
SUBSTITUTE SENATE BILL 5891

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hill and Hargrove)

READ FIRST TIME 04/05/13.

1 AN ACT Relating to state technology expenditures; amending RCW
2 41.06.142, 43.41A.075, 43.41A.025, 39.26.100, 43.41A.010, and
3 43.88.092; adding a new section to chapter 43.41 RCW; and creating new
4 sections.

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

6 **Sec. 1.** RCW 41.06.142 and 2011 1st sp.s. c 43 s 408 are each
7 amended to read as follows:

8 (1) Any department, agency, or institution of higher education may
9 purchase services, including services that have been customarily and
10 historically provided by employees in the classified service under this
11 chapter, by contracting with individuals, nonprofit organizations,
12 businesses, employee business units, or other entities if the following
13 criteria are met:

14 (a) The invitation for bid or request for proposal contains
15 measurable standards for the performance of the contract;

16 (b) Employees in the classified service whose positions or work
17 would be displaced by the contract are provided an opportunity to offer
18 alternatives to purchasing services by contract and, if these

1 alternatives are not accepted, compete for the contract under
2 competitive contracting procedures in subsection (4) of this section;

3 (c) The contract with an entity other than an employee business
4 unit includes a provision requiring the entity to consider employment
5 of state employees who may be displaced by the contract;

6 (d) The department, agency, or institution of higher education has
7 established a contract monitoring process to measure contract
8 performance, costs, service delivery quality, and other contract
9 standards, and to cancel contracts that do not meet those standards;
10 and

11 (e) The department, agency, or institution of higher education has
12 determined that the contract results in savings or efficiency
13 improvements. The contracting agency must consider the consequences
14 and potential mitigation of improper or failed performance by the
15 contractor.

16 (2) Any provision contrary to or in conflict with this section in
17 any collective bargaining agreement in effect on July 1, 2005, is not
18 effective beyond the expiration date of the agreement.

19 (3) Contracting for services that is expressly mandated by the
20 legislature or was authorized by law prior to July 1, 2005, including
21 contracts and agreements between public entities, shall not be subject
22 to the processes set forth in subsections (1), (4), and (5) of this
23 section.

24 (4) Competitive contracting shall be implemented as follows:

25 (a) At least ninety days prior to the date the contracting agency
26 requests bids from private entities for a contract for services
27 provided by classified employees, the contracting agency shall notify
28 the classified employees whose positions or work would be displaced by
29 the contract. The employees shall have sixty days from the date of
30 notification to offer alternatives to purchasing services by contract,
31 and the agency shall consider the alternatives before requesting bids.

32 (b) If the employees decide to compete for the contract, they shall
33 notify the contracting agency of their decision. Employees must form
34 one or more employee business units for the purpose of submitting a bid
35 or bids to perform the services.

36 (c) The department of enterprise services, with the advice and
37 assistance of the office of financial management, shall develop and

1 make available to employee business units training in the bidding
2 process and general bid preparation.

3 (d) The director of enterprise services, with the advice and
4 assistance of the office of financial management, shall, by rule,
5 establish procedures to ensure that bids are submitted and evaluated in
6 a fair and objective manner and that there exists a competitive market
7 for the service. Such rules shall include, but not be limited to: (i)
8 Prohibitions against participation in the bid evaluation process by
9 employees who prepared the business unit's bid or who perform any of
10 the services to be contracted; (ii) provisions to ensure no bidder
11 receives an advantage over other bidders and that bid requirements are
12 applied equitably to all parties; and (iii) procedures that require the
13 contracting agency to receive complaints regarding the bidding process
14 and to consider them before awarding the contract. Appeal of an
15 agency's actions under this subsection is an adjudicative proceeding
16 and subject to the applicable provisions of chapter 34.05 RCW, the
17 administrative procedure act, with the final decision to be rendered by
18 an administrative law judge assigned under chapter 34.12 RCW.

19 (e) An employee business unit's bid must include the fully
20 allocated costs of the service, including the cost of the employees'
21 salaries and benefits, space, equipment, materials, and other costs
22 necessary to perform the function. An employee business unit's cost
23 shall not include the state's indirect overhead costs unless those
24 costs can be attributed directly to the function in question and would
25 not exist if that function were not performed in state service.

26 (f) A department, agency, or institution of higher education may
27 contract with the department of enterprise services to conduct the
28 bidding process.

29 (5) As used in this section:

30 (a) "Employee business unit" means a group of employees who perform
31 services to be contracted under this section and who submit a bid for
32 the performance of those services under subsection (4) of this section.

33 (b) "Indirect overhead costs" means the pro rata share of existing
34 agency administrative salaries and benefits, and rent, equipment costs,
35 utilities, and materials associated with those administrative
36 functions.

37 (c) "Competitive contracting" means the process by which classified

1 employees of a department, agency, or institution of higher education
2 compete with businesses, individuals, nonprofit organizations, or other
3 entities for contracts authorized by subsection (1) of this section.

4 (6) The processes set forth in subsections (1), (4), and (5) of
5 this section do not apply to:

6 (a) RCW 74.13.031(~~(+5)~~) (6);

7 (b) The acquisition of printing services by a state agency; and

8 (c) Contracting for services or activities by the department of
9 enterprise services under RCW 43.19.008 and the department may continue
10 to contract for such services and activities after June 30, 2018.

11 (7) The processes set forth in subsections (1), (4), and (5) of
12 this section do not apply to the consolidated technology services
13 agency and the department of enterprise services when contracting for
14 services, equipment, or activities as follows:

15 (a) Contracting for services, equipment, and activities that are
16 necessary to establish, operate, or manage the state data center,
17 including architecture, design, engineering, installation, and
18 operation of the facility that are approved by the technology services
19 board created in RCW 43.41A.070.

20 (b) Contracting for services and activities recommended by the
21 chief information officer through a business plan and approved by the
22 technology services board created in RCW 43.41A.070. For the
23 department of enterprise services, contracting that may be recommended
24 by the chief information officer and approved by the technology
25 services board is limited to services and activities that support
26 enterprise technology applications.

27 **Sec. 2.** RCW 43.41A.075 and 2011 1st sp.s. c 43 s 716 are each
28 amended to read as follows:

29 The board shall have the following powers and duties related to
30 information services:

31 (1) To review and approve standards and procedures, developed by
32 the office of the chief information officer, governing the acquisition
33 and disposition of equipment, proprietary software, and purchased
34 services, licensing of the radio spectrum by or on behalf of state
35 agencies, and confidentiality of computerized data;

36 (2) To review and approve statewide or interagency technical

1 policies, standards, and procedures developed by the office of the
2 chief information officer;

3 (3) To review, approve, and provide oversight of major information
4 technology projects to ensure that no major information technology
5 project proposed by a state agency is approved or authorized funding by
6 the board without consideration of the technical and financial business
7 case for the project, including a review of:

8 (a) The total cost of ownership across the life of the project;

9 (b) All major technical options and alternatives analyzed, and
10 reviewed, if necessary, by independent technical sources; and

11 (c) Whether the project is technically and financially justifiable
12 when compared against the state's enterprise-based strategy, long-term
13 technology trends, and existing or potential partnerships with private
14 providers or vendors;

15 (4) To review and approve standards and common specifications for
16 new or expanded telecommunications networks proposed by agencies,
17 public postsecondary education institutions, educational service
18 districts, or statewide or regional providers of K-12 information
19 technology services, and to assure the cost-effective development and
20 incremental implementation of a statewide video telecommunications
21 system to serve: Public schools; educational service districts;
22 vocational-technical institutes; community colleges; colleges and
23 universities; state and local government; and the general public
24 through public affairs programming;

25 (5) To develop a policy to determine whether a proposed project,
26 product, or service should undergo an independent technical and
27 financial analysis prior to submitting a request to the office of
28 financial management for the inclusion in any proposed operating,
29 capital, or transportation budget;

30 (6) To approve contracting for services and activities under RCW
31 41.06.142(7) for the consolidated technology service agency and the
32 department of enterprise services. To approve any service or activity
33 to be contracted under RCW 41.06.142(7)(b), the board must also review
34 the proposed business plan and recommendation submitted by the office;

35 (7) To consider, on an ongoing basis, ways to promote strategic
36 investments in enterprise-level information technology projects that
37 will result in service improvements and cost efficiency;

1 (8) To provide a forum to solicit external expertise and
2 perspective on developments in information technology, enterprise
3 architecture, standards, and policy development; and

4 (9) To provide a forum where ideas and issues related to
5 information technology plans, policies, and standards can be reviewed.

6 **Sec. 3.** RCW 43.41A.025 and 2011 1st sp.s. c 43 s 706 are each
7 amended to read as follows:

8 (1) The chief information officer shall establish standards and
9 policies to govern information technology in the state of Washington.

10 (2) The office shall have the following powers and duties related
11 to information services:

12 (a) To develop statewide standards and policies governing the
13 acquisition and disposition of equipment, software, and personal and
14 purchased services, licensing of the radio spectrum by or on behalf of
15 state agencies, and confidentiality of computerized data;

16 (b) To develop statewide or interagency technical policies,
17 standards, and procedures;

18 (c) To review and approve standards and common specifications for
19 new or expanded telecommunications networks proposed by agencies,
20 public postsecondary education institutions, educational service
21 districts, or statewide or regional providers of K-12 information
22 technology services;

23 (d) To develop or approve a detailed business plan for any service
24 or activity to be contracted under RCW 41.06.142(7)(b) by the
25 consolidated technology services agency or department of enterprise
26 services;

27 (e) To provide direction concerning strategic planning goals and
28 objectives for the state. The office shall seek input from the
29 legislature and the judiciary; (~~and~~)

30 (f) To establish policies for the periodic review by the office of
31 agency performance which may include but are not limited to analysis
32 of:

33 (i) Planning, management, control, and use of information services;

34 (ii) Training and education; and

35 (iii) Project management;

36 (g) To coordinate with state agencies with an annual information
37 technology expenditure that exceeds ten million dollars to implement a

1 technology business management program to identify opportunities for
2 savings and efficiencies in information technology expenditures and to
3 monitor ongoing financial performance of technology investments; and

4 (h) In conjunction with the consolidated technology services
5 agency, to develop statewide standards for purchases of technology
6 networking equipment and services.

7 (3) Statewide technical standards to promote and facilitate
8 electronic information sharing and access are an essential component of
9 acceptable and reliable public access service and complement content-
10 related standards designed to meet those goals. The office shall:

11 (a) Establish technical standards to facilitate electronic access
12 to government information and interoperability of information systems,
13 including wireless communications systems; and

14 (b) Require agencies to include an evaluation of electronic public
15 access needs when planning new information systems or major upgrades of
16 systems.

17 In developing these standards, the office is encouraged to include
18 the state library, state archives, and appropriate representatives of
19 state and local government.

20 (4) The office shall perform other matters and things necessary to
21 carry out the purposes and provisions of this chapter.

22 **Sec. 4.** RCW 39.26.100 and 2012 c 224 s 11 are each amended to read
23 as follows:

24 (1) The provisions of this chapter do not apply in any manner to
25 the operation of the state legislature except as requested by the
26 legislature.

27 (2) The provisions of this chapter do not apply to the contracting
28 for services, equipment, and activities that are necessary to
29 establish, operate, or manage the state data center, including
30 architecture, design, engineering, installation, and operation of the
31 facility, that are approved by the technology services board or the
32 acquisition of proprietary software, equipment, and information
33 technology services necessary for or part of the provision of services
34 offered by the consolidated technology services agency.

35 (3) Primary authority for the purchase of specialized equipment,
36 and instructional and research material, for their own use rests with
37 the institutions of higher education as defined in RCW 28B.10.016.

1 (4) Universities operating hospitals with approval from the
2 director, as the agent for state hospitals as defined in RCW 72.23.010,
3 and for health care programs provided in state correctional
4 institutions as defined in RCW 72.65.010(3) and veterans' institutions
5 as defined in RCW 72.36.010 and 72.36.070, may make purchases for
6 hospital operation by participating in contracts for materials,
7 supplies, and equipment entered into by nonprofit cooperative hospital
8 group purchasing organizations if documented to be more cost-effective.

9 (5) Primary authority for the purchase of materials, supplies, and
10 equipment, for resale to other than public agencies, rests with the
11 state agency concerned.

12 (6) The authority for the purchase of insurance and bonds rests
13 with the risk manager under RCW 43.19.769, except for institutions of
14 higher education that choose to exercise independent purchasing
15 authority under RCW 28B.10.029.

16 (7) The authority to purchase interpreter services and interpreter
17 brokerage services on behalf of limited-English speaking or sensory-
18 impaired applicants and recipients of public assistance rests with the
19 department of social and health services and the health care authority.

20 (8) The provisions of this chapter do not apply to information
21 technology purchases by state agencies, other than institutions of
22 higher education and agencies of the judicial branch, if (a) the
23 purchase is less than one hundred thousand dollars, (b) the initial
24 purchase is approved by the chief information officer of the state, and
25 (c) the agency director and the chief information officer of the state
26 jointly prepare a public document providing a detailed justification
27 for the expenditure.

28 **Sec. 5.** RCW 43.41A.010 and 2011 1st sp.s. c 43 s 702 are each
29 amended to read as follows:

30 (1) The office of the chief information officer is created within
31 the office of financial management.

32 (2) Powers, duties, and functions assigned to the department of
33 information services as specified in this chapter shall be transferred
34 to the office of chief information officer as provided in this chapter.

35 (3) The primary duties of the office are:

36 (a) To prepare and lead the implementation of a strategic direction

1 and enterprise architecture for information technology for state
2 government;

3 (b) To enable the standardization and consolidation of information
4 technology infrastructure across all state agencies to support
5 enterprise-based system development and improve and maintain service
6 delivery;

7 (c) To establish standards and policies for the consistent and
8 efficient operation of information technology services throughout state
9 government;

10 (d) To establish statewide enterprise architecture that will serve
11 as the organizing standard for information technology for state
12 agencies;

13 (e) ~~((+Tø+))~~ To educate and inform state managers and policymakers
14 on technological developments, industry trends and best practices,
15 industry benchmarks that strengthen decision making and professional
16 development, and industry understanding for public managers and
17 decision makers.

18 (4) In the case of institutions of higher education, the powers of
19 the office and the provisions of this chapter apply to business and
20 administrative applications but do not apply to (a) academic and
21 research applications; and (b) medical, clinical, and health care
22 applications, including the business and administrative applications
23 for such operations. However, institutions of higher education must
24 disclose to the office any proposed academic applications that are
25 enterprise-wide in nature relative to the needs and interests of other
26 institutions of higher education. Institutions of higher education
27 shall provide to the chief information officer sufficient data and
28 information on proposed expenditures on business and administrative
29 applications to permit the chief information officer to evaluate the
30 proposed expenditures pursuant to RCW 43.88.092(3).

31 (5) The legislature and the judiciary, which are constitutionally
32 recognized as separate branches of government, are strongly encouraged
33 to coordinate with the office and participate in shared services
34 initiatives and the development of enterprise-based strategies, where
35 appropriate. Legislative and judicial agencies of the state shall
36 submit to the chief information officer sufficient information on
37 proposed information technology expenditures to allow the chief

1 information officer to evaluate the proposed expenditures on an
2 advisory basis.

3 **Sec. 6.** RCW 43.88.092 and 2011 1st sp.s. c 43 s 733 are each
4 amended to read as follows:

5 (1) As part of the biennial budget process, the office of financial
6 management shall collect from agencies, and agencies shall provide,
7 information to produce reports, summaries, and budget detail sufficient
8 to allow review, analysis, and documentation of all current and
9 proposed expenditures for information technology by state agencies.
10 Information technology budget detail must be included as part of the
11 budget submittal documentation required pursuant to RCW 43.88.030.

12 (2) The office of financial management must collect, and present as
13 part of the biennial budget documentation, information for all existing
14 information technology projects as defined by ~~((information))~~
15 technology services board policy. The office of financial management
16 must work with the office of the chief information officer to maximize
17 the ability to draw this information from the information technology
18 portfolio management data collected by the ~~((department of information~~
19 ~~services pursuant to RCW 43.105.170))~~ office of the chief information
20 officer. Connecting project information collected through the
21 portfolio management process with financial data developed under
22 subsection (1) of this section provides transparency regarding
23 expenditure data for existing technology projects.

24 (3) The chief information officer shall evaluate proposed
25 information technology expenditures and establish priority ranking
26 categories of the proposals. No more than one-third of the proposed
27 expenditures shall be ranked in the highest priority category.

28 (4) The biennial budget documentation submitted by the office of
29 financial management pursuant to RCW 43.88.030 must include an
30 information technology plan and a technology budget for the state
31 identifying current baseline funding for information technology,
32 proposed and ongoing major information technology projects, and their
33 associated costs. This plan and technology budget must be presented
34 using a method similar to the capital budget, identifying project costs
35 through stages of the project and across fiscal periods and biennia
36 from project initiation to implementation. This information must be

1 submitted electronically, in a format to be determined by the office of
2 financial management and the legislative evaluation and accountability
3 program committee.

4 ~~((+4))~~ (5) The office of financial management shall also institute
5 a method of accounting for information technology-related expenditures,
6 including creating common definitions for what constitutes an
7 information technology investment.

8 ~~((+5))~~ (6) For the purposes of this section, "major information
9 technology projects" includes projects that have a significant
10 anticipated cost, complexity, or are of statewide significance, such as
11 enterprise-level solutions, enterprise resource planning, and shared
12 services initiatives.

13 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.41 RCW
14 to read as follows:

15 (1) Subject to funds appropriated for this specific purpose, the
16 office of financial management may establish an information technology
17 investment pool and may enter into financial contracts for the
18 acquisition of information technology projects for state agencies.
19 Information technology projects funded under this section must meet the
20 following requirements:

21 (a) The project begins or continues replacement of information
22 technology systems with modern and more efficient information
23 technology systems;

24 (b) The project improves the ability of an agency to recover from
25 major disaster; or

26 (c) The project provides future savings and efficiencies for an
27 agency through reduced operating costs, improved customer service, or
28 increased revenue collections.

29 (2) Preference for project approval under this section must be
30 given to an agency that has prior project approval from the office of
31 the chief information officer and an approved business plan, and the
32 primary hurdle to project funding is the lack of funding capacity.

33 (3) The office of financial management with assistance from the
34 office of the chief information officer shall report to the governor
35 and the fiscal committees of the legislature by November 1st of each
36 year on the status of distributions and expenditures on information

1 technology projects and improved statewide or agency performance
2 results achieved by project funding.

3 NEW SECTION. **Sec. 8.** The consolidated technology services agency,
4 in consultation with the office of the chief information officer, shall
5 review and assess the current state telecommunications and information
6 services network model with the objective of agency network
7 consolidation into consolidated technology services. The assessment
8 must include a review of cost management, state and federal regulatory
9 issues, development and feasibility of each option, and a migration
10 strategy and implementation plan for each option. The report is due to
11 the office of financial management and the fiscal committees of the
12 legislature by September 30, 2013.

13 NEW SECTION. **Sec. 9.** The office of the chief information officer
14 must prepare a report that inventories legacy information technology
15 systems of the executive branch, both enterprise-wide and agency
16 specific, and develop a prioritized plan for the modernization and
17 funding of these systems. The report is due to the office of financial
18 management and the fiscal committees of the legislature by September 1,
19 2014.

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