

HOUSE BILL REPORT

ESSB 5931

As Passed House - Amended:

May 25, 2011

Title: An act relating to reorganizing and streamlining central service functions, powers, and duties of state government.

Brief Description: Reorganizing and streamlining central service functions, powers, and duties of state government.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Baumgartner and Zarelli).

Brief History:

Committee Activity:

Ways & Means: 5/20/11, 5/23/11 [DPA].

First Special Session

Floor Activity:

Passed House - Amended: 5/25/11, 54-42.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Creates the Department of Enterprise Services (DES).
- Creates the Office of the Chief Information Officer within the Office of Financial Management (OFM).
- Creates a Technology Services Board.
- Abolishes the Department of General Administration and transfers its duties to the DES.
- Abolishes the Department of Personnel and transfers its functions to the OFM and the DES.
- Abolishes the State Printer and transfers its functions to the DES.
- Transfers the risk management and personal service contracts functions from the OFM to the DES.
- Replaces the Department of Information Services with the newly created Consolidated Technology Services Agency.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Abolishes the Education Data Center in the OFM and establishes the Education Research and Data Center in the Legislative Evaluation and Accountability Program.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended. Signed by 14 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle, Cody, Haigh, Hudgins, Hunt, Kagi, Kenney, Ormsby, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 12 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler, Dickerson, Haler, Hinkle, Parker, Ross, Schmick and Wilcox.

Staff: Kara Durbin (786-7133), Marsha Reilly (786-7135), and Jeff Olsen (786-7175).

Background:

Washington has several central service agencies that primarily provide services to other state agencies and occasionally local governments and nonprofits.

Department of General Administration.

The Department of General Administration is a state agency that provides a wide variety of support services for state agencies, city and county governments, school districts, colleges and universities, and a number of nonprofit organizations, including, but not limited to, purchasing and contracting for goods and services; lease management; maintenance of state buildings and grounds; management of the state motor pool; and operating the consolidated mail service.

Office of the Public Printer.

The Public Printer (Printer) is a state official appointed by the Governor with the advice and consent of the Senate. The duties of the Printer include responsibility for the printing and binding of a wide range of public documents. The Printer is also authorized to engage in purchasing, leasing, and procurement functions related to his or her printing duties, and may enter into contracts with outside vendors.

Department of Personnel.

The Department of Personnel (DOP) manages the state's civil service system which was initially established through Initiative 207 in 1960. The provisions of the civil service laws apply to all state agencies, institutions of higher education, boards, commissions, and each employee and position unless expressly excluded or exempted by law. The duties and functions of the DOP include oversight and administration of the civil service system and the administration, maintenance, and operation of the central personnel payroll system.

Office of Financial Management.

The Office of Financial Management (OFM) was established through legislation in 1969 as a division of the Office of the Governor. The general duties of the OFM are to provide planning, assistance, and coordination in the preparation of budgets; management and estimates of the cash flow of all public funds; performing functions and research related to the state census and assisting in the federal census; preparation of fiscal notes for proposed legislation; oversight of the state's risk management; and management of personal services contracts.

Department of Information Services.

The Department of Information Services (DIS) was formed in 1987 through the consolidation of the state's four independent data processing and communications systems. The DIS is a cabinet-level agency that provides technology-based services to state agencies and local governments, as well as public benefit nonprofit corporations, on a cost-recovery basis. State agencies may procure information technology services through the DIS, but are not required to do so if other alternatives are more cost effective or provide better service.

The Information Services Board (ISB) provides authorization and oversight for managing large information technology projects administered by executive branch agency staff. The ISB is charged with: (1) developing state information technology standards; (2) governing acquisitions; (3) reviewing and approving the statewide information technology strategic plans; and (4) developing statewide or inter-agency technical policies.

The state's broadband program is managed by the DIS. The DIS is charged with coordination, programming, and outreach on broadband issues, as well as procurement of a state broadband map.

Civil Service and Collective Bargaining.

The state civil service law establishes the state's personnel administration system. Civil service rules apply to non-represented classified employees. The rules may be superseded by collective bargaining agreements applicable to represented employees.

The Public Employment Relations Commission (PERC) administers collective bargaining. The PERC decides representation issues, determines appropriate bargaining units, administers elections for exclusive bargaining representatives, processes and adjudicates disputes that arise from the elections, and certifies exclusive bargaining representatives.

Education Data Center.

Legislation enacted in 2007 established an Education Data Center (EDC) within the OFM. The EDC is directed to work jointly with the Legislative Evaluation and Accountability Program Committee (LEAP) to conduct analyses of early learning, K-12, and higher education issues. The LEAP is a legislative agency responsible for providing fiscal information and technology for developing budgets and communicating budget decisions, tracking revenue, expenditure, and staffing activity. The LEAP also maintains data on the K-12 system.

The EDC develops data-sharing agreements with various state education agencies and institutions and works with those agencies and institutions to identify research and policy questions to be answered using the shared data. When it was established, the EDC also

assumed the OFM's responsibilities for tracking higher education enrollment and outcomes through the Public Centralized Higher Education Enrollment System. The EDC is considered an authorized representative of the state educational agencies for data-sharing purposes, including individual student record data.

In 2009 Washington received a \$17.3 million grant from the United States Department of Education for further development of a P-20 statewide student longitudinal data system. The funds support data system enhancements in multiple education agencies. Executive leadership for the grant is being provided by the LEAP, the OFM, and the Office of Superintendent of Public Instruction. The EDC acts as the Program Director responsible for overseeing the operation of the various projects.

Summary of Amended Bill:

Part I: Creation of The Department of Enterprise Services.

The Department of Enterprise Services (DES) is created as an executive branch agency vested with some or all of the powers and duties of the Department of General Administration (GA), the Public Printer (Printer), the Department of Personnel (DOP), the Office of Financial Management (OFM), and the Department of Information Services (DIS). The Director of the DES is appointed by the Governor and is subject to confirmation by the Senate.

Impacts of Agency Reorganization. The creation of the DES and the concomitant reorganization of state agencies have the following impacts:

- The GA is eliminated and its powers and duties are transferred to the DES.
- The Printer is eliminated and its powers and duties are transferred to the DES.
- The OFM is retained, but some powers and duties are transferred to the DES.
- The DOP is eliminated and its powers and duties are distributed between the OFM and the DES.
- The DIS is abolished with some of its functions and duties transferred to the Consolidated Technology Services (CTS) Agency within the DES, and some to the Office of the Chief Information Officer (CIO) within the OFM, and some to the Department of Commerce.

Duties and Responsibilities of the DES. The general responsibilities of the DES include: (1) providing products and services to support governmental entities and public benefit nonprofit organizations, and entering into agreements to this end; and (2) making information and printing services available to state, local, and federal agencies, local governments, and public benefit nonprofit corporations.

Contracting Out Studies. The OFM must examine on a biennial basis which services within the DES might be performed by the private sector. The OFM will select up to six activities each biennium for the DES to competitively bid to the private sector. The OFM may consult with affected industry stakeholders in making its decision on which activities to contract out.

The procurement process must contain measurable standards for the performance of the contract. The OFM must consider the consequences and potential mitigation of improper or failed performance by the contractor. If service cannot be provided at a lower rate or more

efficiently, the OFM will notify the DES, and the DES may cancel the bid. If the bid is cancelled, the OFM must notify the legislative fiscal committees. The DES, with the OFM, must establish a contract monitoring process to measure contract performance, costs, service, delivery, quality, and other contract standards, and cancel contracts that do not meet those standards. No contract may be renewed without a review of these measures. The OFM must report on the results of these examinations biennially to the Legislature. The Joint Legislative and Audit Review Committee (JLARC) will conduct a performance audit of the implementation of contracting for services at the DES and report to the Legislature by January 1, 2018.

State Procurement Practices. The DES is tasked with effecting the reform and consolidation of state procurement practices and providing a report to the Governor with procurement reform recommendations by December 31, 2011. In doing so, the DES is directed to review national best practices and the procedures used in other states and by the federal government. The Director of the DES is authorized to establish policies annually to define criteria and dollar thresholds for direct buy purchases and informal competitive bidding limits. Criteria may be adjusted to accommodate special market conditions and to promote market diversity.

Part II: Powers and Duties Transferred from the GA to the DES.

The GA is eliminated, and all of the powers, duties, functions, assets, and personnel of the GA are transferred to the DES as part of the agency reorganization process. All statutory references to the "Department of General Administration" or its "Director" in the Revised Code of Washington are to be construed to mean the DES or its Director.

Repealed Statutes: Chapter 43.19 RCW (GA). Various statutes related to the GA are repealed.

Part III: Powers and Duties Transferred from the Printer to the DES.

The Printer is eliminated and all of the powers, duties, functions, assets, and personnel of the Printer are transferred to the DES as part of the agency reorganization process. All statutory references to the "Public Printer" in the Revised Code of Washington are to be construed to mean the DES or its Director. Current collective bargaining agreements also transfer, but are subject to expiration dates, and employees transferred to the DES are no longer exempt from civil service laws.

The transfer of duties, functions, and powers to the DES includes various policy changes pertaining to the printing of public documents under the authority of the DES, as described in the sections below.

State Printing Policy. State agencies are no longer required to use state printing services. If a print job is put out for bid, the DES must be included in the bid solicitation. If material containing personally identifying information is not printed by the DES, the agency must secure a confidentiality agreement with the selected printer. All solicitations must be posted on the state's common vendor registration and bid notification system and results provided to the DES. State agency printing is exempted from the contracting out provisions under the civil service laws.

Print Management Contracts. The DES must broker print management contracts for state agencies that are required to utilize such contracts. Also, the DES is authorized to broker print management contracts for other state agencies that choose to utilize these services. A state agency may be exempted from entering into a print management contract if the Director of the DES deems it unfeasible or if the DES and the agency cannot reach an agreement regarding print management.

Printing and Binding Jobs. For every printing and binding job ordered by a state agency, the DES shall advise the agency on how to choose more economic and efficient options to reduce costs.

Consolidation of Agency Print Shops. The DES must determine which agencies have print shops and prepare a recommendation, including proposed legislation for 2012, to transfer print shop personnel, equipment, and activities of state agencies and institutions of higher education to the DES.

Performance Audit. The State Auditor must conduct a comprehensive performance audit of state printing services by November 1, 2016, and follow-up audits as deemed necessary.

Repealed Statutes: Chapter 43.78 RCW (Printer). Various statutes related to the Printer are repealed.

Part IV: Powers and Duties Transferred from the DOP to the DES.

The DOP is eliminated and its powers and duties are divided between the OFM and the DES. Generally, the OFM shall direct and supervise personnel policies and the application of civil service laws and the DES shall direct and supervise the implementation of the laws.

Appointment of Human Resources Director. The position of Director of Human Resources is created within the OFM. The Director of Human Resources has the same responsibilities for the adoption of rules and procedures as the Director of Personnel. In addition, the Director of Human Resources must adopt and maintain a comprehensive classification plan and compensation system for all positions in the classified service.

Upon request by an appointing authority and an employee organization representing classified employees, the Director of Human Resources may initiate a classification study. The Director of Human Resources may adopt special competitive salary ranges for institutions of higher education and related boards. Salary surveys of positions in public and private employment may be undertaken to establish market rates. Information collected from salary surveys that identify a specific employer is exempt from public disclosure.

Duties Transferred to the OFM. Duties transferred to the OFM formerly performed by the DOP, include:

- compensation surveys for officers and entry-level officer candidates of the Washington State Patrol;
- prescription of training provisions for employees appointed to a supervisory or management position;

- adoption of policies and rules regarding diversity, employee leave, moving expenses of new employees, travel expenses of prospective employees, and the undergraduate internship program;
- study of the duties and salaries of various directors of departments and members of boards and commissions who are subject to appointment by the Governor and whose salaries are fixed by the Governor;
- oversight and custody of the Disability Accommodation Revolving Account, and the Higher Education Personnel Service Account; and
- joint oversight and custody of the Personnel Service Account.

Duties Transferred to the DES. Duties transferred to the DES formerly performed by the DOP include:

- training and career development;
- oversight of the payroll system;
- administration of the Data Processing Revolving Account and the Personnel Service Account;
- background checks on prospective agency heads appointed by the Governor;
- duties transferred from the Personnel Resources Board to the OFM;
- amendment and adoption of rules relating to employees with unsupervised access to children; and
- oversight and custody of the Data Processing Revolving Account.

Other policy changes include the elimination of a reemployment list for terminated state employees and elimination of reports regarding agencies' progress toward meeting affirmative action goals and various training activities.

Statutes relating to the establishment of the DOP and the appointment of the Director of the DOP are repealed. Obsolete statutes relating to the Personnel Appeals Board and transfer of records from the data processing center to the Central Personnel Payroll System are repealed. Other statutes, classification system for classified service, salary changes to achieve comparable worth, classification and salary schedules to consider rates of public and private employment, and background checks are repealed but the functions are added to other new statutes.

Part V: Powers and Duties Transferred from the OFM to the DES.

The OFM's Division of Risk Management and all of the Division's powers and duties are transferred to the DES as the Office of Risk Management. Oversight and all duties related to the OFM's personnel services contracts are transferred to the DES.

Part VI: Powers and Duties Transferred from the DIS to the DES.

A limited number of specified power, duties, and functions of the DIS are transferred to the DES, as described in the sections below.

Data Processing Revolving Account. The DES is authorized to receive funding from the Data Processing Revolving Account in order to pay for equipment, supplies, services, salaries, wages, and other costs related to the implementation of information services and telecommunications systems.

Licensed Certification Authority. The DES is authorized to become a licensed certification authority as part of the system for authenticating digital signatures under the requirements of the Electronic Authentication Act.

Purchase of Wireless Devices or Services. State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to the OFM evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

High-speed Internet. The oversight and administration of a wide range of functions pertaining to high-speed Internet activities are transferred from the DIS to the Department of Commerce, including:

- the Broadband Mapping Account;
- duties relating to the creation of a geographic information system map of all high-speed Internet infrastructure owned or leased by the state;
- the Community Technology Opportunity Program; and
- oversight of implementation of federally funded or mandated broadband programs for the state.

Repealed Statutes: Chapter 43.105 RCW (DIS). Various statutes related to the DIS are repealed.

Part VII: Creation of the Office of the Chief Information Officer.

The Office of the CIO is created within the OFM and is vested with some of the policy and planning related functions of the DIS. The Office of the CIO is headed by a chief information officer who is appointed by the Governor subject to confirmation by the Senate.

Duties and Responsibilities. The primary duties of the Office of the CIO include: (1) preparing and leading the implementation of a strategic direction and enterprise architecture for information technology (IT) for state government; (2) enabling the standardization and consolidation of IT infrastructure to support enterprise-based system development and to improve and maintain service delivery; (3) establishing standards and policies for IT services throughout state government; (4) establishing statewide architecture to serve as the organizing standard for IT for state agencies; and (5) develop a detailed business plan for any service or activity to be contracted for under an exemption from the competitive contracting statute (RCW 41.06.142) by the Consolidated Technology Service Agency. The CIO may delegate any of his or her powers or duties.

The CIO may employ staff members, who may be exempt from the state civil service law, as well as additional staff members. The CIO also may employ staff members as may be necessary in accordance with the state civil service law, except as otherwise provided by law.

The term "state agency" is defined as every state office, department, division, board, commission, or other state agency, including offices headed by a statewide elected official.

With respect to institutions of higher education, the powers of the Office of the CIO apply to the business and administrative applications, but do not apply to academic and research

applications or medical, clinical and healthcare applications. Institutions of higher education must disclose to the Office of the CIO any proposed academic applications that are enterprise-wide. The Legislature and the Judiciary are strongly encouraged to coordinate with the Office of the CIO and participate in shared services initiatives and the development of enterprise-based strategies.

Prior to making a commitment to purchase, acquire, or develop a major IT project, state agencies must provide a proposal to the Office of the CIO for approval. If a substantially similar product or service is offered by the CTS Agency, the Office of the CIO may require the agency to procure the product or service through the CTS Agency.

The CIO, with the approval of the Technology Services Board (TSB), may expend up to \$1 million per fiscal biennium from the Data Processing Revolving Account to conduct independent technical and financial analysis of proposed IT projects without an appropriation.

The biennial budget documentation submitted by the OFM must include a state technology budget that identifies current baseline funding for information technology, proposed and ongoing major information technology projects, and their associated costs.

Creation of the Technology Services Board. An 13-member TSB is created. The TSB will consist of six members appointed by the Governor and four legislators. Three of the Governor's appointees must be representatives of state agencies or institutions, and three representatives must be from the private sector. Of the state agency representatives, at least one must have direct experience using the software projects overseen by the TSB or reasonably expect to use the new software developed under the oversight of the TSB. Two non-voting members with IT expertise must be appointed by the Governor: (1) a representative of a state agency bargaining unit that will be selected from a list of names submitted by each of the general government exclusive bargaining representatives; (2) a representative of local governments that will be selected from a list of names submitted by commonly recognized local government organizations.

The CIO will be a member of the TSB and serve as chair.

The TSB will:

- review and approve standards and procedures developed by the Office of the CIO governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;
- review and approve statewide or interagency technical policies, standards, and procedures developed by the Office of the CIO;
- review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary educational institutions, educational service districts, or providers of K-12 information technology services;
- develop a policy to determine whether a proposed product or service should undergo an independent analysis prior to being submitted for inclusion in any proposed operating, capital, or transportation budget;

- review, approve and provide oversight of major IT projects to ensure that no major IT project is approved or authorized funding without consideration of the technical and financial business case for the project;
- provide a forum to solicit external input on IT developments, enterprise architecture, standards, and policy development; and
- provide a forum where IT plans, policies, and standards can be reviewed.

Contracting for Services by the CTS Agency. The TSB may approve contracting for services and activities related to the operation and management of the State Data Center. If such approval is granted by the TSB, the CTS Center is exempt from the requirements for competitive contracting under RCW 41.06.142. Additionally, the TSB may approve contracting for other services and activities by the CTS Agency if those services are recommended by the CIO through a business plan and the TSB approves. If such approval is granted by the TSB, those services and activities are exempt from the requirements for competitive contracting under RCW 41.06.142.

Development of an Enterprise Architecture Strategy and Program. The Office of the CIO must develop an enterprise-based strategy for IT in state government that is informed by portfolio management planning and IT expenditure information collected from state agencies. The Office of the CIO also must develop an ongoing enterprise architecture program.

Server Migration by State Agencies. State agencies must locate all existing and new servers in the State Data Center, unless they secure a waiver from the Office of the CIO. The Legislature and the Judiciary may enter into an interagency agreement with the Office of the CIO to migrate its servers into the State Data Center.

The Office of the CIO must conduct a needs assessment and develop a migration strategy to ensure that all state agencies are moving towards using the CTS Agency as their central service provider for all utility-based infrastructure services.

Existing Functions Assumed by the Office of the Chief Information Officer. A number of functions currently performed by the Information Services Board (ISB), the State Interoperability Executive Committee (SIEC), and the DIS are assumed by the Office of the CIO.

The ISB is eliminated. Policy and planning related IT powers and duties that are currently delegated to the ISB are assumed by the Office of the CIO.

The oversight and management of the K-20 Education Network, which currently resides with the ISB, is assumed by the Office of the CIO. Expenditures from the Education Technology Revolving Fund, which is used to pay for K-20 Education Network's operations, transport, equipment, and related functions, may be made by the CIO.

The CIO must appoint the SIEC. The appointment of the SIEC currently rests with the ISB.

The development of a state strategic IT plan, which is currently performed by the DIS, is assumed by the Office of the CIO. Agencies will continue to develop an IT portfolio and will submit this portfolio to the Office of the CIO, rather than the DIS, for review and approval.

In addition, on a biennial basis, each agency will prepare and submit to the Office of the CIO a biennial performance report that evaluates progress towards its objectives outlined in its IT portfolio.

The Office of the CIO also will assume the responsibility of: (1) evaluating state agency IT budget requests at the request of the OFM; and (2) establishing standards and policies governing the planning, implementation, and evaluation of major IT projects.

Applicability of State Civil Service Law. As of July 1, 2011, the state civil service law does not apply to: (1) the CIO; (2) the CIO's confidential secretary; (3) assistant directors; and (4) other exempt staff members.

Part VIII: Creation of the Consolidated Technology Services Agency.

The CTS Agency is created. It replaces the DIS and is vested with many of the powers and duties of the DIS.

A provision in current law, which specifies that the use of the DIS by agencies is discretionary and that agencies may elect other alternatives for IT service, is removed.

Procurement. The purchase of equipment, proprietary software and IT purchased services by the CTS Agency is exempt from the state procurement statute (RCW 43.19.190).

Performance Measures. The CIO must set performance targets and approve performance measures for achieving specific goals for the CTS Agency. These performance targets and measures must be submitted to the Governor by January 2012 and include: measures of performance related to service delivery and costs; operational efficiencies; and overall customer satisfaction.

Performance Audit. The State Auditor must complete a two-part performance audit of the consolidated data center. This audit may include a review of the business case for the consolidated data center as well as a technical and financial assessment of the current business plan. The full performance audit must be completed by December 1, 2012.

Civil Service. Employees of the CTS Agency that perform the following functions are exempt from civil service: systems integration; data center engineering and management; network systems engineering and management; information technology contracting; information technology customer relationship management; and network and systems security.

The OFM may grant a request for an exemption from civil service for a senior expert in IT infrastructure, engineering, or systems. The total number of additional exemptions allowed for this type of position, or for a position involving substantial responsibility for the development of policy or controlling program operations, is limited to one percent of the number of employees in classified service, with some exceptions.

Repealed Statutes. In the process of moving many of the functions and duties of the DIS and the ISB to either the Office of the CIO or the CTS Agency, multiple statutes in the DIS chapter (chapter 43.105 RCW) are repealed. Many of these provisions are reiterated in

substantially the same form in the newly created Office of the CIO chapter of the Revised Code of Washington.

Provisions that are repealed and not otherwise assumed by the Office of the CIO or the CTS Agency pertain to: (1) the ISB; (2) the development of a management and oversight structure based on the use of IT portfolios; (3) expenditures by state agencies for major IT projects; (4) development of a consumer protection web site; and (5) statements of legislative intent and purpose regarding the DIS.

Part IX: Education Research and Data Center.

An Education Research and Data Center (ERDC) is established within the Legislative Evaluation and Accountability Program Committee (LEAP). The purpose of the ERDC is to:

- serve as a data warehouse for education data;
- coordinate with other state agencies and institutions to compile and analyze data;
- disseminate education data and information to contributing agencies and institutions as well as to school districts, policymakers, educators, researchers, and the public; and
- in consultation with participating agencies, identify the critical research and policy questions to be addressed, the data needed, key clients and their needs, and the role clients can play in addressing questions.

The ERDC serves as an authorized representative of state educational agencies for purposes of accessing and compiling individual student record data. State education agencies and institutions are directed to work with the ERDC to develop data-sharing and research agreements.

The EDC in the OFM is abolished. Reports, records, databases, and other written or electronic material held by the EDC are transferred to the ERDC in LEAP. Data-sharing and research agreements developed between education agencies and the EDC are transferred to the ERDC in LEAP as the successor agency. The ERDC in LEAP assumes the role of Program Director for purposes of the federal longitudinal education data system grant. The OFM retains responsibility for tracking higher education enrollment through the Public Centralized Higher Education Enrollment System and retains data sets pertaining solely to the higher education enrollment system.

Part X: Review of Collective Bargaining Units and Administrative Provisions.

Review of Collective Bargaining Units. The Public Employment Relations Commission (PERC) may review the appropriateness of the collective bargaining units transferred to the DES by the GA, the Printer, and the DIS. The employer or the exclusive bargaining representative may petition the PERC to review the bargaining units.

If the PERC determines that an existing collective bargaining unit is appropriate under state collective bargaining laws, the exclusive bargaining representative certified to represent the bargaining unit prior to January 1, 2012, shall continue as the exclusive bargaining representative without the necessity of an election.

If the PERC determines that existing collective bargaining units are not appropriate, the PERC may modify the units and order an election. The PERC may also require an election if similarly situated employees are represented by more than one employee organization.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The act takes effect on October 1, 2011, except for section 109, relating to the definition for executive state officer, section 448, relating to additional powers of the Public Disclosure Commission, and section 732, relating to timely reports to the Public Disclosure Commission, which take effect January 1, 2012; section 462, relating to definitions for the Department of Labor and Industries, which takes effect December 31, 2011; and sections 901 through 909, relating to the Education Research and Data Center, which contain an emergency clause and take effect on July 1, 2012.

Staff Summary of Public Testimony:

(In support) The Governor requested this consolidation bill and supports the bill as it came out of the Senate.

(With concerns) Small business is supportive of the concept, but there are concerns. The language in the bill allows the DES to compete with the private sector for the provisions of goods and services to local governments and nonprofits, which has not been done before. This is unfair competition because state agencies do not have to pay taxes. Many built-in advantages are allowed for the state, and hopefully this language will be changed.

There are concerns regarding the expansion of services to nonprofits and its effect on private business.

The proposed striker expands the State Printer (Printer); it continues the agency's 5 percent markup and expands the Printer's ability to print for nonprofit organizations.

The Department of Printing provides a core service to state agencies as they provide core services to state citizens. It can be done at a much lower cost than by contracting out and there is proof of that. Putting in place collective bargaining rules may compromise the ability of workers to work with their supervisors.

(Opposed) There is concern about taking away a lot of employee rights.

The Office of Superintendent of Public Instruction (OSPI) has concerns with sections 710, 711, and 712 of the bill and where in statute the OSPI must work in collaboration with the Employment Security Department and the statewide provider of IT services for K-12. We would like to see that language removed. Projects are initiated and paid for by the school districts and are not appropriate for approval by the state CIO. The OSPI currently participates in the governance and technology-based oversight of the K-20 committee and would like to see that continue. The OSPI gets substantial discounts from software providers and requests an exemption so that this may continue.

The contracting out clauses in the bill are of concern. Current law provides a process for contracting out. There are many examples of contracting out where the employees can provide the service for less than contractors. When jobs are contracted out, there are examples where employees have had to clean up. Contractors often bid a project and then come back with change orders that increase the price.

State workers are dedicated workers who are not profit motivated. There are many jobs that are contracted out that the union does not object to. However, for some jobs, state workers can do a better job for a lower cost. There are many examples of jobs contracted out that do not end well, for example, the Human Resources Management System.

State workers provide services for a lower cost and make sacrifices to preserve public services. Workers deliver services for less, have forgone pay, and have lived up to the promise that was given to them in 2002. The idea is to preserve public services and give taxpayers the biggest bang for their buck.

The concerns are with the significant attempt to weaken collective bargaining rights. A brand new law is created for the new CTS Agency, with some of the pesky worker rights eliminated. The bill exempts certain entities from the competitive contracting statute, thereby exempting them from requirements such as demonstrating savings, performance standards, contract monitoring, and managed competition. The law is not about workers; it is about taxpayers. The current administration has not tried to work with the union to address their concerns regarding collective bargaining or contracting out.

Persons Testifying: (In support) Kathleen Drew, Office of the Governor.

(With concerns) Jim King, Independent Business Association; Dave Platt, Mailbox of Olympia; Bill Stauffacher, Pacific Printing Industries Association; and Steven Aldrich, Graphic Communications Conference Teamsters 767M.

(Opposed) Thomas Young; Peter Tamayo, Office of Superintendent of Public Instruction; and Robert Bristol, Steve Segall, Carol Dotlich, and Dennis Eagle, Washington Federation of State Employees.

Persons Signed In To Testify But Not Testifying: None.