

3SHB 2382 - S COMM AMD
By Committee on Transportation

ADOPTED 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, social and health services, corrections, and enterprise
36 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 (5) The requirements of this section do not apply to the
6 department of transportation.

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

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

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

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

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

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

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

37 (4) This section is deemed to provide a discretionary alternative
38 method for the doing of the things authorized herein, and shall not

1 be construed as imposing any additional condition upon the exercise
2 of any other powers vested in any state agency, municipality, or
3 political subdivision.

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

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

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

19 (8) For purposes of this section:

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

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

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

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

1 terms and conditions for such disposition as the legislative
2 authority deems to be in the best public interest.

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

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

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

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

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

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

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

28 (5) This section does not apply to:

29 (a) Agency surplus personal property handled under RCW
30 43.19.1919(~~(+5)~~) (1)(e); or

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

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

35 Whenever real property owned by the state of Washington and under
36 the jurisdiction of the Washington state patrol is no longer
37 required, it may be sold at fair market value, or otherwise disposed
38 as permitted under section 3 of this act. Any such sale or disposal

1 must be in accordance with RCW 43.17.400. All proceeds received from
2 the sale of real property, less any real estate broker commissions up
3 to four percent of the sale price, shall be deposited into the state
4 patrol highway account: PROVIDED, That if accounts or funds other
5 than the state patrol highway account have contributed to the
6 purchase or improvement of the real property, the office of financial
7 management shall determine the proportional equity of each account or
8 fund in the property and improvements, and shall direct the proceeds
9 to be deposited proportionally therein.

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

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

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

38 (3) Except for leases permitted under subsection (4) of this
39 section, the director of enterprise services may fix the terms and

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

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

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

1 the department that any lease has been used or referred to in
2 violation of this subsection or rules adopted under this subsection.

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

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

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

33 (9) If the director of enterprise services determines that it is
34 necessary or advisable to undertake any work, construction,
35 alteration, repair, or improvement on any real estate acquired
36 pursuant to subsection (1) or (8) of this section, the director shall
37 cause plans and specifications thereof and an estimate of the cost of
38 such work to be made and filed in his or her office and the state
39 agency benefiting thereby is hereby authorized to pay for such work
40 out of any available funds: PROVIDED, That the cost of executing such

1 work shall not exceed the sum of twenty-five thousand dollars. Work,
2 construction, alteration, repair, or improvement in excess of twenty-
3 five thousand dollars, other than that done by the owner of the
4 property if other than the state, shall be performed in accordance
5 with the public works law of this state.

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

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

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

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

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

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

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

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

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

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

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

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By Committee on Transportation

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21 On page 1, line 2 of the title, after "benefit;" strike the
22 remainder of the title and insert "amending RCW 43.63A.510,
23 43.17.400, 35.94.040, 43.09.210, 43.43.115, and 43.82.010; and adding
24 a new section to chapter 39.33 RCW."

EFFECT: Removes the Department of Transportation from (1) the surplus property inventory process required in section 1 and (2) the "right of first refusal" provisions in section 2.

--- END ---