

2 **2SHB 2738** - S COMM AMD

3 By Committee on State & Local Government

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 39.29 RCW  
8 to read as follows:

9 (1) The office of financial management shall adopt uniform  
10 guidelines for the effective and efficient management of personal  
11 service contracts and client service contracts by all state agencies.  
12 The guidelines must, at a minimum, include:

13 (a) Accounting methods, systems, measures, and principles to be  
14 used by agencies and contractors;

15 (b) Precontract procedures for selecting potential contractors  
16 based on their qualifications and ability to perform;

17 (c) Incorporation of performance measures and measurable benchmarks  
18 in contracts, and the use of performance audits;

19 (d) Uniform contract terms to ensure contract performance and  
20 compliance with state and federal standards;

21 (e) Proper payment and reimbursement methods to ensure that the  
22 state receives full value for taxpayer moneys, including cost  
23 settlements and cost allowance;

24 (f) Post-contract procedures, including methods for recovering  
25 improperly spent or overspent moneys for disallowance and adjustment;

26 (g) Adequate contract remedies and sanctions to ensure compliance;

27 (h) Monitoring, fund tracking, risk assessment, and auditing  
28 procedures and requirements;

29 (i) Financial reporting, record retention, and record access  
30 procedures and requirements;

31 (j) Procedures and criteria for terminating contracts for cause or  
32 otherwise; and

33 (k) Any other subject related to effective and efficient contract  
34 management.

35 (2) The office of financial management shall submit the guidelines  
36 required by subsection (1) of this section to the governor and the

1 appropriate standing committees of the legislature no later than  
2 December 1, 2000.

3 (3) The office of financial management shall publish a guide book  
4 for use by state agencies containing the guidelines required by  
5 subsection (1) of this section.

6 (4) This section expires June 30, 2007.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 39.29 RCW  
8 to read as follows:

9 (1) A state agency entering into or renewing personal service  
10 contracts or client service contracts shall follow the guidelines  
11 required by section 1 of this act.

12 (2) A state agency that has entered into or renewed personal  
13 service contracts or client service contracts during a calendar year  
14 shall, on or before January 1 of the following calendar year, provide  
15 the office of financial management with a report detailing the  
16 procedures the agency employed in entering into, renewing, and managing  
17 the contracts.

18 (3) The provisions of this section apply to state agencies entering  
19 into or renewing contracts after January 1, 2001.

20 (4) This section expires June 30, 2007.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.29 RCW  
22 to read as follows:

23 (1) The office of financial management shall provide a training  
24 course for agency personnel responsible for executing and managing  
25 personal service contracts and client service contracts. The course  
26 must contain training on effective and efficient contract management  
27 under the guidelines established under section 1 of this act. State  
28 agencies shall require agency employees responsible for executing or  
29 managing personal service contracts and client service contracts to  
30 complete the training course to the satisfaction of the office of  
31 financial management. Beginning January 1, 2002, no agency employee  
32 may execute or manage personal service contracts or client service  
33 contracts unless the employee has completed the training course. Any  
34 request for exception to this requirement shall be submitted to the  
35 office of financial management in writing and shall be approved by the  
36 office of financial management prior to the employee executing or  
37 managing the contract.

1 (2)(a) The office of financial management shall conduct risk-based  
2 audits of the contracting practices associated with individual personal  
3 service and client service contracts from multiple state agencies to  
4 ensure compliance with the guidelines established in section 1 of this  
5 act. The office of financial management shall conduct the audits  
6 according to the following schedule:

7 (i) In fiscal year 2001, the office of financial management shall  
8 conduct a minimum of eighteen risk-based audits, involving at least six  
9 contracts from each of at least three agencies; and

10 (ii) In fiscal year 2002 and each fiscal year thereafter, the  
11 office of financial management shall conduct a statistically  
12 appropriate number of risk-based audits.

13 (b) The office of financial management shall forward the results of  
14 the audits conducted under this section to the governor, the  
15 appropriate standing committees of the legislature, and the joint  
16 legislative audit and review committee.

17 (c) This section does not preclude the office of financial  
18 management from conducting additional risk-based audits of the  
19 contracting practices of agencies to ensure compliance with the  
20 guidelines established in section 1 of this act.

21 (3) This section expires June 30, 2007.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.29 RCW  
23 to read as follows:

24 The state auditor and the attorney general shall annually by  
25 November 30th of each year provide a collaborative report of contract  
26 audit and investigative findings, enforcement actions, and the status  
27 of agency resolution to the governor and the policy and fiscal  
28 committees of the legislature.

29 **Sec. 5.** RCW 39.29.040 and 1998 c 101 s 7 are each amended to read  
30 as follows:

31 This chapter does not apply to:

32 (1) Contracts specifying a fee of less than five thousand dollars  
33 if the total of the contracts from that agency with the contractor  
34 within a fiscal year does not exceed five thousand dollars;

35 (2) Contracts awarded to companies that furnish a service where the  
36 tariff is established by the utilities and transportation commission or  
37 other public entity;

1 (3) Intergovernmental agreements awarded to any governmental  
2 entity, whether federal, state, or local and any department, division,  
3 or subdivision thereof;

4 (4) Contracts awarded for services to be performed for a standard  
5 fee, when the standard fee is established by the contracting agency or  
6 any other governmental entity and a like contract is available to all  
7 qualified applicants;

8 (5) Contracts for services that are necessary to the conduct of  
9 collaborative research if prior approval is granted by the funding  
10 source;

11 (6) Contracts for client services except as otherwise indicated in  
12 this chapter;

13 (7) Contracts for architectural and engineering services as defined  
14 in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

15 (8) Contracts for the employment of expert witnesses for the  
16 purposes of litigation; and

17 (9) Contracts for bank supervision authorized under RCW 30.38.040.

18 NEW SECTION. **Sec. 6.** Sections 2 and 3 of this act take effect  
19 January 1, 2001.

20 **Sec. 7.** RCW 43.88.160 and 1998 c 135 s 1 are each amended to read  
21 as follows:

22 This section sets forth the major fiscal duties and  
23 responsibilities of officers and agencies of the executive branch. The  
24 regulations issued by the governor pursuant to this chapter shall  
25 provide for a comprehensive, orderly basis for fiscal management and  
26 control, including efficient accounting and reporting therefor, for the  
27 executive branch of the state government and may include, in addition,  
28 such requirements as will generally promote more efficient public  
29 management in the state.

30 (1) Governor; director of financial management. The governor,  
31 through the director of financial management, shall devise and  
32 supervise a modern and complete accounting system for each agency to  
33 the end that all revenues, expenditures, receipts, disbursements,  
34 resources, and obligations of the state shall be properly and  
35 systematically accounted for. The accounting system shall include the  
36 development of accurate, timely records and reports of all financial  
37 affairs of the state. The system shall also provide for central

1 accounts in the office of financial management at the level of detail  
2 deemed necessary by the director to perform central financial  
3 management. The director of financial management shall adopt and  
4 periodically update an accounting procedures manual. Any agency  
5 maintaining its own accounting and reporting system shall comply with  
6 the updated accounting procedures manual and the rules of the director  
7 adopted under this chapter. An agency may receive a waiver from  
8 complying with this requirement if the waiver is approved by the  
9 director. Waivers expire at the end of the fiscal biennium for which  
10 they are granted. The director shall forward notice of waivers granted  
11 to the appropriate legislative fiscal committees. The director of  
12 financial management may require such financial, statistical, and other  
13 reports as the director deems necessary from all agencies covering any  
14 period.

15 (2) Except as provided in chapter 43.88C RCW, the director of  
16 financial management is responsible for quarterly reporting of primary  
17 operating budget drivers such as applicable workloads, caseload  
18 estimates, and appropriate unit cost data. These reports shall be  
19 transmitted to the legislative fiscal committees or by electronic means  
20 to the legislative evaluation and accountability program committee.  
21 Quarterly reports shall include actual monthly data and the variance  
22 between actual and estimated data to date. The reports shall also  
23 include estimates of these items for the remainder of the budget  
24 period.

25 (3) The director of financial management shall report at least  
26 annually to the appropriate legislative committees regarding the status  
27 of all appropriated capital projects, including transportation  
28 projects, showing significant cost overruns or underruns. If funds are  
29 shifted from one project to another, the office of financial management  
30 shall also reflect this in the annual variance report. Once a project  
31 is complete, the report shall provide a final summary showing estimated  
32 start and completion dates of each project phase compared to actual  
33 dates, estimated costs of each project phase compared to actual costs,  
34 and whether or not there are any outstanding liabilities or unsettled  
35 claims at the time of completion.

36 (4) In addition, the director of financial management, as agent of  
37 the governor, shall:

38 (a) Develop and maintain a system of internal controls and internal  
39 audits comprising methods and procedures to be adopted by each agency

1 that will safeguard its assets, check the accuracy and reliability of  
2 its accounting data, promote operational efficiency, and encourage  
3 adherence to prescribed managerial policies for accounting and  
4 financial controls. The system developed by the director shall include  
5 criteria for determining the scope and comprehensiveness of internal  
6 controls required by classes of agencies, depending on the level of  
7 resources at risk.

8 Each agency head or authorized designee shall be assigned the  
9 responsibility and authority for establishing and maintaining internal  
10 audits following the standards of internal auditing of the institute of  
11 internal auditors;

12 (b) Make surveys and analyses of agencies with the object of  
13 determining better methods and increased effectiveness in the use of  
14 manpower and materials; and the director shall authorize expenditures  
15 for employee training to the end that the state may benefit from  
16 training facilities made available to state employees;

17 (c) Establish policies for allowing the contracting of child care  
18 services;

19 (d) Report to the governor with regard to duplication of effort or  
20 lack of coordination among agencies;

21 (e) Review any pay and classification plans, and changes  
22 thereunder, developed by any agency for their fiscal impact: PROVIDED,  
23 That none of the provisions of this subsection shall affect merit  
24 systems of personnel management now existing or hereafter established  
25 by statute relating to the fixing of qualifications requirements for  
26 recruitment, appointment, or promotion of employees of any agency. The  
27 director shall advise and confer with agencies including appropriate  
28 standing committees of the legislature as may be designated by the  
29 speaker of the house and the president of the senate regarding the  
30 fiscal impact of such plans and may amend or alter said plans, except  
31 that for the following agencies no amendment or alteration of said  
32 plans may be made without the approval of the agency concerned:  
33 Agencies headed by elective officials;

34 (f) Fix the number and classes of positions or authorized man years  
35 of employment for each agency and during the fiscal period amend the  
36 determinations previously fixed by the director except that the  
37 director shall not be empowered to fix said number or said classes for  
38 the following: Agencies headed by elective officials;

1 (g) Adopt rules to effectuate provisions contained in (a) through  
2 (f) of this subsection.

3 (5) The treasurer shall:

4 (a) Receive, keep, and disburse all public funds of the state not  
5 expressly required by law to be received, kept, and disbursed by some  
6 other persons: PROVIDED, That this subsection shall not apply to those  
7 public funds of the institutions of higher learning which are not  
8 subject to appropriation;

9 (b) Receive, disburse, or transfer public funds under the  
10 treasurer's supervision or custody;

11 (c) Keep a correct and current account of all moneys received and  
12 disbursed by the treasurer, classified by fund or account;

13 (d) Coordinate agencies' acceptance and use of credit cards and  
14 other payment methods, if the agencies have received authorization  
15 under RCW 43.41.180;

16 (e) Perform such other duties as may be required by law or by  
17 regulations issued pursuant to this law.

18 It shall be unlawful for the treasurer to disburse public funds in  
19 the treasury except upon forms or by alternative means duly prescribed  
20 by the director of financial management. These forms or alternative  
21 means shall provide for authentication and certification by the agency  
22 head or the agency head's designee that the services have been rendered  
23 or the materials have been furnished; or, in the case of loans or  
24 grants, that the loans or grants are authorized by law; or, in the case  
25 of payments for periodic maintenance services to be performed on state  
26 owned equipment, that a written contract for such periodic maintenance  
27 services is currently in effect (~~and copies thereof are on file with~~  
28 ~~the office of financial management~~); and the treasurer shall not be  
29 liable under the treasurer's surety bond for erroneous or improper  
30 payments so made. When services are lawfully paid for in advance of  
31 full performance by any private individual or business entity other  
32 than equipment maintenance providers or as provided for by RCW  
33 42.24.035, such individual or entity other than central stores  
34 rendering such services shall make a cash deposit or furnish surety  
35 bond coverage to the state as shall be fixed in an amount by law, or if  
36 not fixed by law, then in such amounts as shall be fixed by the  
37 director of the department of general administration but in no case  
38 shall such required cash deposit or surety bond be less than an amount  
39 which will fully indemnify the state against any and all losses on

1 account of breach of promise to fully perform such services. No  
2 payments shall be made in advance for any equipment maintenance  
3 services to be performed more than (~~three~~) twelve months after such  
4 payment. Any such bond so furnished shall be conditioned that the  
5 person, firm or corporation receiving the advance payment will apply it  
6 toward performance of the contract. The responsibility for recovery of  
7 erroneous or improper payments made under this section shall lie with  
8 the agency head or the agency head's designee in accordance with  
9 regulations issued pursuant to this chapter. Nothing in this section  
10 shall be construed to permit a public body to advance funds to a  
11 private service provider pursuant to a grant or loan before services  
12 have been rendered or material furnished.

13 (6) The state auditor shall:

14 (a) Report to the legislature the results of current post audits  
15 that have been made of the financial transactions of each agency; to  
16 this end the auditor may, in the auditor's discretion, examine the  
17 books and accounts of any agency, official, or employee charged with  
18 the receipt, custody, or safekeeping of public funds. Where feasible  
19 in conducting examinations, the auditor shall utilize data and findings  
20 from the internal control system prescribed by the office of financial  
21 management. The current post audit of each agency may include a  
22 section on recommendations to the legislature as provided in (c) of  
23 this subsection.

24 (b) Give information to the legislature, whenever required, upon  
25 any subject relating to the financial affairs of the state.

26 (c) Make the auditor's official report on or before the thirty-  
27 first of December which precedes the meeting of the legislature. The  
28 report shall be for the last complete fiscal period and shall include  
29 determinations as to whether agencies, in making expenditures, complied  
30 with the laws of this state. The state auditor is authorized to  
31 perform or participate in performance verifications and performance  
32 audits as expressly authorized by the legislature in the omnibus  
33 biennial appropriations acts or in the performance audit work plan  
34 approved by the joint legislative audit and review committee. The  
35 state auditor, upon completing an audit for legal and financial  
36 compliance under chapter 43.09 RCW or a performance verification, may  
37 report to the joint legislative audit and review committee or other  
38 appropriate committees of the legislature, in a manner prescribed by  
39 the joint legislative audit and review committee, on facts relating to

1 the management or performance of governmental programs where such facts  
2 are discovered incidental to the legal and financial audit or  
3 performance verification. The auditor may make such a report to a  
4 legislative committee only if the auditor has determined that the  
5 agency has been given an opportunity and has failed to resolve the  
6 management or performance issues raised by the auditor. If the auditor  
7 makes a report to a legislative committee, the agency may submit to the  
8 committee a response to the report. This subsection (6) shall not be  
9 construed to authorize the auditor to allocate other than de minimis  
10 resources to performance audits except as expressly authorized in the  
11 appropriations acts or in the performance audit work plan. The results  
12 of a performance audit conducted by the state auditor that has been  
13 requested by the joint legislative audit and review committee must only  
14 be transmitted to the joint legislative audit and review committee.

15 (d) Be empowered to take exception to specific expenditures that  
16 have been incurred by any agency or to take exception to other  
17 practices related in any way to the agency's financial transactions and  
18 to cause such exceptions to be made a matter of public record,  
19 including disclosure to the agency concerned and to the director of  
20 financial management. It shall be the duty of the director of  
21 financial management to cause corrective action to be taken within six  
22 months, such action to include, as appropriate, the withholding of  
23 funds as provided in RCW 43.88.110. The director of financial  
24 management shall annually report by December 31st the status of audit  
25 resolution to the appropriate committees of the legislature, the state  
26 auditor, and the attorney general. The director of financial  
27 management shall include in the audit resolution report actions taken  
28 as a result of an audit including, but not limited to, types of  
29 personnel actions, costs and types of litigation, and value of recouped  
30 goods or services.

31 (e) Promptly report any irregularities to the attorney general.

32 (f) Investigate improper governmental activity under chapter 42.40  
33 RCW.

34 (7) The joint legislative audit and review committee may:

35 (a) Make post audits of the financial transactions of any agency  
36 and management surveys and program reviews as provided for in chapter  
37 44.28 RCW as well as performance audits and program evaluations. To  
38 this end the joint committee may in its discretion examine the books,  
39 accounts, and other records of any agency, official, or employee.

1 (b) Give information to the legislature or any legislative  
2 committee whenever required upon any subject relating to the  
3 performance and management of state agencies.

4 (c) Make a report to the legislature which shall include at least  
5 the following:

6 (i) Determinations as to the extent to which agencies in making  
7 expenditures have complied with the will of the legislature and in this  
8 connection, may take exception to specific expenditures or financial  
9 practices of any agencies; and

10 (ii) Such plans as it deems expedient for the support of the  
11 state's credit, for lessening expenditures, for promoting frugality and  
12 economy in agency affairs, and generally for an improved level of  
13 fiscal management.

14 **Sec. 8.** RCW 79.44.040 and 1989 c 243 s 14 are each amended to read  
15 as follows:

16 Notice of the intention to make such improvement, or impose any  
17 assessment, together with the estimate of the amount to be charged to  
18 each lot, tract or parcel of land, or other property owned by the state  
19 to be assessed, shall be forwarded by registered or certified mail to  
20 the ~~((director of financial management and to the))~~ chief  
21 administrative officer of the agency of state government occupying,  
22 using, or having jurisdiction over such lands at least thirty days  
23 prior to the date fixed for hearing on the resolution or petition  
24 initiating said assessment. Such assessing district, shall not have  
25 jurisdiction to order such improvement as to the interest of the state  
26 in harbor areas and state tidelands until the written consent of the  
27 commissioner of public lands to the making of such improvement shall  
28 have been obtained, unless other means be provided for paying that  
29 portion of the cost which would otherwise be levied on the interest of  
30 the state of Washington in and to said tidelands, and nothing herein  
31 shall prevent the city from assessing the proportionate cost of said  
32 improvement against any leasehold, contractual or possessory interest  
33 in and to any tideland or harbor area owned by the state: PROVIDED,  
34 HOWEVER, That in the case of tidelands and harbor areas within the  
35 boundaries of any port district, notice of intention to make such  
36 improvement shall also be forwarded to the commissioners of said port  
37 district.

1       **Sec. 9.** RCW 79.44.050 and 1989 c 243 s 15 are each amended to read  
2 as follows:

3       Upon the approval and confirmation of the assessment roll ordered  
4 by the proper authorities of any assessing district, the treasurer of  
5 such assessing district shall certify and forward (~~(to the director of~~  
6 ~~financial management and~~)) to the chief administrative officer of the  
7 agency of state government occupying, using, or having jurisdiction  
8 over the lands(~~(, in accordance with such rules and regulations as the~~  
9 ~~director of financial management may provide,~~)) a statement of all the  
10 lots or parcels of land held or owned by the state and charged on such  
11 assessment roll, separately describing each such lot or parcel of the  
12 state's land, with the amount of the local assessment charged against  
13 it, or the proportionate amount assessed against the fee simple  
14 interest of the state, in case said land has been leased. The chief  
15 administrative officer upon receipt of such statement shall cause a  
16 proper record to be made in his office of the cost of such assessment  
17 upon the lands occupied, used, or under the jurisdiction of his agency.

18       No penalty shall be provided or enforced against the state, and the  
19 interest upon such assessments shall be computed and paid at the rate  
20 paid by other property situated in the same assessing district.

21       **Sec. 10.** RCW 79.44.070 and 1979 c 151 s 180 are each amended to  
22 read as follows:

23       When any assessing district has made or caused to be made an  
24 assessment against such leasehold, contractual or possessory interest  
25 for any such local improvement, the treasurer of said assessing  
26 district shall immediately give notice to the (~~(director of financial~~  
27 ~~management and to the~~)) chief administrative officer of the agency  
28 having jurisdiction over the lands. Said assessment shall become a  
29 lien against the leasehold, contractual or possessory interest in the  
30 same manner as the assessments on other property, and its collection  
31 may be enforced against such interests as provided by law for the  
32 enforcement of other local improvement assessments: PROVIDED, That  
33 said assessment shall not be made payable in installments unless the  
34 owner of such leasehold, contractual or possessory interest shall first  
35 file with such treasurer a satisfactory bond guaranteeing the payment  
36 of such installments as they become due.

1       **Sec. 11.** RCW 79.44.080 and 1979 c 151 s 181 are each amended to  
2 read as follows:

3       Whenever any assessing district shall have foreclosed the lien of  
4 any such delinquent assessments, as provided by law, and shall have  
5 obtained title to such leasehold, contractual or possessory interest,  
6 (~~the director of financial management and~~) the chief administrative  
7 officer of the agency having jurisdiction over the lands shall be  
8 notified by registered or certified mail of such action and furnished  
9 a statement of all assessments against such leasehold, contractual or  
10 possessory interest, and the chief administrative officer (~~or director~~  
11 ~~of financial management~~) shall cause the amount of such assessments to  
12 be paid as provided in RCW 79.44.060, and upon the receipt of an  
13 assignment from such assessing district, the chief administrative  
14 officer shall cancel such lease or contract: PROVIDED, HOWEVER, That  
15 unless the assessing district making said local improvement and levying  
16 said special assessment shall have used due diligence in the  
17 foreclosure thereof, the chief administrative officer (~~and the~~  
18 ~~director of financial management~~) shall not be required to pay any sum  
19 in excess of what they deem to be the special benefits accruing to the  
20 state's reversionary interest in said property: AND PROVIDED FURTHER,  
21 That if such delinquent assessment or installment shall be against a  
22 leasehold interest in fresh water harbor areas within a port district,  
23 the chief administrative officer shall notify the commissioners of said  
24 port district of the receipt of such assignment, and said commissioners  
25 shall forthwith cancel such lease.

26       **Sec. 12.** RCW 79.44.140 and 1979 c 151 s 182 are each amended to  
27 read as follows:

28       The provisions of this chapter shall apply to all local  
29 improvements initiated after June 11, 1919, including assessments to  
30 pay the cost and expense of taking and damaging property by the power  
31 of eminent domain, as provided by law: PROVIDED, That in case of  
32 eminent domain assessments, it shall not be necessary to forward notice  
33 of the intention to make such improvement, but the eminent domain  
34 commissioners, authorized to make such assessment, shall, at the time  
35 of filing the assessment roll with the court in the manner provided by  
36 law, forward by registered or certified mail (~~to the director of~~  
37 ~~financial management and~~) to the chief administrative officer of the  
38 agency using, occupying or having jurisdiction over the lands a notice

1 of such assessment, and of the day fixed by the court for the hearing  
2 thereof: PROVIDED, That no assessment against the state's interest in  
3 tidelands or harbor areas shall be binding against the state if the  
4 commissioner of public lands shall file a disapproval of the same in  
5 court before judgment confirming the roll.

6 NEW SECTION. **Sec. 13.** RCW 79.44.180 (Director of financial  
7 management to adopt rules and regulations) and 1979 c 151 s 183 & 1963  
8 c 20 s 14 are each repealed."

9 **2SHB 2738** - S COMM AMD  
10 By Committee on State & Local Government

11  
12 On page 1, line 2 of the title, after "practices;" strike the  
13 remainder of the title and insert "amending RCW 39.29.040, 43.88.160,  
14 79.44.040, 79.44.050, 79.44.070, 79.44.080, and 79.44.140; adding new  
15 sections to chapter 39.29 RCW; repealing RCW 79.44.180; providing an  
16 effective date; and providing expiration dates."

--- END ---