Upon~~
38 ~~the renewal of any lease, the inception of a new lease, or the~~
39 ~~purchase of a facility, the director of enterprise services shall~~
40 ~~determine whether an opportunity exists for colocating the agency or~~

1 agencies in a single facility with other agencies located in the same
2 geographic area. If a colocation opportunity exists, the director of
3 enterprise services shall consult with the affected state agencies
4 and the office of financial management to evaluate the impact
5 colocation would have on the cost and delivery of agency programs,
6 including whether program delivery would be enhanced due to the
7 centralization of services. The director of enterprise services, in
8 consultation with the office of financial management, shall develop
9 procedures for implementing colocation and consolidation of state
10 facilities.

11 ~~(8))~~) The director of enterprise services is authorized to
12 purchase, lease, rent, or otherwise acquire improved or unimproved
13 real estate as owner or lessee and to lease or sublet all or a part
14 of such real estate to state or federal agencies. The director of
15 enterprise services shall charge each using agency its proportionate
16 rental which shall include an amount sufficient to pay all costs,
17 including, but not limited to, those for utilities, janitorial and
18 accounting services, and sufficient to provide for contingencies;
19 which shall not exceed five percent of the average annual rental, to
20 meet unforeseen expenses incident to management of the real estate.

21 ~~((9))~~) (8) If the director of enterprise services determines
22 that it is necessary or advisable to undertake any work,
23 construction, alteration, repair, or improvement on any real estate
24 acquired pursuant to subsection (1) or ~~((8))~~) (7) of this section,
25 the director shall cause plans and specifications thereof and an
26 estimate of the cost of such work to be made and filed in his or her
27 office and the state agency benefiting thereby is hereby authorized
28 to pay for such work out of any available funds: PROVIDED, That the
29 cost of executing such work shall not exceed the sum of twenty-five
30 thousand dollars. Work, construction, alteration, repair, or
31 improvement in excess of twenty-five thousand dollars, other than
32 that done by the owner of the property if other than the state, shall
33 be performed in accordance with the public works law of this state.

34 ~~((10))~~) (9) In order to obtain maximum utilization of space, the
35 ~~((director of enterprise services))~~) office of financial management
36 shall make space utilization studies, and shall establish standards
37 for use of space by state agencies. Such studies shall include the
38 identification of opportunities for colocation and consolidation of
39 state agency office and support facilities.

1 ~~((11))~~ (10) The director of enterprise services may construct
2 new buildings on, or improve existing facilities, and furnish and
3 equip, all real estate under his or her management. Prior to the
4 construction of new buildings or major improvements to existing
5 facilities or acquisition of facilities using a lease purchase
6 contract, the director of enterprise services shall conduct an
7 evaluation of the facility design and budget using life-cycle cost
8 analysis, value-engineering, and other techniques to maximize the
9 long-term effectiveness and efficiency of the facility or
10 improvement.

11 ~~((12))~~ (11) All conveyances and contracts to purchase, lease,
12 rent, transfer, exchange, or sell real estate and to grant and accept
13 easements shall be approved as to form by the attorney general,
14 signed by the director of enterprise services or the director's
15 designee, and recorded with the county auditor of the county in which
16 the property is located.

17 ~~((13))~~ (12) The director of enterprise services may delegate
18 any or all of the functions specified in this section to any agency
19 upon such terms and conditions as the director deems advisable. By
20 January 1st of each year, beginning January 1, 2008, the department
21 shall submit an annual report to the office of financial management
22 and the appropriate committees of the legislature on all delegated
23 leases.

24 ~~((14))~~ (13) This section does not apply to the acquisition of
25 real estate by:

26 (a) The state college and universities for research or
27 experimental purposes;

28 (b) ~~((The state liquor control board for liquor stores and
29 warehouses;~~

30 ~~(c))~~ The department of natural resources, the department of fish
31 and wildlife, the department of transportation, and the state parks
32 and recreation commission for purposes other than the leasing of
33 offices, warehouses, and real estate for similar purposes; and

34 ~~((d))~~ (c) The department of commerce for community college
35 health career training programs, offices for the department of
36 commerce or other appropriate state agencies, and other nonprofit
37 community uses, including community meeting and training facilities,
38 where the real estate is acquired during the 2013-2015 fiscal
39 biennium.

1 ~~((15))~~ (14) Notwithstanding any provision in this chapter to
2 the contrary, the department of enterprise services may negotiate
3 ground leases for public lands on which property is to be acquired
4 under a financing contract pursuant to chapter 39.94 RCW under terms
5 approved by the state finance committee.

6 ~~((16))~~ (15) The department of enterprise services shall report
7 annually to the office of financial management and the appropriate
8 fiscal committees of the legislature on facility leases executed for
9 all state agencies for the preceding year, lease terms, and annual
10 lease costs. The report must include leases executed under RCW
11 43.82.045 and subsection ~~((13))~~ (12) of this section.

12 **Sec. 302.** RCW 43.82.055 and 2015 3rd sp.s. c 1 s 301 are each
13 amended to read as follows:

14 The office of financial management shall:

15 (1) Work with the department of enterprise services and all other
16 state agencies to determine the long-term facility needs of state
17 government;

18 (2) Develop and submit a six-year facility plan to the
19 legislature by January 1st of every odd-numbered year that includes
20 state agency space requirements and other pertinent data necessary
21 for cost-effective facility planning. The department of enterprise
22 services shall assist with this effort as required by the office of
23 financial management; ~~((and))~~

24 (3) Establish and enforce policies and workplace strategies that
25 promote the efficient use of state facilities; and

26 (4) Evaluate opportunities for colocating and consolidating state
27 facilities in the same geographic area. This includes evaluating the
28 impact colocation would have on the cost and delivery of agency
29 programs, including whether program delivery would be enhanced due to
30 the centralization of services.

31 **Sec. 303.** RCW 43.82.150 and 2015 3rd sp.s. c 1 s 302 are each
32 amended to read as follows:

33 (1) The office of financial management shall develop and maintain
34 an inventory system to account for all facilities owned or leased by
35 state government. At a minimum, the inventory system must include the
36 facility owner, location, type, condition, use data, and size of each
37 facility. In addition, for owned facilities, the inventory system
38 must include the date and cost of original construction and the cost

1 of any major remodeling or renovation. The inventory must be updated
2 by all agencies, departments, boards, commissions, and institutions
3 by June 30th of each year. The office of financial management shall
4 publish a report summarizing information contained in the inventory
5 system for each agency by October 1st of each year, beginning in 2010
6 and shall submit this report to the appropriate fiscal committees of
7 the legislature.

8 (2) The inventory required under this subsection must be
9 submitted in a standard format prescribed by the office of financial
10 management.

11 (3) Agencies must report space use data for office facilities.

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

16 **PART IV**

17 **MISCELLANEOUS**

18 NEW SECTION. **Sec. 401.** A new section is added to chapter 43.41
19 RCW to read as follows:

20 (1) Those powers, duties, and functions of the department of
21 enterprise services being transferred to the office of financial
22 management as set forth in sections 101 through 110 of this act are
23 hereby transferred to the office of financial management.

24 (2)(a) All reports, documents, surveys, books, records, files,
25 papers, or written material in the possession of the department of
26 enterprise services pertaining to the powers, duties, and functions
27 transferred shall be delivered to the custody of the office of
28 financial management. All cabinets, furniture, office equipment,
29 motor vehicles, and other tangible property employed by the
30 department of enterprise services in carrying out the powers, duties,
31 and functions transferred shall be made available to the office of
32 financial management. All funds, credits, or other assets held by the
33 department of enterprise services in connection with the powers,
34 duties, and functions transferred shall be assigned to the office of
35 financial management.

36 (b) Any appropriations made to the department of enterprise
37 services for carrying out the powers, functions, and duties

1 transferred shall, on the effective date of this section, be
2 transferred and credited to the office of financial management.

3 (c) If any question arises as to the transfer of any personnel,
4 funds, books, documents, records, papers, files, equipment, or other
5 tangible property used or held in the exercise of the powers and the
6 performance of the duties and functions transferred, the director of
7 financial management shall make a determination as to the proper
8 allocation and certify the same to the state agencies concerned.

9 (3) All rules and all pending business before the department of
10 enterprise services pertaining to the powers, duties, and functions
11 transferred shall be continued and acted upon by the office of
12 financial management. All existing contracts and obligations shall
13 remain in full force and shall be performed by the office of
14 financial management.

15 (4) The transfer of the powers, duties, functions, and personnel
16 of the department of enterprise services shall not affect the
17 validity of any act performed before the effective date of this
18 section.

19 (5) If apportionments of budgeted funds are required because of
20 the transfers directed by this section, the director of financial
21 management shall certify the apportionments to the agencies affected,
22 the state auditor, and the state treasurer. Each of these shall make
23 the appropriate transfer and adjustments in funds and appropriation
24 accounts and equipment records in accordance with the certification.

25 (6) All employees of the department of enterprise services
26 engaged in performing the powers, functions, and duties transferred
27 to the office of financial management, are transferred to the office
28 of financial management. Except as provided in chapter 41.80 RCW, all
29 employees classified under chapter 41.06 RCW, the state civil service
30 law, are assigned to the office of financial management to perform
31 their usual duties upon the same terms as formerly, without any loss
32 of rights, subject to any action that may be appropriate thereafter
33 in accordance with the laws and rules governing state civil service
34 law.

35 NEW SECTION. **Sec. 402.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect July 1, 2017.

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