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**SUBSTITUTE HOUSE BILL 2366**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** House Committee on Capital Budget (originally sponsored by Representatives Dunshee, Jarrett, Ormsby, Hunter and Kenney)

READ FIRST TIME 3/5/07.

1            AN ACT Relating to accountability, efficiency, and oversight of  
2 state facility planning and management; amending RCW 43.82.150 and  
3 43.82.010; adding new sections to chapter 43.82 RCW; adding a new  
4 section to chapter 39.35B RCW; and creating a new section.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds that the capital stock  
7 of facilities owned and leased by state agencies represents a  
8 significant financial investment by the citizens of the state of  
9 Washington. Capital construction projects funded in the state's  
10 capital budget require diligent analysis and approval by the governor  
11 and the legislature. In some cases, long-term leases obligate state  
12 agencies to a larger financial commitment than some capital  
13 construction projects without a comparable level of diligence. State  
14 facility analysis and portfolio management can be strengthened through  
15 greater oversight and support from the office of financial management  
16 and the legislature and with input from stakeholders.

17            The legislature finds that the state lacks specific policies and  
18 standards on conducting life-cycle cost analysis to determine the  
19 cost-effectiveness of owning or leasing state facilities and lacks

1 clear guidance on when and how to use it. Further, there is limited  
2 oversight and review of the results of life-cycle cost analyses in the  
3 capital project review process. Unless decision makers are provided a  
4 thorough economic analysis, they cannot identify the most  
5 cost-effective alternative or identify opportunities for improving the  
6 cost-effectiveness of state facility alternatives.

7 The legislature finds that the statewide accounting system limits  
8 the ability of the office of financial management and the legislature  
9 to analyze agency expenditures that include only leases for land,  
10 buildings, and structures. Additionally, other statewide data systems  
11 that track state-owned and leased facility information are limited,  
12 onerous, and inflexible.

13 Therefore, it is the intent of the legislature to strengthen the  
14 office of financial management's oversight role in state facility  
15 analysis and decision making. Further, it is the intent of the  
16 legislature to support the office of financial management's and the  
17 department of general administration's need for technical expertise and  
18 data systems to conduct thorough analysis, long-term planning, and  
19 state facility portfolio management by providing adequate resources in  
20 the capital and operating budgets.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.82 RCW  
22 to read as follows:

23 The office of financial management, in consultation with the  
24 appropriate committees of the legislature, shall prepare an  
25 implementation plan to improve the oversight of real estate procurement  
26 and management practices. The plan must identify specific steps that  
27 state government can take to better manage the acquisition, ownership,  
28 lease, and disposition of office and warehouse space so that state  
29 services are delivered in an effective manner. The plan shall be  
30 submitted to the governor and the appropriate committees of the  
31 legislature by October 1, 2007.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.35B RCW  
33 to read as follows:

34 The office of financial management shall:

35 (1) Design and implement a cost-effective life-cycle cost model by

1 October 1, 2008, based on the work completed by the joint legislative  
2 audit and review committee in January 2007 and in consultation with  
3 legislative fiscal committees;

4 (2) Deploy the life-cycle cost model for use by state agencies once  
5 completed and tested;

6 (3) Update the life-cycle cost model periodically in consultation  
7 with legislative fiscal committees;

8 (4) Establish clear policies, standards, and procedures regarding  
9 the use of life-cycle cost analysis by state agencies including:

10 (a) When state agencies must use the life-cycle cost analysis,  
11 including the types of proposed capital projects and leased facilities  
12 to which it must be applied;

13 (b) Procedures state agencies must use to document the results of  
14 required life-cycle cost analyses;

15 (c) Standards regarding the discount rate and other key model  
16 assumptions; and

17 (d) A process to document and justify any deviation from the  
18 standard assumptions.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.82 RCW  
20 to read as follows:

21 (1) The office of financial management shall design and implement  
22 a modified predesign process for any space request to lease, purchase,  
23 or build facilities that involve (a) the housing of new state programs,  
24 (b) a major expansion of existing state programs, or (c) the relocation  
25 of state agency programs. This includes the consolidation of multiple  
26 state agency tenants into one facility. The office of financial  
27 management shall define facilities that meet the criteria described in  
28 (a) and (b) of this subsection.

29 (2) State agencies shall submit modified predesigns to the office  
30 of financial management and the legislature. Modified predesigns must  
31 include a problem statement, an analysis of alternatives to address  
32 programmatic and space requirements, proposed locations, and a  
33 financial assessment. For proposed projects of twenty thousand gross  
34 square feet or less, the agency may provide a cost-benefit analysis,  
35 rather than a life-cycle cost analysis, as determined by the office of  
36 financial management.

1 (3) Projects that meet the capital requirements for predesign on  
2 major facility projects with an estimated project cost of five million  
3 dollars or more pursuant to chapter 43.88 RCW shall not be required to  
4 prepare a modified predesign.

5 (4) The office of financial management shall require state agencies  
6 to identify plans for major leased facilities as part of the ten-year  
7 capital budget plan. State agencies shall not enter into new or  
8 renewed leases of more than one million dollars per year unless such  
9 leases have been approved by the office of financial management except  
10 when the need for the lease is due to an unanticipated emergency. The  
11 regular termination date on an existing lease does not constitute an  
12 emergency. The department of general administration shall notify the  
13 office of financial management and the appropriate legislative fiscal  
14 committees if an emergency situation arises.

15 (5) For project proposals in which there are estimates of  
16 operational savings, the office of financial management shall require  
17 the agency or agencies involved to provide details including but not  
18 limited to fund sources and timelines.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.82 RCW  
20 to read as follows:

21 State agencies are prohibited from entering into lease agreements  
22 for privately owned buildings that are in the planning stage of  
23 development or under construction unless there is prior written  
24 approval by the director of the office of financial management.  
25 Approval of such leases shall not be delegated. Lease agreements  
26 described in this section must comply with section 4 of this act.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.82 RCW  
28 to read as follows:

29 The office of financial management shall:

30 (1) Work with the department of general administration and all  
31 other state agencies to determine the long-term facility needs of state  
32 government; and

33 (2) Develop and submit a six-year facility plan to the legislature  
34 by January 1st of every odd-numbered year, beginning January 1, 2009,  
35 that includes state agency space requirements and other pertinent data

1 necessary for cost-effective facility planning. The department of  
2 general administration shall assist with this effort as required by the  
3 office of financial management.

4 **Sec. 7.** RCW 43.82.150 and 1997 c 96 s 2 are each amended to read  
5 as follows:

6 (1) The office of financial management shall develop and maintain  
7 an inventory system to account for all owned or leased facilities  
8 utilized by state government. At a minimum, the inventory system must  
9 include the facility owner, location, type, condition, and size of each  
10 facility. In addition, for owned facilities, the inventory system must  
11 include the date and cost of original construction and the cost of any  
12 major remodeling or renovation. The inventory must be updated by June  
13 30<sup>th</sup> of each year. The office of financial management shall publish a  
14 report summarizing information contained in the inventory system for  
15 each agency by October 1<sup>st</sup> of each year, beginning in ~~((1997))~~ 2010 and  
16 shall submit this report to the appropriate fiscal committees of the  
17 legislature.

18 (2) All agencies, departments, boards, commissions, and  
19 institutions of the state of Washington shall provide to the office of  
20 financial management a complete inventory of owned and leased  
21 facilities by ~~((May 30, 1994))~~ September 1, 2010. The inventory must  
22 be updated and submitted to the office of financial management by ~~((May~~  
23 ~~30))~~ September 1<sup>st</sup> of each subsequent year. The inventories required  
24 under this subsection must be submitted in a standard format prescribed  
25 by the office of financial management.

26 (3) The office of financial management shall report to the  
27 legislature by September 1, 2008, on recommended improvements to the  
28 inventory system, redevelopment costs, and an implementation schedule  
29 for the redevelopment of the inventory system. The report shall also  
30 make recommendations on other improvements that will improve  
31 accountability and assist in the evaluation of budget requests and  
32 facility management by the governor and the legislature.

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

1       **Sec. 8.** RCW 43.82.010 and 2004 c 277 s 906 are each amended to  
2 read as follows:

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

15       (2) Except for real estate occupied by federal agencies, the  
16 director shall determine the location, size, and design of any real  
17 estate or improvements thereon acquired or held pursuant to subsection  
18 (1) of this section. Facilities acquired or held pursuant to this  
19 chapter, and any improvements thereon, shall conform to standards  
20 adopted by the director and approved by the office of financial  
21 management governing facility efficiency unless a specific exemption  
22 from such standards is provided by the director of general  
23 administration. The director of general administration shall report to  
24 the office of financial management and the appropriate committees of  
25 the legislature annually on any exemptions granted pursuant to this  
26 subsection.

27       (3) The director of general administration may fix the terms and  
28 conditions of each lease entered into under this chapter, except that  
29 no lease shall extend greater than twenty years in duration. The  
30 director of general administration may enter into a long-term lease  
31 greater than ten years in duration upon a determination by the director  
32 of the office of financial management that the long-term lease provides  
33 a more favorable rate than would otherwise be available, it appears to  
34 a substantial certainty that the facility is necessary for use by the  
35 state for the full length of the lease term, and the facility meets the  
36 standards adopted pursuant to subsection (2) of this section. The  
37 director of general administration may enter into a long-term lease  
38 greater than ten years in duration if an analysis shows that the life-

1 cycle cost of leasing the facility is less than the life-cycle cost of  
2 purchasing or constructing a facility in lieu of leasing the facility.  
3 (~~For the 2003-05 biennium, any lease entered into after April 1, 2004,~~  
4 ~~with a term of ten years or less shall not contain a nonappropriation~~  
5 ~~clause.~~)

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

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

34 (6) The director of general administration shall provide  
35 coordinated long-range planning services to identify and evaluate  
36 opportunities for collocating and consolidating state facilities. Upon  
37 the renewal of any lease, the inception of a new lease, or the purchase  
38 of a facility, the director of general administration shall determine

1 whether an opportunity exists for collocating the agency or agencies in  
2 a single facility with other agencies located in the same geographic  
3 area. If a collocation opportunity exists, the director of general  
4 administration shall consult with the affected state agencies and the  
5 office of financial management to evaluate the impact collocation would  
6 have on the cost and delivery of agency programs, including whether  
7 program delivery would be enhanced due to the centralization of  
8 services. The director of general administration, in consultation with  
9 the office of financial management, shall develop procedures for  
10 implementing collocation and consolidation of state facilities.

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

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

34 (9) In order to obtain maximum utilization of space, the director  
35 of general administration shall make space utilization studies, and  
36 shall establish standards for use of space by state agencies. Such  
37 studies shall include the identification of opportunities for



1 colocation and consolidation of state agency office and support  
2 facilities.

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

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

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

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

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

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

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

34 (14) Notwithstanding any provision in this chapter to the contrary,  
35 the department of general administration may negotiate ground leases  
36 for public lands on which property is to be acquired under a financing  
37 contract pursuant to chapter 39.94 RCW under terms approved by the  
38 state finance committee.

1       (15) The department of general administration shall report annually  
2 to the office of financial management and the appropriate fiscal  
3 committees of the legislature on facility leases executed for all state  
4 agencies for the preceding year, lease terms, and annual lease costs.  
5 The report must include leases executed under section 5 of this act and  
6 subsection (12) of this section.

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