

CERTIFICATION OF ENROLLMENT

SENATE BILL 5629

57th Legislature
2002 Regular Session

Passed by the Senate March 11, 2002
YEAS 36 NAYS 0

President of the Senate

Passed by the House March 8, 2002
YEAS 96 NAYS 0

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5629** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Governor of the State of Washington

Secretary of State
State of Washington

SENATE BILL 5629

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senators Patterson and Horn; by request of Office of Financial Management

Read first time 01/29/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to the office of financial management's budgeting,
2 accounting, and reporting requirements for state agencies; amending RCW
3 43.88.160, 79.44.040, 79.44.050, 79.44.070, 79.44.080, 79.44.140, and
4 39.29.040; adding new sections to chapter 39.29 RCW; repealing RCW
5 79.44.180; providing an effective date; and declaring an emergency.

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

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

9 This section sets forth the major fiscal duties and
10 responsibilities of officers and agencies of the executive branch. The
11 regulations issued by the governor pursuant to this chapter shall
12 provide for a comprehensive, orderly basis for fiscal management and
13 control, including efficient accounting and reporting therefor, for the
14 executive branch of the state government and may include, in addition,
15 such requirements as will generally promote more efficient public
16 management in the state.

17 (1) Governor; director of financial management. The governor,
18 through the director of financial management, shall devise and
19 supervise a modern and complete accounting system for each agency to

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

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

30 (3) The director of financial management shall report at least
31 annually to the appropriate legislative committees regarding the status
32 of all appropriated capital projects, including transportation
33 projects, showing significant cost overruns or underruns. If funds are
34 shifted from one project to another, the office of financial management
35 shall also reflect this in the annual variance report. Once a project
36 is complete, the report shall provide a final summary showing estimated
37 start and completion dates of each project phase compared to actual
38 dates, estimated costs of each project phase compared to actual costs,

1 and whether or not there are any outstanding liabilities or unsettled
2 claims at the time of completion.

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

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

14 Each agency head or authorized designee shall be assigned the
15 responsibility and authority for establishing and maintaining internal
16 audits following the standards of internal auditing of the institute of
17 internal auditors;

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

23 (c) Establish policies for allowing the contracting of child care
24 services;

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

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

1 (f) Fix the number and classes of positions or authorized ((man))
2 employee years of employment for each agency and during the fiscal
3 period amend the determinations previously fixed by the director except
4 that the director shall not be empowered to fix ((said)) the number or
5 ((said)) the classes for the following: Agencies headed by elective
6 officials;

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

9 (5) The treasurer shall:

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

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

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

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

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

24 It shall be unlawful for the treasurer to disburse public funds in
25 the treasury except upon forms or by alternative means duly prescribed
26 by the director of financial management. These forms or alternative
27 means shall provide for authentication and certification by the agency
28 head or the agency head's designee that the services have been rendered
29 or the materials have been furnished; or, in the case of loans or
30 grants, that the loans or grants are authorized by law; or, in the case
31 of payments for periodic maintenance services to be performed on state
32 owned equipment, that a written contract for such periodic maintenance
33 services is currently in effect ((and copies thereof are on file with
34 the office of financial management)); and the treasurer shall not be
35 liable under the treasurer's surety bond for erroneous or improper
36 payments so made. When services are lawfully paid for in advance of
37 full performance by any private individual or business entity other
38 than equipment maintenance providers or as provided for by RCW
39 42.24.035, such individual or entity other than central stores

1 rendering such services shall make a cash deposit or furnish surety
2 bond coverage to the state as shall be fixed in an amount by law, or if
3 not fixed by law, then in such amounts as shall be fixed by the
4 director of the department of general administration but in no case
5 shall such required cash deposit or surety bond be less than an amount
6 which will fully indemnify the state against any and all losses on
7 account of breach of promise to fully perform such services. No
8 payments shall be made in advance for any equipment maintenance
9 services to be performed more than (~~three~~) twelve months after such
10 payment. Any such bond so furnished shall be conditioned that the
11 person, firm or corporation receiving the advance payment will apply it
12 toward performance of the contract. The responsibility for recovery of
13 erroneous or improper payments made under this section shall lie with
14 the agency head or the agency head's designee in accordance with
15 regulations issued pursuant to this chapter. Nothing in this section
16 shall be construed to permit a public body to advance funds to a
17 private service provider pursuant to a grant or loan before services
18 have been rendered or material furnished.

19 (6) The state auditor shall:

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

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

32 (c) Make the auditor's official report on or before the thirty-
33 first of December which precedes the meeting of the legislature. The
34 report shall be for the last complete fiscal period and shall include
35 determinations as to whether agencies, in making expenditures, complied
36 with the laws of this state. The state auditor is authorized to
37 perform or participate in performance verifications and performance
38 audits as expressly authorized by the legislature in the omnibus
39 biennial appropriations acts or in the performance audit work plan

1 approved by the joint legislative audit and review committee. The
2 state auditor, upon completing an audit for legal and financial
3 compliance under chapter 43.09 RCW or a performance verification, may
4 report to the joint legislative audit and review committee or other
5 appropriate committees of the legislature, in a manner prescribed by
6 the joint legislative audit and review committee, on facts relating to
7 the management or performance of governmental programs where such facts
8 are discovered incidental to the legal and financial audit or
9 performance verification. The auditor may make such a report to a
10 legislative committee only if the auditor has determined that the
11 agency has been given an opportunity and has failed to resolve the
12 management or performance issues raised by the auditor. If the auditor
13 makes a report to a legislative committee, the agency may submit to the
14 committee a response to the report. This subsection (6) shall not be
15 construed to authorize the auditor to allocate other than de minimis
16 resources to performance audits except as expressly authorized in the
17 appropriations acts or in the performance audit work plan. The results
18 of a performance audit conducted by the state auditor that has been
19 requested by the joint legislative audit and review committee must only
20 be transmitted to the joint legislative audit and review committee.

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

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

38 (f) Investigate improper governmental activity under chapter 42.40
39 RCW.

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

2 (a) Make post audits of the financial transactions of any agency
3 and management surveys and program reviews as provided for in chapter
4 44.28 RCW as well as performance audits and program evaluations. To
5 this end the joint committee may in its discretion examine the books,
6 accounts, and other records of any agency, official, or employee.

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

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

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

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

20 **Sec. 2.** RCW 79.44.040 and 1989 c 243 s 14 are each amended to read
21 as follows:

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

1 contractual, or possessory interest in and to any tideland or harbor
2 area owned by the state: PROVIDED, HOWEVER, That in the case of
3 tidelands and harbor areas within the boundaries of any port district,
4 notice of intention to make such improvement shall also be forwarded to
5 the commissioners of ((said)) the port district.

6 **Sec. 3.** RCW 79.44.050 and 1989 c 243 s 15 are each amended to read
7 as follows:

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

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

26 **Sec. 4.** RCW 79.44.070 and 1979 c 151 s 180 are each amended to
27 read as follows:

28 When any assessing district has made or caused to be made an
29 assessment against such leasehold, contractual, or possessory interest
30 for any such local improvement, the treasurer of ((said)) that
31 assessing district shall immediately give notice (~~to the director of~~
32 ~~financial management and~~) to the chief administrative officer of the
33 agency having jurisdiction over the lands. ((Said)) The assessment
34 shall become a lien against the leasehold, contractual, or possessory
35 interest in the same manner as the assessments on other property, and
36 its collection may be enforced against such interests as provided by
37 law for the enforcement of other local improvement assessments:

1 PROVIDED, That (~~said~~) the assessment shall not be made payable in
2 installments unless the owner of such leasehold, contractual, or
3 possessory interest shall first file with such treasurer a satisfactory
4 bond guaranteeing the payment of such installments as they become due.

5 **Sec. 5.** RCW 79.44.080 and 1979 c 151 s 181 are each amended to
6 read as follows:

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

31 **Sec. 6.** RCW 79.44.140 and 1979 c 151 s 182 are each amended to
32 read as follows:

33 The provisions of this chapter shall apply to all local
34 improvements initiated after June 11, 1919, including assessments to
35 pay the cost and expense of taking and damaging property by the power
36 of eminent domain, as provided by law: PROVIDED, That in case of
37 eminent domain assessments, it shall not be necessary to forward notice

1 of the intention to make such improvement, but the eminent domain
2 commissioners, authorized to make such assessment, shall, at the time
3 of filing the assessment roll with the court in the manner provided by
4 law, forward by registered or certified mail (~~to the director of~~
5 ~~financial management and~~) to the chief administrative officer of the
6 agency using, occupying or having jurisdiction over the lands a notice
7 of such assessment, and of the day fixed by the court for the hearing
8 thereof: PROVIDED, That no assessment against the state's interest in
9 tidelands or harbor areas shall be binding against the state if the
10 commissioner of public lands shall file a disapproval of the same in
11 court before judgment confirming the roll.

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

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

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

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

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

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

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

29 (f) Postcontract procedures, including methods for recovering
30 improperly spent or overspent moneys for disallowance and adjustment;

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

32 (h) Monitoring, fund tracking, risk assessment, and auditing
33 procedures and requirements;

34 (i) Financial reporting, record retention, and record access
35 procedures and requirements;

36 (j) Procedures and criteria for terminating contracts for cause or
37 otherwise; and

1 (k) Any other subject related to effective and efficient contract
2 management.

3 (2) The office of financial management shall submit the guidelines
4 required by subsection (1) of this section to the governor and the
5 appropriate standing committees of the legislature no later than
6 December 1, 2002.

7 (3) The office of financial management shall publish a guidebook
8 for use by state agencies containing the guidelines required by
9 subsection (1) of this section.

10 NEW SECTION. Sec. 8. A new section is added to chapter 39.29 RCW
11 to read as follows:

12 (1) A state agency entering into or renewing personal service
13 contracts or client service contracts shall follow the guidelines
14 required by section 7 of this act.

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

21 (3) The provisions of this section apply to state agencies entering
22 into or renewing contracts after January 1, 2003.

23 NEW SECTION. Sec. 9. A new section is added to chapter 39.29 RCW
24 to read as follows:

25 (1) The office of financial management shall provide a training
26 course for agency personnel responsible for executing and managing
27 personal service contracts and client service contracts. The course
28 must contain training on effective and efficient contract management
29 under the guidelines established under section 7 of this act. State
30 agencies shall require agency employees responsible for executing or
31 managing personal service contracts and client service contracts to
32 complete the training course to the satisfaction of the office of
33 financial management. Beginning January 1, 2004, no agency employee
34 may execute or manage personal service contracts or client service
35 contracts unless the employee has completed the training course. Any
36 request for exception to this requirement shall be submitted to the
37 office of financial management in writing and shall be approved by the

1 office of financial management prior to the employee executing or
2 managing the contract.

3 (2)(a) The office of financial management shall conduct risk-based
4 audits of the contracting practices associated with individual personal
5 service and client service contracts from multiple state agencies to
6 ensure compliance with the guidelines established in section 8 of this
7 act. The office of financial management shall conduct the number of
8 audits deemed appropriate by the director of the office of financial
9 management based on funding provided.

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

14 NEW SECTION. **Sec. 10.** A new section is added to chapter 39.29 RCW
15 to read as follows:

16 The state auditor and the attorney general shall annually by
17 November 30th of each year provide a collaborative report of contract
18 audit and investigative findings, enforcement actions, and the status
19 of agency resolution to the governor and the policy and fiscal
20 committees of the legislature.

21 **Sec. 11.** RCW 39.29.040 and 1998 c 101 s 7 are each amended to read
22 as follows:

23 This chapter does not apply to:

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

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

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

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

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

4 (6) Contracts for client services except as otherwise indicated in
5 this chapter;

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

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

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

11 NEW SECTION. **Sec. 12.** Section 7 of this act is necessary for the
12 immediate preservation of the public peace, health, or safety, or
13 support of the state government and its existing public institutions,
14 and takes effect immediately.

15 NEW SECTION. **Sec. 13.** Sections 8 and 9 of this act take effect
16 January 1, 2003.

17 NEW SECTION. **Sec. 14.** RCW 79.44.180 (Director of financial
18 management to adopt rules and regulations) and 1979 c 151 s 183 & 1963
19 c 20 s 14 are each repealed.

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