

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1023

Chapter 54, Laws of 2021

67th Legislature
2021 Regular Session

CAPITAL PROJECT PREDESIGN—EXCEPTIONS

EFFECTIVE DATE: July 25, 2021

Passed by the House February 26, 2021
Yeas 95 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 5, 2021
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Approved April 16, 2021 10:09 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1023** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 16, 2021

**Secretary of State
State of Washington**

HOUSE BILL 1023

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By Representatives Steele, Tharinger, Callan, and Young

Prefiled 12/14/20. Read first time 01/11/21. Referred to Committee on Capital Budget.

1 AN ACT Relating to predesign requirements and thresholds;
2 amending RCW 43.88.110, 43.82.035, and 43.88.0301; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that predesigns are
6 often done due to statutory requirements regardless of whether it is
7 necessary to the capital project. The legislature also finds that the
8 cost of unnecessary predesigns includes not only limited resources in
9 the capital budget, but an extended project timeline. Therefore, the
10 legislature intends to reduce the number of predesigns by raising the
11 cost threshold and adding exceptions to the predesign requirements.

12 **Sec. 2.** RCW 43.88.110 and 2014 c 162 s 4 are each amended to
13 read as follows:

14 This section sets forth the expenditure programs and the
15 allotment and reserve procedures to be followed by the executive
16 branch for public funds.

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

19 (2) The director of financial management shall provide all
20 agencies with a complete set of operating and capital instructions

1 for preparing a statement of proposed expenditures at least thirty
2 days before the beginning of a fiscal period. The set of instructions
3 need not include specific appropriation amounts for the agency.

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

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

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

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

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

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

19 (e) Documentation of fund shifts between projects.

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

23 (5) ~~((The))~~ Except as provided for under subsection (6) of this
24 section, the office of financial management, prior to approving
25 allotments for major capital construction projects valued over ~~((five~~
26 ~~million dollars, with the exception of projects at institutions of~~
27 ~~higher education as defined in RCW 28B.10.016, which may be valued up~~
28 ~~to))~~ ten million dollars, shall institute procedures for reviewing
29 such projects at the predesign stage that will reduce long-term costs
30 and increase facility efficiency. The procedures shall include, but
31 not be limited to, the following elements:

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

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

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

38 (6) The office of financial management may make an exception to
39 some or all of the predesign requirements in subsection (5) of this
40 section. The office of financial management shall report any

1 exception to the fiscal committees of the legislature and include:
2 (a) A description of the major capital project for which the
3 predesign waiver is made; (b) an explanation of the reason for the
4 waiver; and (c) a rough order of magnitude cost estimate for the
5 project's design and construction.

6 (7) In deliberations related to submitting an exception under
7 subsection (6) of this section, the office of financial management
8 shall consider the following factors:

9 (a) Whether there is any determination to be made regarding the
10 site of the project;

11 (b) Whether there is any determination to be made regarding
12 whether the project will involve renovation, new construction, or
13 both;

14 (c) Whether, within six years of submitting the request for
15 funding, the agency has completed, or initiated the construction of,
16 a substantially similar project;

17 (d) Whether there is any anticipated change to the project's
18 program or the services to be delivered at the facility;

19 (e) Whether the requesting agency indicates that the project may
20 not require some or all of the requirements in subsection (5) of this
21 section due to a lack of complexity; and

22 (f) Whether any other factors related to project complexity or
23 risk, as determined by the office of financial management, could
24 reduce the need for, or scope of, a predesign.

25 (8) If under subsection (6) of this section, some or all of the
26 predesign requirements under subsection (5) of this section are
27 waived, the office of financial management may instead propose a
28 professional project cost estimate instead of a request for predesign
29 funding.

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

39 ~~((7))~~ (10) If at any time during the fiscal period the governor
40 projects a cash deficit in a particular fund or account as defined by

1 RCW 43.88.050, the governor shall make across-the-board reductions in
2 allotments for that particular fund or account so as to prevent a
3 cash deficit, unless the legislature has directed the liquidation of
4 the cash deficit over one or more fiscal periods. Except for the
5 legislative and judicial branches and other agencies headed by
6 elective officials, the governor shall review the statement of
7 proposed operating expenditures for reasonableness and conformance
8 with legislative intent. The governor may request corrections of
9 proposed allotments submitted by the legislative and judicial
10 branches and agencies headed by elective officials if those proposed
11 allotments contain significant technical errors. Once the governor
12 approves the proposed allotments, further revisions may at the
13 request of the office of financial management or upon the agency's
14 initiative be made on a quarterly basis and must be accompanied by an
15 explanation of the reasons for significant changes. However, changes
16 in appropriation level authorized by the legislature, changes
17 required by across-the-board reductions mandated by the governor,
18 changes caused by executive increases to spending authority, and
19 changes caused by executive decreases to spending authority for
20 failure to comply with the provisions of chapter 36.70A RCW may
21 require additional revisions. Revisions shall not be made
22 retroactively. However, the governor may assign to a reserve status
23 any portion of an agency appropriation withheld as part of across-
24 the-board reductions made by the governor and any portion of an
25 agency appropriation conditioned on a contingent event by the
26 appropriations act. The governor may remove these amounts from
27 reserve status if the across-the-board reductions are subsequently
28 modified or if the contingent event occurs. The director of financial
29 management shall enter approved statements of proposed expenditures
30 into the state budgeting, accounting, and reporting system within
31 forty-five days after receipt of the proposed statements from the
32 agencies. If an agency or the director of financial management is
33 unable to meet these requirements, the director of financial
34 management shall provide a timely explanation in writing to the
35 legislative fiscal committees.

36 ~~((+8))~~ (11) It is expressly provided that all agencies shall be
37 required to maintain accounting records and to report thereon in the
38 manner prescribed in this chapter and under the regulations issued
39 pursuant to this chapter. Within ninety days of the end of the fiscal
40 year, all agencies shall submit to the director of financial

1 management their final adjustments to close their books for the
2 fiscal year. Prior to submitting fiscal data, written or oral, to
3 committees of the legislature, it is the responsibility of the agency
4 submitting the data to reconcile it with the budget and accounting
5 data reported by the agency to the director of financial management.

6 ~~((9))~~ (12) The director of financial management may exempt
7 certain public funds from the allotment controls established under
8 this chapter if it is not practical or necessary to allot the funds.
9 Allotment control exemptions expire at the end of the fiscal biennium
10 for which they are granted. The director of financial management
11 shall report any exemptions granted under this subsection to the
12 legislative fiscal committees.

13 **Sec. 3.** RCW 43.82.035 and 2015 c 225 s 75 are each amended to
14 read as follows:

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

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

31 (3) Projects that meet the capital requirements for predesign on
32 major facility projects with an estimated project cost of ~~((five))~~ 10
33 million dollars or more pursuant to chapter 43.88 RCW shall not be
34 required to prepare a modified predesign.

35 (4) The office of financial management shall require state
36 agencies to identify plans for major leased facilities as part of the
37 ten-year capital budget plan. State agencies shall not enter into new
38 or renewed leases of more than one million dollars per year unless
39 such leases have been approved by the office of financial management

1 except when the need for the lease is due to an unanticipated
2 emergency. The regular termination date on an existing lease does not
3 constitute an emergency. The department of enterprise services shall
4 notify the office of financial management and the appropriate
5 legislative fiscal committees if an emergency situation arises.

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

10 **Sec. 4.** RCW 43.88.0301 and 2017 3rd sp.s. c 25 s 2 are each
11 amended to read as follows:

12 (1) The office of financial management must include in its
13 capital budget instructions, beginning with its instructions for the
14 2003-05 capital budget, a request for "yes" or "no" answers for the
15 following additional informational questions from capital budget
16 applicants for all proposed major capital construction projects
17 valued over (~~five~~) 10 million dollars and required to complete a
18 predesign:

19 (a) For proposed capital projects identified in this subsection
20 that are located in or serving city or county planning under RCW
21 36.70A.040:

22 (i) Whether the proposed capital project is identified in the
23 host city or county comprehensive plan, including the capital
24 facility plan, and implementing rules adopted under chapter 36.70A
25 RCW;

26 (ii) Whether the proposed capital project is located within an
27 adopted urban growth area:

28 (A) If at all located within an adopted urban growth area
29 boundary, whether a project facilitates, accommodates, or attracts
30 planned population and employment growth;

31 (B) If at all located outside an urban growth area boundary,
32 whether the proposed capital project may create pressures for
33 additional development;

34 (b) For proposed capital projects identified in this subsection
35 that are requesting state funding:

36 (i) Whether there was regional coordination during project
37 development;

38 (ii) Whether local and additional funds were leveraged;

1 (iii) Whether environmental outcomes and the reduction of adverse
2 environmental impacts were examined.

3 (2) For projects subject to subsection (1) of this section, the
4 office of financial management shall request the required information
5 be provided during the predesign process of major capital
6 construction projects to reduce long-term costs and increase process
7 efficiency.

8 (3) The office of financial management, in fulfilling its duties
9 under RCW 43.88.030(~~(5)~~) (6) to create a capital budget document,
10 must take into account information gathered under subsections (1) and
11 (2) of this section in an effort to promote state capital facility
12 expenditures that minimize unplanned or uncoordinated infrastructure
13 and development costs, support economic and quality of life benefits
14 for existing communities, and support local government planning
15 efforts.

16 (4) The office of community development must provide staff
17 support to the office of financial management and affected capital
18 budget applicants to help collect data required by subsections (1)
19 and (2) of this section.

Passed by the House February 26, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

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