
SUBSTITUTE SENATE BILL 5381

State of Washington

63rd Legislature

2013 Regular Session

By Senate Governmental Operations (originally sponsored by Senators Benton and Padden)

READ FIRST TIME 02/12/13.

1 AN ACT Relating to cellular device use by state employees; amending
2 RCW 43.41A.025, 43.41A.100, and 43.88.160; and adding a new section to
3 chapter 43.41A RCW.

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

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

7 (1) When procuring cellular devices for use by state employees, all
8 state agencies shall evaluate the financial benefit of using prepaid
9 cellular devices and service plans. This subsection shall not be
10 construed to prohibit the use of other types of cellular service
11 contracts if those contracts are determined to have a greater financial
12 benefit to the state.

13 (2) No state agency or department may issue a cellular device to an
14 employee unless one or more of the following apply:

15 (a) The employee's job requires field work or travel where landline
16 phones are inaccessible or inefficient;

17 (b) The employee's job requires immediate or on-call availability;

18 (c) The employee needs a cellular device for work-related safety,
19 security, or other emergency reasons;

- 1 (d) The employee's job requires real-time communication, including
2 e-mail;
- 3 (e) The employee is an elected official; or
- 4 (f) Other requirements as defined and documented by the agency
5 demonstrate a business need for the cellular device.

6 **Sec. 2.** RCW 43.41A.025 and 2011 1st sp.s. c 43 s 706 are each
7 amended to read as follows:

8 (1) The chief information officer shall establish standards and
9 policies to govern information technology in the state of Washington.

10 (2) The office shall have the following powers and duties related
11 to information services:

12 (a) To develop statewide standards and policies governing the
13 acquisition and disposition of equipment, software, and personal and
14 purchased services, licensing of the radio spectrum by or on behalf of
15 state agencies, and confidentiality of computerized data;

16 (b) To develop statewide or interagency technical policies,
17 standards, and procedures;

18 (c) To develop a statewide policy addressing the efficient
19 assignment, use, and management of cellular devices;

20 (d) To review and approve standards and common specifications for
21 new or expanded telecommunications networks proposed by agencies,
22 public postsecondary education institutions, educational service
23 districts, or statewide or regional providers of K-12 information
24 technology services;

25 ~~((d+))~~ (e) To develop a detailed business plan for any service or
26 activity to be contracted under RCW 41.06.142(7)(b) by the consolidated
27 technology services agency;

28 ~~((e+))~~ (f) To provide direction concerning strategic planning
29 goals and objectives for the state. The office shall seek input from
30 the legislature and the judiciary; and

31 ~~((f+))~~ (g) To establish policies for the periodic review by the
32 office of agency performance which may include but are not limited to
33 analysis of:

- 34 (i) Planning, management, control, and use of information services;
- 35 (ii) Training and education; and
- 36 (iii) Project management.

1 (3) Statewide technical standards to promote and facilitate
2 electronic information sharing and access are an essential component of
3 acceptable and reliable public access service and complement content-
4 related standards designed to meet those goals. The office shall:

5 (a) Establish technical standards to facilitate electronic access
6 to government information and interoperability of information systems,
7 including wireless communications systems; and

8 (b) Require agencies to include an evaluation of electronic public
9 access needs when planning new information systems or major upgrades of
10 systems.

11 In developing these standards, the office is encouraged to include
12 the state library, state archives, and appropriate representatives of
13 state and local government.

14 (4) The office shall perform other matters and things necessary to
15 carry out the purposes and provisions of this chapter.

16 **Sec. 3.** RCW 43.41A.100 and 2012 c 229 s 586 are each amended to
17 read as follows:

18 (1) In overseeing the technical aspects of the K-20 network, the
19 office is not intended to duplicate the statutory responsibilities of
20 the student achievement council, the superintendent of public
21 instruction, the state librarian, or the governing boards of the
22 institutions of higher education.

23 (2) The office may not interfere in any curriculum or legally
24 offered programming offered over the K-20 network.

25 (3) The responsibility to review and approve standards and common
26 specifications for the K-20 network remains the responsibility of the
27 office under RCW 43.41A.025.

28 (4) The coordination of telecommunications planning for the common
29 schools remains the responsibility of the superintendent of public
30 instruction. Except as set forth in RCW 43.41A.025(2)((~~f~~))(g), the
31 office may recommend, but not require, revisions to the
32 superintendent's telecommunications plans.

33 **Sec. 4.** RCW 43.88.160 and 2012 c 230 s 1 are each amended to read
34 as follows:

35 This section sets forth the major fiscal duties and
36 responsibilities of officers and agencies of the executive branch. The

1 regulations issued by the governor pursuant to this chapter shall
2 provide for a comprehensive, orderly basis for fiscal management and
3 control, including efficient accounting and reporting therefor, for the
4 executive branch of the state government and may include, in addition,
5 such requirements as will generally promote more efficient public
6 management in the state.

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

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

1 (3) The director of financial management shall report at least
2 annually to the appropriate legislative committees regarding the status
3 of all appropriated capital projects, including transportation
4 projects, showing significant cost overruns or underruns. If funds are
5 shifted from one project to another, the office of financial management
6 shall also reflect this in the annual variance report. Once a project
7 is complete, the report shall provide a final summary showing estimated
8 start and completion dates of each project phase compared to actual
9 dates, estimated costs of each project phase compared to actual costs,
10 and whether or not there are any outstanding liabilities or unsettled
11 claims at the time of completion.

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

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

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

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

32 (c) Establish policies for allowing the contracting of child care
33 services;

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

36 (e) Review any pay and classification plans, and changes
37 thereunder, developed by any agency for their fiscal impact: PROVIDED,
38 That none of the provisions of this subsection shall affect merit

1 systems of personnel management now existing or hereafter established
2 by statute relating to the fixing of qualifications requirements for
3 recruitment, appointment, or promotion of employees of any agency. The
4 director shall advise and confer with agencies including appropriate
5 standing committees of the legislature as may be designated by the
6 speaker of the house and the president of the senate regarding the
7 fiscal impact of such plans and may amend or alter the plans, except
8 that for the following agencies no amendment or alteration of the plans
9 may be made without the approval of the agency concerned: Agencies
10 headed by elective officials;

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

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

18 (5) The treasurer shall:

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

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

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

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

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

33 It shall be unlawful for the treasurer to disburse public funds in
34 the treasury except upon forms or by alternative means duly prescribed
35 by the director of financial management. These forms or alternative
36 means shall provide for authentication and certification by the agency
37 head or the agency head's designee that the services have been rendered
38 or the materials have been furnished; or, in the case of loans or

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

34 (6) The state auditor shall:

35 (a) Report to the legislature the results of current post audits
36 that have been made of the financial transactions of each agency; to
37 this end the auditor may, in the auditor's discretion, examine the
38 books and accounts of any agency, official, or employee charged with

1 the receipt, custody, or safekeeping of public funds. Where feasible
2 in conducting examinations, the auditor shall utilize data and findings
3 from the internal control system prescribed by the office of financial
4 management. The current post audit of each agency may include a
5 section on recommendations to the legislature as provided in (c) of
6 this subsection.

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

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

37 (d) Be empowered to take exception to specific expenditures that
38 have been incurred by any agency or to take exception to other

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

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

16 (f) Investigate improper governmental activity under chapter 42.40
17 RCW.

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

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

24 (a) Make post audits of the financial transactions of any agency
25 and management surveys and program reviews as provided for in chapter
26 44.28 RCW as well as performance audits and program evaluations. To
27 this end the joint committee may in its discretion examine the books,
28 accounts, and other records of any agency, official, or employee.

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

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

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

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

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