

3SHB 2382 - S COMM AMD

By Committee on Human Services & Corrections

OUT OF ORDER 03/02/2018

1 Strike everything after the enacting clause and insert the
2 following:

3 **"PART 1 - INVENTORY OF STATE PROPERTY**

4 **Sec. 1.** RCW 43.63A.510 and 1993 c 461 s 2 are each amended to
5 read as follows:

6 (1) The department (~~shall~~) must work with the (~~departments of~~
7 ~~natural resources, transportation, social and health services,~~
8 ~~corrections, and general administration~~) designated agencies to
9 identify (~~and~~), catalog, and recommend best use of under-utilized,
10 state-owned land and property suitable for the development of
11 affordable housing for very low-income, low-income or moderate-income
12 households. The (~~departments of natural resources, transportation,~~
13 ~~social and health services, corrections, and general administration~~
14 ~~shall~~) designated agencies must provide an inventory of real
15 property that is owned or administered by each agency and is vacant
16 or available for lease or sale. The department must work with the
17 designated agencies to include in the inventories a consolidated list
18 of any property transactions executed by the agencies under the
19 authority of section 3 of this act, including the property appraisal,
20 the terms and conditions of sale, lease, or transfer, the value of
21 the public benefit, and the impact of transaction to the agency. The
22 inventories (~~shall~~) with revisions must be provided to the
23 department by November 1(~~, 1993, with inventory revisions provided~~
24 ~~each November 1 thereafter~~)st of each year.

25 (2) The department must consolidate inventories into two groups:
26 Properties suitable for consideration in affordable housing
27 development; and properties not suitable for consideration in
28 affordable housing development. In making this determination, the
29 department must use industry accepted standards such as: Location,
30 approximate lot size, current land use designation, and current

1 zoning classification of the property. The department shall provide a
2 recommendation, based on this grouping, to the office of financial
3 management and appropriate policy and fiscal committees of the
4 legislature by December 1st of each year.

5 (3) Upon written request, the department shall provide a copy of
6 the inventory of state-owned and publicly owned lands and buildings
7 to parties interested in developing the sites for affordable housing.

8 ((+3)) (4) As used in this section:

9 (a) "Affordable housing" means residential housing that is rented
10 or owned by a person who qualifies as a very low-income, low-income,
11 or moderate-income household or who is from a special needs
12 population, and whose monthly housing costs, including utilities
13 other than telephone, do not exceed thirty percent of the household's
14 monthly income.

15 (b) "Very low-income household" means a single person, family, or
16 unrelated persons living together whose income is at or below fifty
17 percent of the median income, adjusted for household size, for the
18 county where the affordable housing is located.

19 (c) "Low-income household" means a single person, family, or
20 unrelated persons living together whose income is more than fifty
21 percent but is at or below eighty percent of the median income where
22 the affordable housing is located.

23 (d) "Moderate-income household" means a single person, family, or
24 unrelated persons living together whose income is more than eighty
25 percent but is at or below one hundred fifteen percent of the median
26 income where the affordable housing is located.

27 (e) "Affordable housing development" means state-owned real
28 property appropriate for sale, transfer, or lease to an affordable
29 housing developer capable of:

30 (i) Receiving the property within one hundred eighty days; and

31 (ii) Creating affordable housing units for occupancy within
32 thirty-six months from the time of transfer.

33 (f) "Designated agencies" means the Washington state patrol, the
34 state parks and recreation commission, and the departments of natural
35 resources, transportation, social and health services, corrections,
36 and enterprise services.

37 **PART 2 - RIGHT OF FIRST REFUSAL FOR GOVERNMENT AGENCIES**

1 **Sec. 2.** RCW 43.17.400 and 2015 c 225 s 64 are each amended to
2 read as follows:

3 ~~(1) ((The definitions in this subsection apply throughout this~~
4 ~~section unless the context clearly requires otherwise.~~

5 ~~(a) "Disposition" means sales, exchanges, or other actions~~
6 ~~resulting in a transfer of land ownership.~~

7 ~~(b) "State agencies" includes:~~

8 ~~(i) The department of natural resources established in chapter~~
9 ~~43.30 RCW;~~

10 ~~(ii) The department of fish and wildlife established in chapter~~
11 ~~43.300 RCW;~~

12 ~~(iii) The department of transportation established in chapter~~
13 ~~47.01 RCW;~~

14 ~~(iv) The parks and recreation commission established in chapter~~
15 ~~79A.05 RCW; and~~

16 ~~(v) The department of enterprise services established in this~~
17 ~~chapter.~~

18 ~~(2) State agencies proposing disposition of state-owned land must~~
19 ~~provide written notice of the proposed disposition to the legislative~~
20 ~~authorities of the counties, cities, and towns in which the land is~~
21 ~~located at least sixty days before entering into the disposition~~
22 ~~agreement.)) Before any state agency may dispose of surplus state-~~
23 ~~owned real property to a private or any nongovernmental party, the~~
24 ~~agency must provide written notice to the following governmental~~
25 ~~entities at least sixty days before entering into any proposed~~
26 ~~disposition agreement:~~

27 ~~(a) All other state agencies;~~

28 ~~(b) Each federal agency operating within the state; and~~

29 ~~(c) The governing authority of each county, city, town, special~~
30 ~~purpose district, and federally recognized Indian tribe in which the~~
31 ~~land is located.~~

32 ~~(2) The state agency must dispose of the property, for continued~~
33 ~~public benefit as defined in section 3 of this act, to any~~
34 ~~governmental entity responding within the notification period, upon~~
35 ~~mutual agreement reached within a reasonable time period after the~~
36 ~~response is received. Priority must be given to state agencies. The~~
37 ~~disposition may be for any terms and conditions agreed upon by the~~
38 ~~proper authorities of each party, in accordance with RCW 39.33.010,~~
39 ~~except where the disposition at fair market value is required by law.~~

1 (3) The requirements of this section are in addition and
2 supplemental to other requirements of the laws of this state.

3 (4) For purposes of this section, "disposition" means the sale,
4 exchange, or other action resulting in a transfer of ownership.

5 **PART 3 - DISPOSAL OF PUBLIC PROPERTY FOR PUBLIC BENEFIT**

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.33
7 RCW to read as follows:

8 (1) Any state agency, municipality, or political subdivision,
9 with authority to dispose of surplus public property, may transfer,
10 lease, or other disposal of such property for a public benefit
11 purpose, consistent with and subject to this section. Any such
12 transfer, lease, or other disposal may be made to a public, private,
13 or nongovernmental body on any mutually agreeable terms and
14 conditions, including a no cost transfer, subject to and consistent
15 with this section. Consideration must include appraisal costs, debt
16 service, all closing costs, and any other liabilities to the agency,
17 municipality, or political subdivision. However, the property may not
18 be so transferred, leased, or disposed of if such transfer, lease, or
19 disposal would violate any bond covenant or encumber or impair any
20 contract.

21 (2) A deed, lease, or other instrument transferring or conveying
22 property pursuant to subsection (1) of this section must include:

23 (a) A covenant or other requirement that the property shall be
24 used for the designated public benefit purpose; and

25 (b) Remedies that apply if the recipient of the property fails to
26 use it for the designated public purpose or ceases to use it for such
27 purpose.

28 (3) To implement the authority granted by this section, the
29 governing body or legislative authority of a municipality or
30 political subdivision must enact rules to regulate the disposition of
31 property for public benefit purposes. Any transfer, lease, or other
32 disposition of property authorized under this section must be
33 consistent with existing locally adopted comprehensive plans as
34 described in RCW 36.70A.070.

35 (4) This section is deemed to provide a discretionary alternative
36 method for the doing of the things authorized herein, and shall not
37 be construed as imposing any additional condition upon the exercise

1 of any other powers vested in any state agency, municipality, or
2 political subdivision.

3 (5) No transfer, lease, or other disposition of property for
4 public benefit purposes made pursuant to any other provision of law
5 prior to the effective date of this section may be construed to be
6 invalid solely because the parties thereto did not comply with the
7 procedures of this section.

8 (6) The transfer at no cost, lease, or other disposal of surplus
9 real property for public benefit purposes is deemed a lawful purpose
10 of any state agency, municipality, or political subdivision, for
11 which accounts are kept on an enterprise fund or equivalent basis,
12 regardless of the primary purpose or function of such agency.

13 (7) This section does not apply to the sale or transfer of any
14 state forestlands, any state lands or property granted to the state
15 by the federal government for the purposes of common schools or
16 education, or subject to a legal restriction that would be violated
17 by compliance with this section.

18 (8) For purposes of this section:

19 (a) "Public benefit" means affordable housing for low-income and
20 very low-income households as defined in RCW 43.63A.510, and related
21 facilities that support the goals of affordable housing development
22 in providing economic and social stability for low-income persons;
23 and

24 (b) "Surplus public property" means excess real property that is
25 not required for the needs of or the discharge of the
26 responsibilities of the state agency, municipality, or political
27 subdivision.

28 **Sec. 4.** RCW 35.94.040 and 1973 1st ex.s. c 95 s 1 are each
29 amended to read as follows:

30 (1) Whenever a city shall determine, by resolution of its
31 legislative authority, that any lands, property, or equipment
32 originally acquired for public utility purposes is surplus to the
33 city's needs and is not required for providing continued public
34 utility service, then such legislative authority by resolution and
35 after a public hearing may cause such lands, property, or equipment
36 to be leased, sold, or conveyed. Such resolution shall state the fair
37 market value or the rent or consideration to be paid and such other
38 terms and conditions for such disposition as the legislative
39 authority deems to be in the best public interest.

1 (2) The provisions of RCW 35.94.020 and 35.94.030 shall not apply
2 to dispositions authorized by this section.

3 (3) This section does not apply to property transferred, leased,
4 or otherwise disposed in accordance with section 3 of this act.

5 **Sec. 5.** RCW 43.09.210 and 2000 c 183 s 2 are each amended to
6 read as follows:

7 (1) Separate accounts shall be kept for every appropriation or
8 fund of a taxing or legislative body showing date and manner of each
9 payment made therefrom, the name, address, and vocation of each
10 person, organization, corporation, or association to whom paid, and
11 for what purpose paid.

12 (2) Separate accounts shall be kept for each department, public
13 improvement, undertaking, institution, and public service industry
14 under the jurisdiction of every taxing body.

15 (3) All service rendered by, or property transferred from, one
16 department, public improvement, undertaking, institution, or public
17 service industry to another, shall be paid for at its true and full
18 value by the department, public improvement, undertaking,
19 institution, or public service industry receiving the same, and no
20 department, public improvement, undertaking, institution, or public
21 service industry shall benefit in any financial manner whatever by an
22 appropriation or fund made for the support of another.

23 (4) All unexpended balances of appropriations shall be
24 transferred to the fund from which appropriated, whenever the account
25 with an appropriation is closed.

26 (5) This section does not apply to:

27 (a) Agency surplus personal property handled under RCW
28 43.19.1919(~~(+5)~~) (1)(e); or

29 **(b) The transfer, lease, or other disposal of surplus property**
30 **for public benefit purposes, as provided under section 3 of this act.**

31 **Sec. 6.** RCW 43.43.115 and 1993 c 438 s 1 are each amended to
32 read as follows:

33 Whenever real property owned by the state of Washington and under
34 the jurisdiction of the Washington state patrol is no longer
35 required, it may be sold at fair market value, or otherwise disposed
36 as permitted under section 3 of this act. Any such sale or disposal
37 must be in accordance with RCW 43.17.400. All proceeds received from
38 the sale of real property, less any real estate broker commissions up

1 to four percent of the sale price, shall be deposited into the state
2 patrol highway account: PROVIDED, That if accounts or funds other
3 than the state patrol highway account have contributed to the
4 purchase or improvement of the real property, the office of financial
5 management shall determine the proportional equity of each account or
6 fund in the property and improvements, and shall direct the proceeds
7 to be deposited proportionally therein.

8 **Sec. 7.** RCW 43.82.010 and 2015 c 99 s 1 are each amended to read
9 as follows:

10 (1) The director of enterprise services, on behalf of the agency
11 involved and after consultation with the office of financial
12 management, shall purchase, lease, lease purchase, rent, or otherwise
13 acquire all real estate, improved or unimproved, as may be required
14 by elected state officials, institutions, departments, commissions,
15 boards, and other state agencies, or federal agencies where joint
16 state and federal activities are undertaken and may grant easements
17 and transfer, exchange, sell, lease, or sublease all or part of any
18 surplus real estate for those state agencies which do not otherwise
19 have the specific authority to dispose of real estate. Any such
20 transfer, exchange, or sale must comply with RCW 43.17.400, and may
21 be made in accordance with section 3 of this act. This section does
22 not transfer financial liability for the acquired property to the
23 department of enterprise services.

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

36 (3) Except for leases permitted under subsection (4) of this
37 section, the director of enterprise services may fix the terms and
38 conditions of each lease entered into under this chapter, except that
39 no lease shall extend greater than twenty years in duration. The

1 director of enterprise services may enter into a long-term lease
2 greater than ten years in duration upon a determination by the
3 director of the office of financial management that the long-term
4 lease provides a more favorable rate than would otherwise be
5 available, it appears to a substantial certainty that the facility is
6 necessary for use by the state for the full length of the lease term,
7 and the facility meets the standards adopted pursuant to subsection
8 (2) of this section. The director of enterprise services may enter
9 into a long-term lease greater than ten years in duration if an
10 analysis shows that the life-cycle cost of leasing the facility is
11 less than the life-cycle cost of purchasing or constructing a
12 facility in lieu of leasing the facility.

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

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

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

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

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

31 (9) If the director of enterprise services determines that it is
32 necessary or advisable to undertake any work, construction,
33 alteration, repair, or improvement on any real estate acquired
34 pursuant to subsection (1) or (8) of this section, the director shall
35 cause plans and specifications thereof and an estimate of the cost of
36 such work to be made and filed in his or her office and the state
37 agency benefiting thereby is hereby authorized to pay for such work
38 out of any available funds: PROVIDED, That the cost of executing such
39 work shall not exceed the sum of twenty-five thousand dollars. Work,
40 construction, alteration, repair, or improvement in excess of twenty-

1 five thousand dollars, other than that done by the owner of the
2 property if other than the state, shall be performed in accordance
3 with the public works law of this state.

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

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

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

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

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

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

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

38 (c) The department of natural resources, the department of fish
39 and wildlife, the department of transportation, and the state parks

1 and recreation commission for purposes other than the leasing of
2 offices, warehouses, and real estate for similar purposes; and

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

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

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

19 **Sec. 8.** RCW 47.12.063 and 2015 3rd sp.s. c 13 s 2 are each
20 amended to read as follows:

21 (1) It is the intent of the legislature to continue the
22 department's policy giving priority consideration to abutting
23 property owners in agricultural areas when disposing of property
24 through its surplus property program under this section.

25 (2) Whenever the department determines that any real property
26 owned by the state of Washington and under the jurisdiction of the
27 department is no longer required for transportation purposes and that
28 it is in the public interest to do so, the department may sell the
29 property or exchange it in full or part consideration for land or
30 building improvements or for construction of highway improvements at
31 fair market value to any person through the solicitation of written
32 bids through public advertising in the manner prescribed under RCW
33 47.28.050 or in the manner prescribed under RCW 47.12.283. Any such
34 real property subject to sale or exchange under this section must
35 comply with RCW 43.17.400.

36 (3) The department may forego the processes prescribed by RCW
37 47.28.050 and 47.12.283 and (~~sell~~) dispose the real property in
38 accordance with section 3 of this act, or sell to any of the
39 following entities or persons at fair market value:

1 (a) Any other state agency;

2 (b) The city or county in which the property is situated;

3 (c) Any other municipal corporation;

4 (d) Regional transit authorities created under chapter 81.112
5 RCW;

6 (e) The former owner of the property from whom the state acquired
7 title;

8 (f) In the case of residentially improved property, a tenant of
9 the department who has resided thereon for not less than six months
10 and who is not delinquent in paying rent to the state;

11 (g) Any abutting private owner but only after each other abutting
12 private owner (if any), as shown in the records of the county
13 assessor, is notified in writing of the proposed sale. If more than
14 one abutting private owner requests in writing the right to purchase
15 the property within fifteen days after receiving notice of the
16 proposed sale, the property shall be sold at public auction in the
17 manner provided in RCW 47.12.283;

18 (h) To any other owner of real property required for
19 transportation purposes;

20 (i) In the case of property suitable for residential use, any
21 nonprofit organization dedicated to providing affordable housing to
22 very low-income, low-income, and moderate-income households as
23 defined in RCW 43.63A.510 and is eligible to receive assistance
24 through the Washington housing trust fund created in chapter 43.185
25 RCW; or

26 (j) A federally recognized Indian tribe within whose reservation
27 boundary the property is located.

28 (4) When selling real property pursuant to RCW 47.12.283, the
29 department may withhold or withdraw the property from an auction when
30 requested by one of the entities or persons listed in subsection (3)
31 of this section and only after the receipt of a nonrefundable deposit
32 equal to ten percent of the fair market value of the real property or
33 five thousand dollars, whichever is less. This subsection does not
34 prohibit the department from exercising its discretion to withhold or
35 withdraw the real property from an auction if the department
36 determines that the property is no longer surplus or chooses to sell
37 the property through one of the other means listed in subsection (2)
38 of this section. If a transaction under this subsection is not
39 completed within sixty days, the real property must be put back up
40 for sale.

1 (5) Sales to purchasers may, at the department's option, be for
2 cash, by real estate contract, or exchange of land or highway
3 improvements. Transactions involving the construction of improvements
4 must be conducted pursuant to chapter 47.28 RCW and Title 39 RCW, as
5 applicable, and must comply with all other applicable laws and rules.

6 (6) Conveyances made pursuant to this section shall be by deed
7 executed by the secretary of transportation and shall be duly
8 acknowledged.

9 (7) Unless otherwise provided, all moneys received pursuant to
10 the provisions of this section less any real estate broker
11 commissions paid pursuant to RCW 47.12.320 shall be deposited in the
12 motor vehicle fund.

13 (8) The department may not enter into equal value exchanges or
14 property acquisitions for building improvements without first
15 consulting with the office of financial management and the joint
16 transportation committee."

3SHB 2382 - S COMM AMD
By Committee on Human Services & Corrections

OUT OF ORDER 03/02/2018

17 On page 1, line 2 of the title, after "benefit;" strike the
18 remainder of the title and insert "amending RCW 43.63A.510,
19 43.17.400, 35.94.040, 43.09.210, 43.43.115, 43.82.010, and 47.12.063;
20 and adding a new section to chapter 39.33 RCW."

EFFECT: Removes a requirement for 10 percent of the net proceeds
from the sale of surplus state property to be deposited in the
housing trust fund.

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