S-2384.2

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**SENATE BILL 5915**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senator Braun

AN ACT Relating to reorganizing and streamlining central service functions, powers, and duties of state government; amending RCW 41.04.020, 41.04.220, 41.04.460, 41.04.720, 41.04.770, 41.06.400, 41.06.080, 41.06.395, 41.06.410, 43.41.450, 39.26.005, 39.26.010, 39.26.050, 39.26.060, 39.26.080, 39.26.090, 39.26.110, 39.26.130, 39.26.140, 39.26.180, 43.82.010, 43.82.055, and 43.82.150; adding new sections to chapter 43.41 RCW; providing an effective date; and declaring an emergency.

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

**PART I**

**HUMAN RESOURCE FUNCTIONS**

**Sec.**  RCW 41.04.020 and 2011 1st sp.s. c 43 s 471 are each amended to read as follows:

Any employee or group of employees of the state of Washington or any of its political subdivisions, or of any institution supported, in whole or in part, by the state or any of its political subdivisions, may authorize the deduction from his or her salaries or wages and payment to another, the amount or amounts of his or her subscription payments or contributions to any person, firm, or corporation administering, furnishing, or providing (1) medical, surgical, and hospital care or either of them, or (2) life insurance or accident and health disability insurance, or (3) any individual retirement account selected by the employee or the employee's spouse established under applicable state or federal law: PROVIDED, That such authorization by said employee or group of employees, shall be first approved by the head of the department, division office or institution of the state or any political subdivision thereof, employing such person or group of persons, and filed with the ((~~department of enterprise services~~)) office of financial management; or in the case of political subdivisions of the state of Washington, with the auditor of such political subdivision or the person authorized by law to draw warrants against the funds of said political subdivision.

**Sec.**  RCW 41.04.220 and 2015 c 225 s 52 are each amended to read as follows:

Any governmental entity other than state agencies((~~,~~)) may use the services of the ((~~department of enterprise services~~)) office of financial management upon the approval of the director((~~,~~)) in procuring health benefit programs as provided by RCW 41.04.180, 28A.400.350, and 28B.10.660: PROVIDED, That the ((~~department of enterprise services~~)) office of financial management may charge for the administrative cost incurred in the procuring of such services.

**Sec.**  RCW 41.04.460 and 2011 1st sp.s. c 43 s 472 are each amended to read as follows:

The ((~~department of enterprise services~~)) office of financial management, through the combined benefits communication project, shall prepare information encouraging individual financial planning for retirement and describing the potential consequences of early retirement, including members' assumption of health insurance costs, members' receipt of reduced retirement benefits, and the increased period of time before members will become eligible for cost-of-living adjustments. The department of retirement systems shall distribute the information to members who are eligible to retire under the provisions of chapter 234, Laws of 1992. Prior to retiring, such members who elect to retire shall sign a statement acknowledging their receipt and understanding of the information.

**Sec.**  RCW 41.04.720 and 2011 1st sp.s. c 43 s 439 are each amended to read as follows:

The director of ((~~enterprise services~~)) the office of financial management shall:

(1) Administer the state employee assistance program to assist employees who have personal problems that adversely affect their job performance or have the potential of doing so;

(2) Develop policies, procedures, and activities for the program;

(3) Encourage and promote the voluntary use of the employee assistance program by increasing employee awareness and disseminating educational materials;

(4) Provide technical assistance and training to agencies on how to use the employee assistance program;

(5) Assist and encourage supervisors to identify and refer employees with problems that impair their performance by incorporating proper use of the program in management training, management performance criteria, ongoing communication with agencies, and other appropriate means;

(6) Offer substance abuse prevention and awareness activities to be provided through the employee assistance program and the state employee wellness program;

(7) Monitor and evaluate the effectiveness of the program, including the collection, analysis, and publication of relevant statistical information; and

(8) Consult with state agencies, institutions of higher education, and employee organizations in carrying out the purposes of RCW 41.04.700 through 41.04.730.

**Sec.**  RCW 41.04.770 and 2011 1st sp.s. c 43 s 440 are each amended to read as follows:

The department of social and health services and the ((~~department of enterprise services~~)) office of financial management shall, after consultation with supported employment provider associations and other interested parties, encourage, educate, and assist state agencies in implementing supported employment programs. The ((~~department of enterprise services~~)) office of financial management shall provide human resources technical assistance to agencies implementing supported employment programs.

**Sec.**  RCW 41.06.400 and 2011 1st sp.s. c 43 s 423 are each amended to read as follows:

(1) In addition to other powers and duties specified in this chapter, ((~~the department of enterprise services in consultation with~~)) the office of financial management shall:

(a) By rule, prescribe the purpose and minimum standards for training and career development programs and, in so doing, regularly consult with and consider the needs of individual agencies and employees;

(b) Provide training and career development programs which may be conducted more efficiently and economically on an interagency basis;

(c) Promote interagency sharing of resources for training and career development;

(d) Monitor and review the impact of training and career development programs to ensure that the responsibilities of the state to provide equal employment opportunities are diligently carried out.

(2) At an agency's request, the department of enterprise services may provide training and career development programs for an agency's internal use which may be conducted more efficiently and economically by the department of enterprise services.

**Sec.**  RCW 41.06.080 and 2011 1st sp.s. c 43 s 403 are each amended to read as follows:

Notwithstanding the provisions of this chapter, the office of financial management ((~~and the department of enterprise services~~)) may make their human resource services available on request, on a reimbursable basis, to:

(1) Either the legislative or the judicial branch of the state government;

(2) Any county, city, town, or other municipal subdivision of the state;

(3) The institutions of higher learning;

(4) Any agency, class, or position set forth in RCW 41.06.070.

**Sec.**  RCW 41.06.395 and 2011 1st sp.s. c 43 s 422 are each amended to read as follows:

The director shall adopt rules establishing guidelines for policies, procedures, and mandatory training programs on sexual harassment for state employees to be adopted by state agencies. The ((~~department of enterprise services~~)) office of financial management shall establish reporting requirements for state agencies on compliance with RCW 43.01.135.

**Sec.**  RCW 41.06.410 and 2011 1st sp.s. c 43 s 424 are each amended to read as follows:

Each agency subject to the provisions of this chapter shall:

(1) Prepare an employee training and career development plan which shall at least meet minimum standards established by the ((~~department of enterprise services~~)) office of financial management;

(2) Provide for training and career development for its employees in accordance with the agency plan;

(3) Budget for training and career development in accordance with procedures of the office of financial management.

**Sec.**  RCW 43.41.450 and 2016 sp.s. c 36 s 927 are each amended to read as follows:

The office of financial management central service account is created in the state treasury. The account is to be used by the office as a revolving fund for the payment of salaries, wages, and other costs required for the operation and maintenance of statewide budgeting, accounting, forecasting, policy, and other functions and activities in the office. All receipts from agency fees and charges for services collected from public agencies must be deposited into the account. The director shall fix the terms and charges to agencies based on each agency's share of the office statewide cost allocation plan for federal funds. Moneys in the account may be spent only after appropriation.

**PART II**

**IT PROCUREMENT FUNCTIONS**

**Sec.**  RCW 39.26.005 and 2012 c 224 s 1 are each amended to read as follows:

It is the intent of this chapter to promote open competition and transparency for all contracts for goods and services entered into by state agencies, unless specifically exempted under this chapter. It is further the intent of this chapter to centralize within one agency, wherever possible, the authority and responsibility for the development and oversight of policies related to state procurement and contracting. To ensure the highest ethical standards, proper accounting for contract expenditures, and for ease of public review, it is further the intent to centralize the location of information about state procurements and contracts. It is also the intent of the legislature to provide state agency contract data to the public in a searchable manner.

In addition, the legislature intends that the state develop procurement policies, procedures, and materials that encourage and facilitate state agency purchase of goods and services from Washington small businesses.

It is the intent of sections 201 through 210 of this act to provide additional oversight of the procurement and contracting for information technology goods and services by the state chief information officer.

**Sec.**  RCW 39.26.010 and 2015 c 79 s 5 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in RCW 28B.10.016, and correctional and other types of institutions.

(2) "Bid" means an offer, proposal, or quote for goods or services in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

(3) "Bidder" means an individual or entity who submits a bid, quotation, or proposal in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

(4) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(5) "Community rehabilitation program of the department of social and health services" means any entity that:

(a) Is registered as a nonprofit corporation with the secretary of state; and

(b) Is recognized by the department of social and health services, division of vocational rehabilitation as eligible to do business as a community rehabilitation program.

(6) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to bidders and culminating in a selection based on predetermined criteria.

(7) "Contractor" means an individual or entity awarded a contract with an agency to perform a service or provide goods.

(8) "Debar" means to prohibit a contractor, individual, or other entity from submitting a bid, having a bid considered, or entering into a state contract during a specified period of time as set forth in a debarment order.

(9) "Department" means the department of enterprise services.

(10) "Director" means the director of the department of enterprise services.

(11) "Estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.

(12) "Goods" means products, materials, supplies, or equipment provided by a contractor.

(13) "In-state business" means a business that has its principal office located in Washington.

(14) "Life-cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.

(15) "Master contracts" means a contract for specific goods or services, or both, that is solicited and established by the department in accordance with procurement laws and rules on behalf of and for general use by agencies as specified by the department.

(16) "Microbusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than one million dollars annually as reported on its federal tax return or on its return filed with the department of revenue.

(17) "Minibusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than three million dollars, but one million dollars or more annually as reported on its federal tax return or on its return filed with the department of revenue.

(18) "Polychlorinated biphenyls" means any polychlorinated biphenyl congeners and homologs.

(19) "Practical quantification limit" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions.

(20) "Purchase" means the acquisition of goods or services, including the leasing or renting of goods.

(21) "Services" means labor, work, analysis, or similar activities provided by a contractor to accomplish a specific scope of work.

(22) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that:

(a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either:

(i) Fifty or fewer employees; or

(ii) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or

(b) Is certified with the office of women and minority business enterprises under chapter 39.19 RCW.

(23) "Sole source" means a contractor providing goods or services of such a unique nature or sole availability at the location required that the contractor is clearly and justifiably the only practicable source to provide the goods or services.

(24) "Washington grown" has the definition in RCW 15.64.060.

(25) "Information technology" has the definition in RCW 43.105.020.

(26) "Office" means the office of the state chief information officer within the consolidated technology services agency.

**Sec.**  RCW 39.26.050 and 2012 c 224 s 6 are each amended to read as follows:

(1) In addition to the powers and duties provided in chapter 43.19 RCW, the department shall make available goods and services to support state agencies, and may enter into agreements with any other local or federal governmental agency or entity or a public benefit nonprofit organization, in compliance with RCW 39.34.055, and any tribes located in the state, to furnish such products and services as deemed appropriate by both parties. The department must consult with the office when it makes available information technology goods and services to ensure consistency with standards and policies to govern information technology as established by the office in accordance with RCW 43.105.054.

(2) The department shall ensure full cost recovery from state agencies, other local or federal governmental agency or entity, public benefit nonprofit organizations, or any tribes located in the state, for activities performed pursuant to subsection (1) of this section. Cost recovery must ensure that the department is reimbursed its full cost for providing the goods and services furnished as determined by the department. Cost recovery may be collected through the state agency, other governmental entity, nonprofit organization, or through the contractor.

(3) All governmental entities of this state may enter into agreements under this section with the department, unless otherwise prohibited.

**Sec.**  RCW 39.26.060 and 2012 c 224 s 7 are each amended to read as follows:

(1) On behalf of the state, the department may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any goods or services with one or more states, state agencies, local governments, local government agencies, federal agencies, or tribes located in the state, in accordance with an agreement entered into between the participants. The cooperative purchasing may include, but is not limited to, joint or multiparty contracts between the entities, and master contracts or convenience contracts that are made available to other public agencies.

(2) All cooperative purchasing conducted under this chapter must be through contracts awarded through a competitive solicitation process.

(3) Cooperative purchasing for information technology goods and services must be coordinated with the office.

**Sec.**  RCW 39.26.080 and 2012 c 224 s 9 are each amended to read as follows:

(1) The director is responsible for the development and oversight of policy for the procurement of goods and services by all state agencies under this chapter. When establishing policies, standards, and procedures, the director shall account for differentiation in procurement practices and needs among state agencies and strive to establish policies, standards, and procedures that promote greater efficiency in procurement. Policies, standards, and procedures for the procurement of information technology goods and services must be developed in consultation with and approved by the office.

(2) The director is authorized to adopt rules, policies, and guidelines governing the procurement, contracting, and contract management of any and all goods and services procured by state agencies under this chapter. Policies and guidelines governing the procurement, contracting, and contract management of information technology goods and services must be developed in consultation with and approved by the office.

(3) The director or designee is the sole authority to enter into master contracts on behalf of the state. The director may delegate the authority to enter into master contracts for information technology goods and services to the consolidated technology services agency. The consolidated technology services agency shall comply with this chapter when establishing master contracts.

(4) Master contracts for information technology goods and services may not be designated "mandatory use" without approval of the office.

**Sec.**  RCW 39.26.090 and 2012 c 224 s 10 are each amended to read as follows:

The director shall:

(1) Establish overall state policies, standards, and procedures regarding the procurement of goods and services by all state agencies;

(2) Develop policies and standards for the use of credit cards or similar methods to make purchases;

(3) Establish procurement processes for information technology goods and services, using technology standards and policies established by the office of the chief information officer under chapter ((~~43.41A~~)) 43.105 RCW. The procurement processes must be established in consultation with and approved by the office;

(4) Enter into contracts or delegate the authority to enter into contracts on behalf of the state to facilitate the purchase, lease, rent, or otherwise acquire all goods and services and equipment needed for the support, maintenance, and use of all state agencies, except as provided in RCW 39.26.100;

(5) Have authority to delegate to agencies authorization to purchase goods and services. The authorization must specify restrictions as to dollar amount or to specific types of goods and services, based on a risk assessment process developed by the department. Acceptance of the purchasing authorization by an agency does not relieve the agency from conformance with this chapter or from policies established by the director. Also, the director may not delegate to a state agency the authorization to purchase goods and services if the agency is not in substantial compliance with overall procurement policies as established by the director. The delegation of authority to an agency for the purchase of information technology goods and services granted under this subsection must be approved by the office. The office has the authority to change or withdraw the delegated authority for the purchase of information technology goods and services;

(6) Develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of goods and services from Washington small businesses, microbusinesses, and minibusinesses, and minority and women-owned businesses to the maximum extent practicable and consistent with international trade agreement commitments;

(7) Develop and implement an enterprise system for electronic procurement;

(8) Provide for a commodity classification system and provide for the adoption of goods and services commodity standards;

(9) Establish overall state policy for compliance by all agencies regarding:

(a) Food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the maximum extent practicable and consistent with international trade agreement commitments; and

(b) Policies requiring all food contracts to include a plan to maximize to the extent practicable and consistent with international trade agreement commitments the availability of Washington grown food purchased through the contract;

(10) Develop guidelines and criteria for the purchase of vehicles, high gas mileage vehicles, and alternate vehicle fuels and systems, equipment, and materials, that reduce overall energy-related costs and energy use by the state, including investigations into all opportunities to aggregate the purchasing of clean technologies by state and local governments, and including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002); and

(11) Develop and enact rules to implement the provisions of this chapter.

**Sec.**  RCW 39.26.110 and 2012 c 224 s 12 are each amended to read as follows:

(1) The department must provide expertise and training on best practices for state procurement. The department must coordinate with the office regarding training on the best practices for state procurement of information technology goods and services.

(2) The department must establish either training or certification programs, or both, to ensure consistency in procurement practices for employees authorized to perform procurement functions under the provisions of this chapter. When establishing training or certification programs, the department may approve existing training or certification programs at state agencies. When establishing programs or approving existing programs, the department shall work with agencies with existing training programs to ensure coordination and minimize additional costs associated with training requirements. Training or certificate programs focused on the procurement of information technology goods and services must be developed and provided in partnership with the office.

(3) Beginning July 1, 2013, state agencies must require agency employees responsible for developing, executing, or managing procurements or contracts, or both, to complete department-approved training or certification programs, or both. Beginning July 1, 2015, no agency employee may execute or manage contracts unless the employee has met the training or certification requirements or both as set by the department. Any request for exception to this requirement must be submitted to the director for approval before the employee or group of employees executes or manages contracts.

**Sec.**  RCW 39.26.130 and 2012 c 224 s 15 are each amended to read as follows:

(1) An agency may make emergency purchases as defined in subsection (3) of this section. When an emergency purchase is made, the agency head shall submit written notification of the purchase within three business days of the purchase to the director and provide a copy to the office for purchases of information technology goods or services. This notification must contain a description of the purchase, a description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(2) Emergency contracts must be submitted to the department and made available for public inspection within three working days following the commencement of work or execution of the contract, whichever occurs first.

(3) As used in this section, "emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate, and extreme threat to the proper performance of essential functions; or

(b) May reasonably be expected to result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

**Sec.**  RCW 39.26.140 and 2012 c 224 s 16 are each amended to read as follows:

(1) Agencies must submit sole source contracts to the department and make the contracts available for public inspection not less than ten working days before the proposed starting date of the contract. Agencies must provide documented justification for sole source contracts to the department when the contract is submitted, and must include evidence that the agency posted the contract opportunity at a minimum on the state's enterprise vendor registration and bid notification system. The department must provide a copy of the submittal for a sole source contract for information technology goods and services to the office for review, and the office shall notify the department if the contract should be denied or if additional justification is needed before the contract may be approved.

(2) The department must approve sole source contracts before any such contract becomes binding and before any services may be performed or goods provided under the contract. These requirements shall also apply to all sole source contracts except as otherwise exempted by the director.

(3) The director may provide an agency an exemption from the requirements of this section for a contract or contracts. Requests for exemptions must be submitted to the director in writing.

(4) Contracts awarded by institutions of higher education from nonstate funds are exempt from the requirements of this section.

**Sec.**  RCW 39.26.180 and 2012 c 224 s 20 are each amended to read as follows:

(1) The department must adopt uniform policies and procedures for the effective and efficient management of contracts by all state agencies. Additional policies and procedures related to the management of information technology contracts must be developed in consultation with and approved by the office. The policies and procedures must, at a minimum, include:

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

(b) Model complaint and protest procedures;

(c) Alternative dispute resolution processes;

(d) Incorporation of performance measures and measurable benchmarks in contracts;

(e) Model contract terms to ensure contract performance and compliance with state and federal standards;

(f) Executing contracts using electronic signatures;

(g) Criteria for contract amendments;

(h) Postcontract procedures;

(i) Procedures and criteria for terminating contracts for cause or otherwise; and

(j) Any other subject related to effective and efficient contract management.

(2) An agency may not enter into a contract under which the contractor could charge additional costs to the agency, the department, the joint legislative audit and review committee, or the state auditor for access to data generated under the contract. A contractor under such a contract must provide access to data generated under the contract to the contracting agency, the joint legislative audit and review committee, and the state auditor.

(3) To the extent practicable, agencies should enter into performance‑based contracts. Performance‑based contracts identify expected deliverables and performance measures or outcomes. Performance‑based contracts also use appropriate techniques, which may include but are not limited to, either consequences or incentives or both to ensure that agreed upon value to the state is received. Payment for goods and services under performance‑based contracts should be contingent on the contractor achieving performance outcomes.

(4) An agency and contractor may execute a contract using electronic signatures.

(5) As used in subsection (2) of this section, "data" includes all information that supports the findings, conclusions, and recommendations of the contractor's reports, including computer models and the methodology for those models.

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

(1) The information technology investment account is created in the custody of the state treasurer. All receipts from legislative appropriations and transfers must be deposited into the account. Only the director of financial management or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account are provided solely for the information technology projects as provided in the omnibus appropriations act.

(3) Agencies may apply to the office of financial management to receive funds from the information technology investment account. Preference must be given to projects that utilize commercial off-the-shelf or software as a service technology solution.

(4) Allocations and allotments may be made only during discrete stages of projects, which at a minimum must include a planning stage, procurement stage, and implementation and integration stage. At least fourteen days prior to an allocation or allotment of funds to an agency, the office of financial management, jointly with the office of the chief information officer, must deliver to the legislative fiscal committees the following information for each project receiving an allocation from the account:

(a) A technology budget using a method similar to the state capital budget, identifying project costs, funding sources, and anticipated deliverables through each stage of the investment and across fiscal periods and biennia from project initiation to implementation. If the project affects more than one agency, a technology budget must be prepared for each agency;

(b) The technology implementation plan that includes:

(i) An organizational chart of the project management team that identifies team members and their roles and responsibilities;

(ii) The office of the chief information officer staff assigned to the project;

(iii) An implementation schedule covering activities, critical milestones, and deliverables at each stage of the project for the life of the project at each agency affected by the project; and

(iv) Performance measures used to determine that the project is on time, within budget, and meeting expectations for quality of work product;

(c) A letter from the office of the chief information officer certifying that:

(i) The project is consistent with the state's enterprise architecture and other policies developed by the office of the chief information officer;

(ii) The agency has the organizational capacity, preparedness, and leadership to implement the project successfully;

(iii) The agency has adequately assessed and minimized the risks inherent with the project;

(iv) The project has the management, staffing, and oversight resources needed for the cost, complexity, and risks associated with the project;

(v) The project has implementation schedules and performance measures for timeliness, deliverables, quality, and budget;

(vi) The agency has an adequate risk management plan that also enables the office of the chief information officer to assess, intervene, and take necessary action when performance measures are not being met; and

(vii) For any investment that does not use commercial off-the-shelf or software as a service technology solution, the proposed project represents the best business solution and should not be delayed.

(5) For any project that exceeds two million dollars in total funds to complete, requires more than one biennium to complete, or is financed through financial contracts, bonds, or other indebtedness:

(a) Quality assurance for the project must report independently to the office of the chief information officer;

(b) The office of the chief information officer must review and, if necessary, revise the proposed project to ensure it is flexible and adaptable to advances in technology;

(c) The technology budget must specifically identify the uses of any financing proceeds. No more than thirty percent of the financing proceeds may be used for payroll-related costs for state employees assigned to project management, installation, testing, or training;

(d) The agency must consult with the office of the state treasurer during the competitive procurement process to evaluate early in the process whether products and services to be solicited and the responsive bids from a solicitation may be financed; and

(e) The agency must consult with the contracting division of the department of enterprise services for a review of all contracts and agreements related to the project's information technology procurements.

(6) The office of the chief information officer may suspend or terminate a project at any time if the office of the chief information officer determines that the project is not meeting or is not expected to meet anticipated performance measures. Once suspension or termination occurs, the agency shall not make additional expenditures on the project without approval of the state chief information officer. If a project is terminated, the office of financial management must terminate the agency's allocation from the information technology investment account and the agency shall return any remaining funds to the account to be reallocated to other projects by the office of financial management.

(7) Any cost to administer, oversee, or implement a project must be paid from the information technology investment account.

**PART III**

**REAL ESTATE FUNCTIONS**

**Sec.**  RCW 43.82.010 and 2015 c 99 s 1 are each amended to read as follows:

(1) The director of enterprise services, on behalf of the agency involved and after consultation with the office of financial management, shall purchase, lease, lease purchase, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of enterprise services.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. ((~~Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of enterprise services. The director of enterprise services shall report to the office of financial management and the appropriate committees of the legislature annually on any exemptions granted pursuant to this subsection.~~))

(3) Except for leases permitted under subsection (4) of this section, the director of enterprise services may fix the terms and conditions of each lease entered into under this chapter, except that no lease shall extend greater than twenty years in duration. The director of enterprise services may enter into a long-term lease greater than ten years in duration upon a determination by the director of the office of financial management that the long-term lease provides a more favorable rate than would otherwise be available, it appears to a substantial certainty that the facility is necessary for use by the state for the full length of the lease term, and the facility meets the standards adopted pursuant to subsection (2) of this section. The director of enterprise services may enter into a long-term lease greater than ten years in duration if an analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility in lieu of leasing the facility.

(4) The director of enterprise services may fix the terms of leases for property under the department of enterprise services' control at the former Northern State Hospital site for up to sixty years.

(5) Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a public offering. Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a private placement without the prior written approval of the state treasurer. However, this limitation shall not prevent a lessor from assigning or encumbering its interest in a lease as security for the repayment of a promissory note provided that the transaction would otherwise be an exempt transaction under RCW 21.20.320. The state treasurer shall adopt rules that establish the criteria under which any such approval may be granted. In establishing such criteria the state treasurer shall give primary consideration to the protection of the state's credit rating and the integrity of the state's debt management program. If it appears to the state treasurer that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection, then he or she may recommend that the governor cause such lease to be terminated. The department of enterprise services shall promptly notify the state treasurer whenever it may appear to the department that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection.

(6) It is the policy of the state to encourage the colocation and consolidation of state services into single or adjacent facilities, whenever appropriate, to improve public service delivery, minimize duplication of facilities, increase efficiency of operations, and promote sound growth management planning.

(7) ((~~The director of enterprise services shall provide coordinated long-range planning services to identify and evaluate opportunities for colocating and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of enterprise services shall determine whether an opportunity exists for colocating the agency or agencies in a single facility with other agencies located in the same geographic area. If a colocation opportunity exists, the director of enterprise services shall consult with the affected state agencies and the office of financial management to evaluate the impact colocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of enterprise services, in consultation with the office of financial management, shall develop procedures for implementing colocation and consolidation of state facilities.~~

~~(8)~~)) The director of enterprise services is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director of enterprise services shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

((~~(9)~~)) (8) If the director of enterprise services determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsection (1) or ((~~(8)~~)) (7) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

((~~(10)~~)) (9) In order to obtain maximum utilization of space, the ((~~director of enterprise services~~)) office of financial management shall make space utilization studies, and shall establish standards for use of space by state agencies. Such studies shall include the identification of opportunities for colocation and consolidation of state agency office and support facilities.

((~~(11)~~)) (10) The director of enterprise services may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management. Prior to the construction of new buildings or major improvements to existing facilities or acquisition of facilities using a lease purchase contract, the director of enterprise services shall conduct an evaluation of the facility design and budget using life-cycle cost analysis, value-engineering, and other techniques to maximize the long-term effectiveness and efficiency of the facility or improvement.

((~~(12)~~)) (11) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of enterprise services or the director's designee, and recorded with the county auditor of the county in which the property is located.

((~~(13)~~)) (12) The director of enterprise services may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable. By January 1st of each year, beginning January 1, 2008, the department shall submit an annual report to the office of financial management and the appropriate committees of the legislature on all delegated leases.

((~~(14)~~)) (13) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) ((~~The state liquor control board for liquor stores and warehouses;~~

~~(c)~~)) The department of natural resources, the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes; and

((~~(d)~~)) (c) The department of commerce for community college health career training programs, offices for the department of commerce or other appropriate state agencies, and other nonprofit community uses, including community meeting and training facilities, where the real estate is acquired during the 2013‑2015 fiscal biennium.

((~~(15)~~)) (14) Notwithstanding any provision in this chapter to the contrary, the department of enterprise services may negotiate ground leases for public lands on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee.

((~~(16)~~)) (15) The department of enterprise services shall report annually to the office of financial management and the appropriate fiscal committees of the legislature on facility leases executed for all state agencies for the preceding year, lease terms, and annual lease costs. The report must include leases executed under RCW 43.82.045 and subsection ((~~(13)~~)) (12) of this section.

**Sec.**  RCW 43.82.055 and 2015 3rd sp.s. c 1 s 301 are each amended to read as follows:

The office of financial management shall:

(1) Work with the department of enterprise services and all other state agencies to determine the long-term facility needs of state government;

(2) Develop and submit a six-year facility plan to the legislature by January 1st of every odd-numbered year that includes state agency space requirements and other pertinent data necessary for cost-effective facility planning. The department of enterprise services shall assist with this effort as required by the office of financial management; ((~~and~~))

(3) Establish and enforce policies and workplace strategies that promote the efficient use of state facilities; and

(4) Evaluate opportunities for colocating and consolidating state facilities in the same geographic area. This includes evaluating the impact colocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services.

**Sec.**  RCW 43.82.150 and 2015 3rd sp.s. c 1 s 302 are each amended to read as follows:

(1) The office of financial management shall develop and maintain an inventory system to account for all facilities owned or leased by state government. At a minimum, the inventory system must include the facility owner, location, type, condition, use data, and size of each facility. In addition, for owned facilities, the inventory system must include the date and cost of original construction and the cost of any major remodeling or renovation. The inventory must be updated by all agencies, departments, boards, commissions, and institutions by June 30th of each year. The office of financial management shall publish a report summarizing information contained in the inventory system for each agency by October 1st of each year, beginning in 2010 and shall submit this report to the appropriate fiscal committees of the legislature.

(2) The inventory required under this subsection must be submitted in a standard format prescribed by the office of financial management.

(3) Agencies must report space use data for office facilities.

(4) For the purposes of this section, "facilities" means buildings and other structures with walls and a roof. "Facilities" does not mean roads, bridges, parking areas, utility systems, and other similar improvements to real property.

**PART IV**

**MISCELLANEOUS**

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

(1) Those powers, duties, and functions of the department of enterprise services being transferred to the office of financial management as set forth in sections 101 through 110 of this act are hereby transferred to the office of financial management.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of enterprise services pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the office of financial management. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of enterprise services in carrying out the powers, duties, and functions transferred shall be made available to the office of financial management. All funds, credits, or other assets held by the department of enterprise services in connection with the powers, duties, and functions transferred shall be assigned to the office of financial management.

(b) Any appropriations made to the department of enterprise services for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the office of financial management.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of enterprise services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the office of financial management. All existing contracts and obligations shall remain in full force and shall be performed by the office of financial management.

(4) The transfer of the powers, duties, functions, and personnel of the department of enterprise services shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of enterprise services engaged in performing the powers, functions, and duties transferred to the office of financial management, are transferred to the office of financial management. Except as provided in chapter 41.80 RCW, all employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of financial management to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2017.

**--- END ---**