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SENATE BILL 5381

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Benton and Padden

Read first time 01/28/13. Referred to Committee on Governmental Operations.

1 AN ACT Relating to cellular telephone use by state employees;  
2 amending RCW 43.88.160; and adding new sections to chapter 43.41A RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.41A RCW  
5 to read as follows:

6 (1) The office of the chief information officer shall contract with  
7 a private optimization specialist to develop a strategy to match the  
8 state's actual cellular telephone usage with the most cost-effective  
9 delivery of those services. The office shall assist state agencies in  
10 developing and implementing agency-wide cellular telephone use  
11 policies.

12 (2) In developing strategies, the chief information officer shall  
13 consider all possible cost savings measures, including the following:

14 (a) Providing employees with a flat rate reimbursement for the use  
15 of their personal cellular telephones;

16 (b) Utilizing prepaid cellular telephone plans;

17 (c) Removing underutilized cellular telephones from service; and

18 (d) Limiting the use of cellular telephones to employees that use  
19 cellular telephones as an integral part of their jobs.

1 (3) The office of the chief information officer shall report to the  
2 appropriate committees of the legislature on the findings and  
3 recommendations of the optimization specialist, the progress made in  
4 developing a statewide policy on cellular telephone use, the  
5 implementation timeline of any new cellular telephone use policy, the  
6 cost savings that have occurred or will occur as a result of any new  
7 policy, and recommendations for legislation that will promote reduced  
8 use or more efficient use of cellular telephones within state  
9 government.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.41A RCW  
11 to read as follows:

12 (1) No state agency or department may issue cellular telephones to  
13 any state employee, other than an elected official, unless one of the  
14 following apply:

15 (a) The employee is the head of a department or agency and the use  
16 of a cellular telephone is necessary for the effective execution of his  
17 or her duties;

18 (b) The employee is a director within a department or agency and  
19 the use of a cellular telephone is necessary for the effective  
20 execution of his or her duties; or

21 (c) Due to the nature of the employee's work environment, the use  
22 of a cellular telephone is integral to the safety of the employee in  
23 the execution of his or her duties.

24 (2) To the extent that it is financially beneficial, all state  
25 agencies shall utilize prepaid cellular telephone services. This  
26 subsection shall not be construed to prohibit the use of other types of  
27 cellular telephone service contracts if those contracts are determined  
28 to have a greater financial benefit to the state.

29 **Sec. 3.** RCW 43.88.160 and 2012 c 230 s 1 are each amended to read  
30 as follows:

31 This section sets forth the major fiscal duties and  
32 responsibilities of officers and agencies of the executive branch. The  
33 regulations issued by the governor pursuant to this chapter shall  
34 provide for a comprehensive, orderly basis for fiscal management and  
35 control, including efficient accounting and reporting therefor, for the

1 executive branch of the state government and may include, in addition,  
2 such requirements as will generally promote more efficient public  
3 management in the state.

4 (1) Governor; director of financial management. The governor,  
5 through the director of financial management, shall devise and  
6 supervise a modern and complete accounting system for each agency to  
7 the end that all revenues, expenditures, receipts, disbursements,  
8 resources, and obligations of the state shall be properly and  
9 systematically accounted for. The accounting system shall include the  
10 development of accurate, timely records and reports of all financial  
11 affairs of the state. The system shall also provide for central  
12 accounts in the office of financial management at the level of detail  
13 deemed necessary by the director to perform central financial  
14 management. The director of financial management shall adopt and  
15 periodically update an accounting procedures manual. Any agency  
16 maintaining its own accounting and reporting system shall comply with  
17 the updated accounting procedures manual and the rules of the director  
18 adopted under this chapter. An agency may receive a waiver from  
19 complying with this requirement if the waiver is approved by the  
20 director. Waivers expire at the end of the fiscal biennium for which  
21 they are granted. The director shall forward notice of waivers granted  
22 to the appropriate legislative fiscal committees. The director of  
23 financial management may require such financial, statistical, and other  
24 reports as the director deems necessary from all agencies covering any  
25 period.

26 (2) Except as provided in chapter 43.88C RCW, the director of  
27 financial management is responsible for quarterly reporting of primary  
28 operating budget drivers such as applicable workloads, caseload  
29 estimates, and appropriate unit cost data. These reports shall be  
30 transmitted to the legislative fiscal committees or by electronic means  
31 to the legislative evaluation and accountability program committee.  
32 Quarterly reports shall include actual monthly data and the variance  
33 between actual and estimated data to date. The reports shall also  
34 include estimates of these items for the remainder of the budget  
35 period.

36 (3) The director of financial management shall report at least  
37 annually to the appropriate legislative committees regarding the status  
38 of all appropriated capital projects, including transportation

1 projects, showing significant cost overruns or underruns. If funds are  
2 shifted from one project to another, the office of financial management  
3 shall also reflect this in the annual variance report. Once a project  
4 is complete, the report shall provide a final summary showing estimated  
5 start and completion dates of each project phase compared to actual  
6 dates, estimated costs of each project phase compared to actual costs,  
7 and whether or not there are any outstanding liabilities or unsettled  
8 claims at the time of completion.

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

11 (a) Develop and maintain a system of internal controls and internal  
12 audits comprising methods and procedures to be adopted by each agency  
13 that will safeguard its assets, check the accuracy and reliability of  
14 its accounting data, promote operational efficiency, and encourage  
15 adherence to prescribed managerial policies for accounting and  
16 financial controls. The system developed by the director shall include  
17 criteria for determining the scope and comprehensiveness of internal  
18 controls required by classes of agencies, depending on the level of  
19 resources at risk.

20 Each agency head or authorized designee shall be assigned the  
21 responsibility and authority for establishing and maintaining internal  
22 audits following the standards of internal auditing of the institute of  
23 internal auditors;

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

29 (c) Establish policies for allowing the contracting of child care  
30 services;

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

33 (e) Review any pay and classification plans, and changes  
34 thereunder, developed by any agency for their fiscal impact: PROVIDED,  
35 That none of the provisions of this subsection shall affect merit  
36 systems of personnel management now existing or hereafter established  
37 by statute relating to the fixing of qualifications requirements for  
38 recruitment, appointment, or promotion of employees of any agency. The

1 director shall advise and confer with agencies including appropriate  
2 standing committees of the legislature as may be designated by the  
3 speaker of the house and the president of the senate regarding the  
4 fiscal impact of such plans and may amend or alter the plans, except  
5 that for the following agencies no amendment or alteration of the plans  
6 may be made without the approval of the agency concerned: Agencies  
7 headed by elective officials;

8 (f) Fix the number and classes of positions or authorized employee  
9 years of employment for each agency and during the fiscal period amend  
10 the determinations previously fixed by the director except that the  
11 director shall not be empowered to fix the number or the classes for  
12 the following: Agencies headed by elective officials;

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

15 (5) The treasurer shall:

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

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

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

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

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

30 It shall be unlawful for the treasurer to disburse public funds in  
31 the treasury except upon forms or by alternative means duly prescribed  
32 by the director of financial management. These forms or alternative  
33 means shall provide for authentication and certification by the agency  
34 head or the agency head's designee that the services have been rendered  
35 or the materials have been furnished; or, in the case of loans or  
36 grants, that the loans or grants are authorized by law; or, in the case  
37 of payments for periodic maintenance services to be performed on state  
38 owned equipment, that a written contract for such periodic maintenance

1 services is currently in effect; and the treasurer shall not be liable  
2 under the treasurer's surety bond for erroneous or improper payments so  
3 made. Notwithstanding this subsection, payments may be disbursed for  
4 prepaid cellular telephone services, if the purchase of the prepaid  
5 cellular telephone services is part of a strategy to contain the cost  
6 related to the use of cellular telephones within any agency or  
7 department. When services are lawfully paid for in advance of full  
8 performance by any private individual or business entity other than  
9 equipment maintenance providers or as provided for by RCW 42.24.035,  
10 such individual or entity other than central stores rendering such  
11 services shall make a cash deposit or furnish surety bond coverage to  
12 the state as shall be fixed in an amount by law, or if not fixed by  
13 law, then in such amounts as shall be fixed by the director of the  
14 department of enterprise services but in no case shall such required  
15 cash deposit or surety bond be less than an amount which will fully  
16 indemnify the state against any and all losses on account of breach of  
17 promise to fully perform such services. No payments shall be made in  
18 advance for any equipment maintenance services to be performed more  
19 than twelve months after such payment except that institutions of  
20 higher education as defined in RCW 28B.10.016 may make payments in  
21 advance for equipment maintenance services to be performed up to sixty  
22 months after such payment. Any such bond so furnished shall be  
23 conditioned that the person, firm or corporation receiving the advance  
24 payment will apply it toward performance of the contract. The  
25 responsibility for recovery of erroneous or improper payments made  
26 under this section shall lie with the agency head or the agency head's  
27 designee in accordance with rules issued pursuant to this chapter.  
28 Nothing in this section shall be construed to permit a public body to  
29 advance funds to a private service provider pursuant to a grant or loan  
30 before services have been rendered or material furnished.

31 (6) The state auditor shall:

32 (a) Report to the legislature the results of current post audits  
33 that have been made of the financial transactions of each agency; to  
34 this end the auditor may, in the auditor's discretion, examine the  
35 books and accounts of any agency, official, or employee charged with  
36 the receipt, custody, or safekeeping of public funds. Where feasible  
37 in conducting examinations, the auditor shall utilize data and findings  
38 from the internal control system prescribed by the office of financial

1 management. The current post audit of each agency may include a  
2 section on recommendations to the legislature as provided in (c) of  
3 this subsection.

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

6 (c) Make the auditor's official report on or before the thirty-  
7 first of December which precedes the meeting of the legislature. The  
8 report shall be for the last complete fiscal period and shall include  
9 determinations as to whether agencies, in making expenditures, complied  
10 with the laws of this state. The state auditor is authorized to  
11 perform or participate in performance verifications and performance  
12 audits as expressly authorized by the legislature in the omnibus  
13 biennial appropriations acts or in the performance audit work plan  
14 approved by the joint legislative audit and review committee. The  
15 state auditor, upon completing an audit for legal and financial  
16 compliance under chapter 43.09 RCW or a performance verification, may  
17 report to the joint legislative audit and review committee or other  
18 appropriate committees of the legislature, in a manner prescribed by  
19 the joint legislative audit and review committee, on facts relating to  
20 the management or performance of governmental programs where such facts  
21 are discovered incidental to the legal and financial audit or  
22 performance verification. The auditor may make such a report to a  
23 legislative committee only if the auditor has determined that the  
24 agency has been given an opportunity and has failed to resolve the  
25 management or performance issues raised by the auditor. If the auditor  
26 makes a report to a legislative committee, the agency may submit to the  
27 committee a response to the report. This subsection (6) shall not be  
28 construed to authorize the auditor to allocate other than de minimis  
29 resources to performance audits except as expressly authorized in the  
30 appropriations acts or in the performance audit work plan. The results  
31 of a performance audit conducted by the state auditor that has been  
32 requested by the joint legislative audit and review committee must only  
33 be transmitted to the joint legislative audit and review committee.

34 (d) Be empowered to take exception to specific expenditures that  
35 have been incurred by any agency or to take exception to other  
36 practices related in any way to the agency's financial transactions and  
37 to cause such exceptions to be made a matter of public record,  
38 including disclosure to the agency concerned and to the director of

1 financial management. It shall be the duty of the director of  
2 financial management to cause corrective action to be taken within six  
3 months, such action to include, as appropriate, the withholding of  
4 funds as provided in RCW 43.88.110. The director of financial  
5 management shall annually report by December 31st the status of audit  
6 resolution to the appropriate committees of the legislature, the state  
7 auditor, and the attorney general. The director of financial  
8 management shall include in the audit resolution report actions taken  
9 as a result of an audit including, but not limited to, types of  
10 personnel actions, costs and types of litigation, and value of recouped  
11 goods or services.

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

13 (f) Investigate improper governmental activity under chapter 42.40  
14 RCW.

15 In addition to the authority given to the state auditor in this  
16 subsection (6), the state auditor is authorized to conduct performance  
17 audits identified in RCW 43.09.470. Nothing in this subsection (6)  
18 shall limit, impede, or restrict the state auditor from conducting  
19 performance audits identified in RCW 43.09.470.

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

21 (a) Make post audits of the financial transactions of any agency  
22 and management surveys and program reviews as provided for in chapter  
23 44.28 RCW as well as performance audits and program evaluations. To  
24 this end the joint committee may in its discretion examine the books,  
25 accounts, and other records of any agency, official, or employee.

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

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

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

35 (ii) Such plans as it deems expedient for the support of the  
36 state's credit, for lessening expenditures, for promoting frugality and

1 economy in agency affairs, and generally for an improved level of  
2 fiscal management.

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