
HOUSE BILL 1789

State of Washington 58th Legislature 2003 Regular Session

By Representatives Blake, Priest and Dunshee

Read first time 02/10/2003. Referred to Committee on Capital Budget.

1 AN ACT Relating to capital budget project savings; amending RCW
2 43.88.110, 43.88.145, and 43.88.160; and declaring an emergency.

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

4 **Sec. 1.** RCW 43.88.110 and 1997 c 96 s 6 are each amended to read
5 as follows:

6 This section sets forth the expenditure programs and the allotment
7 and reserve procedures to be followed by the executive branch for
8 public funds.

9 (1) Allotments of an appropriation for any fiscal period shall
10 conform to the terms, limits, or conditions of the appropriation.

11 (2) The director of financial management shall provide all agencies
12 with a complete set of operating and capital instructions for preparing
13 a statement of proposed expenditures at least thirty days before the
14 beginning of a fiscal period. The set of instructions need not include
15 specific appropriation amounts for the agency.

16 (3) Within forty-five days after the beginning of the fiscal period
17 or within forty-five days after the governor signs the omnibus biennial
18 appropriations act, whichever is later, all agencies shall submit to

1 the governor a statement of proposed expenditures at such times and in
2 such form as may be required by the governor.

3 (4) The office of financial management shall develop a method for
4 monitoring capital appropriations and expenditures that will capture at
5 least the following elements:

6 (a) Appropriations made for capital projects including
7 transportation projects;

8 (b) Estimates of total project costs including past, current,
9 ensuing, and future biennial costs;

10 (c) Comparisons of actual costs to estimated costs;

11 (d) Comparisons of estimated construction start and completion
12 dates with actual dates;

13 (e) Documentation of fund shifts between projects.

14 This data may be incorporated into the existing accounting system
15 or into a separate project management system, as deemed appropriate by
16 the office of financial management. The office of financial management
17 must make an annual report of significant cost overruns or underruns to
18 the legislative fiscal committees as required by RCW 43.88.145 and
19 43.88.160.

20 (5) The office of financial management shall publish agency annual
21 maintenance summary reports beginning in October 1997. State agencies
22 shall submit a separate report for each major campus or site, as
23 defined by the office of financial management. Reports shall be
24 prepared in a format prescribed by the office of financial management
25 and shall include, but not be limited to: Information describing the
26 number, size, and condition of state-owned facilities; facility
27 maintenance, repair, and operating expenses paid from the state
28 operating and capital budgets, including maintenance staffing levels;
29 the condition of major infrastructure systems; and maintenance
30 management initiatives undertaken by the agency over the prior year.
31 Agencies shall submit their annual maintenance summary reports to the
32 office of financial management by September 1st each year.

33 (6) The office of financial management, prior to approving
34 allotments for major capital construction projects valued over five
35 million dollars, shall institute procedures for reviewing such projects
36 at the predesign stage that will reduce long-term costs and increase
37 facility efficiency. The procedures shall include, but not be limited
38 to, the following elements:

1 (a) Evaluation of facility program requirements and consistency
2 with long-range plans;

3 (b) Utilization of a system of cost, quality, and performance
4 standards to compare major capital construction projects; and

5 (c) A requirement to incorporate value-engineering analysis and
6 constructability review into the project schedule.

7 (7) No expenditure may be incurred or obligation entered into for
8 such major capital construction projects including, without exception,
9 land acquisition, site development, predesign, design, construction,
10 and equipment acquisition and installation, until the allotment of the
11 funds to be expended has been approved by the office of financial
12 management. This limitation does not prohibit the continuation of
13 expenditures and obligations into the succeeding biennium for projects
14 for which allotments have been approved in the immediate prior
15 biennium.

16 (8) If at any time during the fiscal period the governor projects
17 a cash deficit in a particular fund or account as defined by RCW
18 43.88.050, the governor shall make across-the-board reductions in
19 allotments for that particular fund or account so as to prevent a cash
20 deficit, unless the legislature has directed the liquidation of the
21 cash deficit over one or more fiscal periods. Except for the
22 legislative and judicial branches and other agencies headed by elective
23 officials, the governor shall review the statement of proposed
24 operating expenditures for reasonableness and conformance with
25 legislative intent. Once the governor approves the statements of
26 proposed operating expenditures, further revisions shall be made only
27 at the beginning of the second fiscal year and must be initiated by the
28 governor. However, changes in appropriation level authorized by the
29 legislature, changes required by across-the-board reductions mandated
30 by the governor, changes caused by executive increases to spending
31 authority, and changes caused by executive decreases to spending
32 authority for failure to comply with the provisions of chapter 36.70A
33 RCW may require additional revisions. Revisions shall not be made
34 retroactively. Revisions caused by executive increases to spending
35 authority shall not be made after June 30, 1987. However, the governor
36 may assign to a reserve status any portion of an agency appropriation
37 withheld as part of across-the-board reductions made by the governor
38 and any portion of an agency appropriation conditioned on a contingent

1 event by the appropriations act. The governor may remove these amounts
2 from reserve status if the across-the-board reductions are subsequently
3 modified or if the contingent event occurs. The director of financial
4 management shall enter approved statements of proposed expenditures
5 into the state budgeting, accounting, and reporting system within
6 forty-five days after receipt of the proposed statements from the
7 agencies. If an agency or the director of financial management is
8 unable to meet these requirements, the director of financial management
9 shall provide a timely explanation in writing to the legislative fiscal
10 committees.

11 (9) It is expressly provided that all agencies shall be required to
12 maintain accounting records and to report thereon in the manner
13 prescribed in this chapter and under the regulations issued pursuant to
14 this chapter. Within ninety days of the end of the fiscal year, all
15 agencies shall submit to the director of financial management their
16 final adjustments to close their books for the fiscal year. Prior to
17 submitting fiscal data, written or oral, to committees of the
18 legislature, it is the responsibility of the agency submitting the data
19 to reconcile it with the budget and accounting data reported by the
20 agency to the director of financial management.

21 (10) The director of financial management shall monitor agency
22 operating expenditures against the approved statement of proposed
23 expenditures and shall provide the legislature with quarterly
24 explanations of major variances.

25 (11) The director of financial management may exempt certain public
26 funds from the allotment controls established under this chapter if it
27 is not practical or necessary to allot the funds. Allotment control
28 exemptions expire at the end of the fiscal biennium for which they are
29 granted. The director of financial management shall report any
30 exemptions granted under this subsection to the legislative fiscal
31 committees.

32 **Sec. 2.** RCW 43.88.145 and 1994 c 219 s 6 are each amended to read
33 as follows:

34 (1)(a) The capital appropriations act may authorize the governor,
35 through the director of financial management, to transfer the
36 appropriation authority for a capital project that is in excess of the

1 amount required for the completion of the project to another capital
2 project for which the appropriation is insufficient.

3 ~~((a))~~ (b) No such transfer may be used to expand the capacity or
4 change the intended use of the project beyond that intended by the
5 legislature in making the appropriation.

6 ~~((b))~~ (c) The transfer may be effected only between capital
7 projects within a specific department, commission, agency, or
8 institution of higher education.

9 ~~((c))~~ (d) The transfer may be effected only if the project from
10 which the transfer of funds is made is substantially complete and there
11 are funds remaining, or bids have been let on the project from which
12 the transfer of funds is made and it appears to a substantial certainty
13 that the project can be completed within the biennium for less than the
14 amount appropriated.

15 (e) If there is no project available or in need of transfer excess
16 appropriation authority under this subsection (1), the excess amounts
17 may be transferred to the agency's infrastructure savings account.

18 (2) For the purposes of this section, the legislature intends that
19 each project be defined as proposed to the legislature in the
20 governor's budget document, unless the legislative history demonstrates
21 that the legislature intended to define the scope of a project in a
22 different way.

23 (3)(a) Transfers of funds to an agency's infrastructure savings
24 account are subject to review and approval by the office of financial
25 management. Expenditures from an infrastructure savings account are
26 limited to projects that have a primary purpose to correct
27 infrastructure deficiencies or conditions that: (i) Adversely affect
28 the ability to utilize the infrastructure for its current programmatic
29 use; (ii) reduce the life expectancy of the infrastructure; or (iii)
30 increase the operating costs of the infrastructure for its current
31 programmatic use.

32 (b) For the purposes of this section, eligible infrastructure
33 projects may include structures and surface improvements, site
34 amenities, utility systems outside building footprints and natural
35 environmental changes or requirements as part of an environmental
36 regulation, or infrastructure planning as part of a facility master
37 plan.

1 (4) The office of financial management shall notify the legislative
2 fiscal committees of the senate and the house of representatives at
3 least thirty days before any transfer is effected under this section
4 except emergency projects or any transfer under two hundred fifty
5 thousand dollars, and shall prepare a report to such committees listing
6 all completed transfers at the close of each (~~fiscal~~) calendar year
7 with an update at the end of each fiscal year.

8 (5)(a) In reviewing transfers in excess of two hundred fifty
9 thousand dollars, the office of financial management shall ensure that
10 excess appropriation authority resulting at the end of a project is the
11 result of project management efforts and not the result of advantageous
12 bidding climate, scope reduction, or overestimation of initial project
13 budget.

14 (b) Excess appropriation authority resulting from advantageous
15 bids, scope reduction, or overestimation of initial project budget must
16 be transferred to the education construction account for common school
17 construction.

18 (c) Remaining excess appropriation authority must be equally
19 divided between the agency and the education construction account for
20 common school construction.

21 (d) If an agency does not have an infrastructure savings account,
22 an excess appropriation authority must be transferred to the education
23 construction account for common school construction if there is no
24 other project in need of the money.

25 (6) The office of financial management shall revise the allotment
26 authorization for projects affected by this section. Funds transferred
27 to the education construction account under this section may not be
28 allotted until appropriated by the legislature.

29 **Sec. 3.** RCW 43.88.160 and 2002 c 260 s 1 are each amended to read
30 as follows:

31 This section sets forth the major fiscal duties and
32 responsibilities of officers and agencies of the executive branch. The
33 regulations issued by the governor pursuant to this chapter shall
34 provide for a comprehensive, orderly basis for fiscal management and
35 control, including efficient accounting and reporting therefor, for the
36 executive branch of the state government and may include, in addition,

1 such requirements as will generally promote more efficient public
2 management in the state.

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

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

35 (3) The director of financial management shall report at least
36 annually to the appropriate legislative committees regarding the status
37 of all appropriated capital projects, including transportation
38 projects, showing significant cost overruns or underruns. For the

1 purposes of this section, significant cost overruns means overruns in
2 excess of two hundred fifty thousand dollars. If funds are shifted
3 from one project to another, the office of financial management shall
4 also reflect this in the annual variance report. Once a project is
5 complete, the report shall provide a final summary showing estimated
6 start and completion dates of each project phase compared to actual
7 dates, estimated costs of each project phase compared to actual costs,
8 and whether or not there are any outstanding liabilities or unsettled
9 claims at the time of completion. Agencies shall incorporate the
10 requirements of this report into their project management practices.

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

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

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

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

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

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

35 (e) Review any pay and classification plans, and changes
36 thereunder, developed by any agency for their fiscal impact: PROVIDED,
37 That none of the provisions of this subsection shall affect merit
38 systems of personnel management now existing or hereafter established

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

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

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

17 (5) The treasurer shall:

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

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

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

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

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

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

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

26 (6) The state auditor shall:

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

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

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

29 (d) Be empowered to take exception to specific expenditures that
30 have been incurred by any agency or to take exception to other
31 practices related in any way to the agency's financial transactions and
32 to cause such exceptions to be made a matter of public record,
33 including disclosure to the agency concerned and to the director of
34 financial management. It shall be the duty of the director of
35 financial management to cause corrective action to be taken within six
36 months, such action to include, as appropriate, the withholding of
37 funds as provided in RCW 43.88.110. The director of financial
38 management shall annually report by December 31st the status of audit

1 resolution to the appropriate committees of the legislature, the state
2 auditor, and the attorney general. The director of financial
3 management shall include in the audit resolution report actions taken
4 as a result of an audit including, but not limited to, types of
5 personnel actions, costs and types of litigation, and value of recouped
6 goods or services.

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

8 (f) Investigate improper governmental activity under chapter 42.40
9 RCW.

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

11 (a) Make post audits of the financial transactions of any agency
12 and management surveys and program reviews as provided for in chapter
13 44.28 RCW as well as performance audits and program evaluations. To
14 this end the joint committee may in its discretion examine the books,
15 accounts, and other records of any agency, official, or employee.

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

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

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

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

29 NEW SECTION. **Sec. 4.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the
35 state government and its existing public institutions, and takes effect
36 immediately.

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