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**HOUSE BILL 1163**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representative Stokesbary

AN ACT Relating to oversight and management of the state budgeting and expenditure process; amending RCW 43.88.110, 43.79.270, 43.79.280, and 43.79.260; adding new sections to chapter 43.88 RCW; adding a new chapter to Title 44 RCW; creating a new section; and recodifying RCW 43.79.270 and 43.79.280.

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

NEW SECTION. **Sec.**  INTENT. By constitutional design, Washington's citizen legislature meets in regular session only during specified periods, rather than year-round. The legislature finds that this design promotes democracy by ensuring that legislators remain citizens of the communities that they represent. By likewise constitutional design, the appropriation authority is vested in the legislature, on the basis that tax revenues must be deposited in the state treasury and that legislation is required to authorize expenditures of moneys in the state treasury. The legislature finds that the legislature has assigned certain budgeting and expenditure powers and duties to the executive branch in the budget and accounting act, chapter 43.88 RCW and related statutes, and that these tasks are appropriately vested in the executive branch as within the governor's duty to see that the laws are faithfully executed.

The legislature further finds that given the part-time design of our citizen legislature, it is appropriate to establish procedures for increased oversight of these delegations during the legislative interim. Given the crises facing the state and nation from COVID-19, as well as other unforeseeable but inevitable fiscal and practical challenges that the state will experience in the future, a process for legislative budget oversight will protect taxpayers and government alike.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Committee" means the joint legislative fiscal oversight committee created in section 3 of this act.

(2) "Current allotments" means the most recent quarterly allotment schedule approved by the office of financial management.

(3) "Estimated resources" means the total of beginning fund balances and forecasted revenues according to the most recent forecast of the economic and revenue forecast council, plus net transfers in and out that are not accounted for in the forecast but are required by the state Constitution or statute, including the enacted omnibus appropriations act.

(4) "Near-general fund/outlook" means the state general fund, the education legacy trust account, the opportunity pathways account, and the workforce education investment account.

(5) "State general fund" means the accounting entity consisting of all state taxes and other state revenues deposited in the general fund created in RCW 43.79.010, excluding federal revenues accounted for in the general fund—federal and revenues deposited in the general fund—local.

NEW SECTION. **Sec.**  LEGISLATIVE COMMITTEE ESTABLISHED TO OVERSEE BUDGET DEFICITS, ACROSS-THE-BOARD REDUCTIONS, AND UNANTICIPATED RECEIPTS. The joint legislative fiscal oversight committee is established.

(1) The purpose of the committee is to provide legislative oversight of the budgeting and expenditure process during periods when the legislature is not in session. The committee reviews budget deficit analyses under section 5 of this act and unanticipated receipts proposals under section 10 of this act.

(2) The committee consists of:

(a) Six members of the house of representatives, three from each of the largest caucuses, appointed by the speaker of the house of representatives, who must include the chair of the house appropriations committee or successor operating budget committee and the ranking minority member of that committee, and the chair of the house of representatives transportation committee and the ranking minority member of that committee; and

(b) Six members of the senate, three from each of the largest caucuses, appointed by the president of the senate, who must include the chair of the senate ways and means committee or successor operating budget committee and the ranking minority member of that committee, and the chair of the senate transportation committee and the ranking minority member of that committee.

(3) The committee is led by cochairs designated by the committee members from among its membership, one from the house of representatives and one from the senate. The cochairs may not be from the same political party. Either cochair may convene a meeting of the committee subject to the conditions set out in section 5 or 10 of this act.

(4) Staff support for the committee is provided by the senate committee services and the house of representatives office of program research.

(5) Due to the time-sensitive nature of committee business, remote participation in committee hearings by committee members is permitted to the extent that it can be technologically supported by legislative staff. When participating remotely via videoconference, teleconference, or other continuous means of audio communication, members are considered present for purposes of a quorum and voting.

NEW SECTION. **Sec.**  A new section is added to chapter 43.88 RCW to read as follows:

DEFINING AND ADDRESSING BUDGET DEFICIT OF THE CURRENT BUDGET BIENNIUM.

(1) After each regular forecast of the economic and revenue forecast council under RCW 82.33.020, the governor must conduct an analysis of the near-general fund/outlook to determine whether there is a cash deficit of the general fund as defined in RCW 43.88.050 for either fiscal year of the current biennium, or a near-general fund/outlook budget deficit of the current biennium, or both.

(2) A near-general fund/outlook budget deficit of the current biennium occurs when the total of current allotments and other projected disbursements from the near-general fund/outlook will exceed estimated total resources for the fiscal biennium. In calculating the budget deficit, the governor must:

(a) Exclude federal moneys that are received and appropriated as "general fund—federal" and "general fund—local;"

(b) Exclude other federal funding provided to the state, unless the funding is expressly provided to the state for the general support of state government or general state revenue replacement;

(c) Exclude other state accounts and reserves outside the state general fund, including but not limited to the budget stabilization account; and

(d) Rely on the most recent forecast of the economic and revenue forecast council.

(3) Within 15 days of each revenue forecast, the governor must report the results of the analysis to the joint legislative fiscal oversight committee created in section 3 of this act.

(4) If the governor's analysis projects a near-general fund/outlook budget deficit of the current biennium, the governor's analysis must include a proposed executive branch response to the deficit under the authority granted in this chapter.

(5) The definitions in section 2 of this act apply in this section.

NEW SECTION. **Sec.**  COMMITTEE HEARING AND RECOMMENDATION ON PROJECTED GENERAL FUND—STATE CURRENT BIENNIUM DEFICIT. (1) If the governor's analysis under section 4 of this act projects either a cash deficit of the state general fund under RCW 43.88.050 or a near-general fund/outlook budget deficit of the current biennium under section 4 of this act, then within 15 days of receiving the governor's analysis the committee must hold a public hearing on the projected deficit and the governor's proposed response.

(2) Within five days after the hearing the committee must provide a written recommendation to the governor on the proposed executive branch response. The committee may adopt a recommendation on behalf of the committee if seven members vote to do so. The response to a committee recommendation may also include a minority report. If members do not adopt a recommendation on behalf of the committee, the committee must transmit to the governor any recommendations submitted by individual committee members.

(3) Any member of the committee may initiate a declaratory judgment action under chapter 7.24 RCW to determine whether the governor is obligated to implement across-the-board reductions under this section and section 6 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.88 RCW to read as follows:

GOVERNOR'S DUTIES TO ADDRESS GFS CASH OR BUDGET DEFICIT WITH MODIFIED ACROSS-THE-BOARD REDUCTIONS.

(1) If the governor projects either a cash deficit of the general fund as defined in RCW 43.88.050 or a budget deficit of the current biennium for the near-general fund/outlook as provided in section 4 of this act, then within 15 days of the date by which the joint legislature fiscal oversight committee must present its recommendations on the governor's response under section 5 of this act, the governor must initiate across-the-board reductions of allotments of state general fund appropriations as provided in this section.

(2) The requirements of subsection (1) of this section do not apply if:

(a) Pursuant to a vote under section 5 of this act the committee has recommended that the governor not implement the reductions; or

(b) Pursuant to RCW 43.88.110, the legislature has authorized the liquidation of any cash deficit over multiple fiscal periods.

(3)(a) For a cash deficit in the general fund under RCW 43.88.050, the allotment reductions must be sufficient to liquidate the deficit in the current fiscal year.

(b) For a budget deficit of the near-general fund/outlook under section 4 of this act, the allotment reductions must be sufficient to liquidate the deficit in the current fiscal biennium.

(4) Allotment reductions must be uniform across allotments of state general fund appropriations except as specifically provided in this section.

(5) Allotments for the following purposes are exempt from reduction under this section:

(a) Basic education allocations to school districts under chapter 28A.150 RCW;

(b) State debt service payments; and

(c) The state's contributions to public pension systems, to the extent those contributions are necessary to maintain systematic funding.

(6) If the legislature in the omnibus operating appropriations act has specified different permissible levels of reduction for different appropriations categories pursuant to section 7 of this act, then the governor may implement allotment reductions of varying percentage. The governor may reduce allotments of these categories by varying percentage rates, according to the limits established in the appropriations act. However, the allotment reduction percentage must be uniform within each category. Where the legislature in the omnibus appropriations act has declared that a portion of an appropriation is provided solely for a specific purpose, then the allotment reduction percentage applies to the amount so provided, unless otherwise specified in the appropriations act.

NEW SECTION. **Sec.**  LEGISLATURE MAY CATEGORIZE STATE APPROPRIATIONS IN THE BUDGET BILL FOR PURPOSES OF VARYING ALLOTMENT REDUCTION PERCENTAGES. To facilitate implementation of budget reduction options under section 6 of this act by specifying relative budget priorities, the legislature in the omnibus operating appropriations act may establish reduction categories for each section containing an appropriation from the general fund and near-general fund/outlook. For each reduction category, the legislature may specify a maximum percentage for allotment reductions made under section 6 of this act. The maximum percentages established must allow for allotment reductions sufficient to liquidate deficits under section 6 of this act.

**Sec.**  RCW 43.88.110 and 2014 c 162 s 4 are each amended to read as follows:

ACROSS-THE-BOARD REDUCTIONS. This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds.

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

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

(3) Within forty-five days after the beginning of the fiscal period or within forty-five days after the governor signs the omnibus biennial appropriations act, whichever is later, all agencies shall submit to the governor a statement of proposed expenditures at such times and in such form as may be required by the governor.

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

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

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

(c) Comparisons of actual costs to estimated costs;

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

(e) Documentation of fund shifts between projects.

This data may be incorporated into the existing accounting system or into a separate project management system, as deemed appropriate by the office of financial management.

(5) The office of financial management, prior to approving allotments for major capital construction projects valued over five million dollars, with the exception of projects at institutions of higher education as defined in RCW 28B.10.016, which may be valued up to ten million dollars, shall institute procedures for reviewing such projects at the predesign stage that will reduce long-term costs and increase facility efficiency. The procedures shall include, but not be limited to, the following elements:

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

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

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

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

(7) If at any time during the fiscal period the governor projects a cash deficit in a particular fund or account, other than the general fund, as defined by RCW 43.88.050, the governor shall make across-the-board reductions in allotments for that particular fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods. Cash or budget deficits in the general fund are governed by sections 4 and 5 of this act.

(8) Except for the legislative and judicial branches and other agencies headed by elective officials, the governor shall review the statement of proposed operating expenditures for reasonableness and conformance with legislative intent. The governor may request corrections of proposed allotments submitted by the legislative and judicial branches and agencies headed by elective officials if those proposed allotments contain significant technical errors. Once the governor approves the proposed allotments, further revisions may at the request of the office of financial management or upon the agency's initiative be made on a quarterly basis and must be accompanied by an explanation of the reasons for significant changes. However, changes in appropriation level authorized by the legislature, changes required by across-the-board reductions mandated by the governor, changes caused by executive increases to spending authority, and changes caused by executive decreases to spending authority for failure to comply with the provisions of chapter 36.70A RCW may require additional revisions. Revisions shall not be made retroactively. However, the governor may assign to a reserve status any portion of an agency appropriation withheld as part of across-the-board reductions made by the governor and any portion of an agency appropriation conditioned on a contingent event by the appropriations act. The governor may remove these amounts from reserve status if the across-the-board reductions are subsequently modified or if the contingent event occurs. The director of financial management shall enter approved statements of proposed expenditures into the state budgeting, accounting, and reporting system within forty-five days after receipt of the proposed statements from the agencies. If an agency or the director of financial management is unable to meet these requirements, the director of financial management shall provide a timely explanation in writing to the legislative fiscal committees.

((~~(8)~~)) (9) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter. Within ninety days of the end of the fiscal year, all agencies shall submit to the director of financial management their final adjustments to close their books for the fiscal year. Prior to submitting fiscal data, written or oral, to committees of the legislature, it is the responsibility of the agency submitting the data to reconcile it with the budget and accounting data reported by the agency to the director of financial management.

((~~(9)~~)) (10) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees.

**Sec.**  RCW 43.79.270 and 2005 c 319 s 105 are each amended to read as follows:

UNANTICIPATED RECEIPTS—AGENCY REQUEST AND GUBERNATORIAL TRANSMISSION.

(1) Whenever any money, from the federal government, or from other nonstate sources, which was not anticipated in the operating or transportation budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended((~~: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received~~)). ((~~A~~)) Within five days of receipt by the governor, a copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative ((~~audit and review~~)) fiscal oversight committee ((~~and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.~~

~~(2) Notwithstanding subsection (1) of this section, whenever money from any source that was not anticipated in the transportation budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of a department, agency, board, or commission through which the expenditure must be made shall submit to the governor a statement, which may be in the form of a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. However, no expenditure may be made in excess of the actual amount received, and no money may be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated transportation fund or account in excess of appropriations provided by law that is based on the receipt of unanticipated revenues must be submitted, at a minimum, to the standing committees on transportation of the house and senate at the same time as it is transmitted to the governor.~~)) for review under section 10 of this act. When the agency transmits a proposal to the governor, it must submit the request to the house of representatives committee on appropriations and the senate committee on ways and means, if the proposed expenditure is from operating budget accounts or purposes or has implications for the operating budget, or the house of representatives and senate committees on transportation, if the expenditure is for transportation accounts or purposes or has implications for the transportation budget.

(2) Nothing in this section authorizes any agency to make any expenditure in excess of the amount actually received, or for any purpose other than the specific purpose for which the moneys were received.

NEW SECTION. **Sec.**  COMMITTEE REVIEW AND OVERSIGHT OF UNANTICIPATED RECEIPTS. (1) Within five days after the governor has transmitted to the committee an agency's request under RCW 43.79.270(1) (as recodified by this act) for an allotment revision, the governor must either submit to the committee his or her own proposal for recommended allotment revisions, or inform the committee that the agency's request stands as the governor's proposal.

(2) If the amount to be spent under the proposed allotment revision is less than $5,000,000 and the expenditure is not subject to subsection (3) of this section, then 15 days after the submittal to the committee the governor may issue the approved allotment revision under RCW 43.79.270 (as recodified by this act) unless both committee cochairs notify the governor of intent to hold a public hearing on the proposal under subsection (4) of this section.

(3) The requirements of subsection (4) of this section apply if:

(a) The amount to be spent under the proposed allotment revision exceeds $5,000,000; or

(b) Regardless of the amount of the individual proposed allotment revision, the cumulative total of proposed biennial expenditures to be spent through the unanticipated receipts process from the same federal or other nonstate funding source for the proposed allotment exceeds $25,000,000. For purposes of this subsection, "same federal funding source" includes a single congressional appropriation or a series of congressional appropriations that address substantially the same purpose or event.

(4)(a) Within five days of receipt of the governor's proposal for an allotment revision under subsection (1) of this section, either committee cochair may notify the governor of an intent to hold a public hearing on the governor's proposed expenditure.

(b) The hearing must take place within 15 days of receipt of the governor's proposal.

(c) The committee may reject the governor's proposed allotment revision if seven members vote to do so, in which case the delegation of authority to the governor under RCW 43.79.280 (as recodified by this act) is suspended and the governor must deposit any actually received federal or nonstate moneys in the appropriate account in the treasury, where they must remain in nonallotted status until appropriated. However, if the committee votes to reject the governor's proposed allotment revisions, the governor may submit a new or revised proposal for the same nonstate moneys, subject to the requirements of subsection (1) of this section. The committee's rejection may include recommendations to the governor on the resubmittal.

(d) If the committee votes to approve the proposed expenditure, or if a majority of the committee does not take action at the hearing on the proposed expenditure, or if no hearing is held under this subsection within 15 days of receipt of the governor's proposal, then the governor may approve the proposed allotment revision under RCW 43.79.280 (as recodified by this act).

(e) Committee recommendations transmitted to the governor may include a minority report. If a majority of the committee members do not adopt a recommendation on behalf of the committee, the committee must transmit to the governor any recommendations submitted by individual committee members.

**Sec.**  RCW 43.79.280 and 2009 c 549 s 5150 are each amended to read as follows:

UNANTICIPATED RECEIPTS—OPPORTUNITY FOR REVIEW AND COMMENTS.

(1) ((~~If~~)) Before the governor may approve a proposed allotment revision for operating or transportation budget purposes under RCW 43.79.270(1) (as recodified by this act) and subsection (2) of this section, the governor must provide the joint legislative fiscal oversight committee an opportunity for review and recommendation or rejection under section 10 of this act.

(2) After the opportunity for committee review under section 10 of this act, then if the governor approves such estimate in whole or part, he or she shall endorse on each copy of the statement his or her approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval and a statement of the amount approved for expenditure shall be transmitted simultaneously to the joint legislative ((~~audit and review~~)) fiscal oversight committee ((~~and also to the standing committee on ways and means of the house and senate of all executive approvals of proposals to expend money in excess of appropriations provided by law.~~

~~(2) If the governor approves an estimate with transportation funding implications, in whole or part, he or she shall endorse on each copy of the statement his or her approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval of a proposal to expend transportation money in excess of appropriations provided by law and a statement of the amount approved for expenditure must be transmitted simultaneously to the standing committees on transportation of the house and senate~~)). If the amount approved for expenditure is from operating budget accounts or purposes or has implications for the operating budget, then the governor must also transmit the approval to the house of representatives committee on appropriations and the senate committee on ways and means, or the house of representatives and senate committees on transportation, if the expenditure is for transportation accounts or purposes or has implications for the transportation budget.

**Sec.**  RCW 43.79.260 and 1973 c 144 s 1 are each amended to read as follows:

REJECTED UNANTICIPATED RECEIPTS MUST REMAIN IN UNALLOTTED STATUS.

(1) The governor is designated the agent of the state to accept and receive all funds from federal and other sources not otherwise provided for by law and to deposit them in the state treasury to the credit of the appropriate fund or account.

(2) If the joint legislative fiscal oversight committee recommends rejection of the governor's proposal to spend unanticipated federal or nonstate funds under RCW 43.79.280 (as recodified by this act) and section 10 of this act, then any funds so deposited in the treasury must remain in unallotted status until appropriated. This requirement does not apply if the committee subsequently approves or takes no action on a new submission for the same federal or nonstate funds that the committee initially rejected and the new submission for proposed allotment revisions otherwise complies with RCW 43.79.270 (as recodified by this act), 43.79.280 (as recodified by this act), and section 10 of this act.

NEW SECTION. **Sec.**  Sections 2, 3, 5, 7, and 10 of this act constitute a new chapter in Title 44 RCW.

NEW SECTION. **Sec.**  RCW 43.79.270 and 43.79.280 are each recodified as sections in chapter 43.88 RCW.

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