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HOUSE BILL 2796

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Miloscia and Green

Read first time 02/23/12. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to government performance; amending RCW 42.52.320,  
2 43.17.390, 82.08.020, 82.12.0201, 43.06.335, 43.17.390, 43.185C.210,  
3 43.330.080, and 43.330.084; adding new sections to chapter 42.52 RCW;  
4 adding new sections to chapter 43.09 RCW; adding a new section to  
5 chapter 44.04 RCW; adding a new section to chapter 44.28 RCW; and  
6 making appropriations.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.52 RCW  
9 to read as follows:

10 It is the intent of the legislature to improve the ethical and  
11 moral standards, culture, and conduct of all elected senior leadership  
12 and staff to become the highest in the nation. In addition, the  
13 legislature intends to increase public confidence in the state's  
14 governmental processes, in the legislature, and the leadership of its  
15 public agencies to be the highest in the nation. The legislature also  
16 intends to improve ethics and integrity education and training programs  
17 and to make the ethics and integrity of all clients, partners, and  
18 vendors to be the best in the nation. With this work, the legislature,

1 elected officials, senior executive leadership, and staff will be  
2 recognized as state and national leaders in ethics and integrity.

3 **Sec. 2.** RCW 42.52.320 and 1994 c 154 s 202 are each amended to  
4 read as follows:

5 (1) The legislative ethics board shall enforce this chapter and  
6 rules adopted under it with respect to members and employees of the  
7 legislature.

8 (2) The legislative ethics board shall:

9 (a) Develop educational materials and training with regard to  
10 legislative ethics for legislators and legislative employees;

11 (b) Issue advisory opinions;

12 (c) Adopt rules or policies governing the conduct of business by  
13 the board, and adopt rules defining working hours for purposes of RCW  
14 42.52.180 and where otherwise authorized under chapter 154, Laws of  
15 1994;

16 (d) Investigate, hear, and determine complaints by any person or on  
17 its own motion;

18 (e) Impose sanctions including reprimands and monetary penalties;

19 (f) Recommend suspension or removal to the appropriate legislative  
20 entity, or recommend prosecution to the appropriate authority; ~~((and))~~

21 (g) Establish criteria regarding the levels of civil penalties  
22 appropriate for different types of violations of this chapter and rules  
23 adopted under it;

24 (h) Develop a legislative plan to provide overall direction and  
25 accountability for legislators and staff;

26 (i) Coordinate and work with the executive ethics board and the  
27 commission on judicial conduct;

28 (j) Assess and evaluate the house of representatives' and the  
29 senate's ethical culture through employee and stakeholder surveys and  
30 publish an annual report that shall be made public; and

31 (k) Solicit outside evaluations, studies, and recommendations for  
32 improvements from academics, nonprofit organizations, the public  
33 disclosure commission, and other entities with expertise in ethics,  
34 integrity, and the public sector.

35 (3) The board may:

36 (a) Issue subpoenas for the attendance and testimony of witnesses

1 and the production of documentary evidence relating to any matter under  
2 examination by the board or involved in any hearing;

3 (b) Administer oaths and affirmations;

4 (c) Examine witnesses; and

5 (d) Receive evidence.

6 (4) Subject to RCW 42.52.540, the board has jurisdiction over any  
7 alleged violation that occurred before January 1, 1995, and that was  
8 within the jurisdiction of any of the boards established under chapter  
9 44.60 RCW. The board's jurisdiction with respect to any such alleged  
10 violation shall be based on the statutes and rules in effect at  
11 (~~the~~) the time of the violation.

12 NEW SECTION. Sec. 3. A new section is added to chapter 42.52 RCW  
13 to read as follows:

14 The governor's integrity and ethics award program is created, to be  
15 administered by the executive ethics board. Annually, the executive  
16 ethics board shall recognize local governments, private sectors  
17 businesses, educational institutions, and nonprofit organizations with  
18 the best ethics and integrity program.

19 NEW SECTION. Sec. 4. A new section is added to chapter 42.52 RCW  
20 to read as follows:

21 All state officers and employees must attend annual ethics and  
22 integrity training. Failure to fulfill this annual obligations shall  
23 result in the forfeiture of all compensation related to a person's  
24 office or employment.

25 NEW SECTION. Sec. 5. A new section is added to chapter 42.52 RCW  
26 to read as follows:

27 (1) Each head of agency must develop an annual ethics and integrity  
28 plan for leadership and staff of the agency. The plan must be updated  
29 annually, be made available to the public, and:

30 (a) Include project management, targets, and timelines;

31 (b) Integrate with other accountability, ethics, and integrity  
32 programs;

33 (c) Identify national and international best practices and superior  
34 results;

35 (d) Identify opportunities for improvement and barriers to success;

1 (e) Develop public-private partnerships where appropriate; and  
2 (f) Provide an annual report to the legislature that includes  
3 recommendations for improving applicable statutes and existing programs  
4 and results.

5 (2) In addition, each head of agency must create an independent  
6 advisory committee of employees and citizens.

7 (3) The governor must perform a government accountability and  
8 performance review on a quarterly basis.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.09 RCW  
10 to read as follows:

11 The state auditor must:

12 (1) Develop a governor's integrity and ethics award program,  
13 including criteria for determining annual award recipients;

14 (2) Develop a statewide plan to provide overall direction and  
15 accountability in all executive branch agencies and statewide elected  
16 offices;

17 (3) Coordinate and work with the commission on judicial conduct and  
18 the legislative ethics board;

19 (4) Assess and evaluate each agency's ethical culture through  
20 employee and stakeholder surveys and publish an annual report on the  
21 results to the public; and

22 (5) Solicit outside evaluations, studies, and recommendations for  
23 improvements from academics, nonprofit organizations, the public  
24 disclosure commission, or other entities with expertise in ethics,  
25 integrity, and the public sector.

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.09 RCW  
27 to read as follows:

28 The auditor shall establish an annual assessment and performance  
29 grading program. The program shall consist of conducting annual  
30 performance assessments and grading state agency performance. Areas to  
31 be assessed shall include quality management, productivity, fiscal  
32 efficiency, program effectiveness, contract management and oversight,  
33 internal audit, internal and external customer satisfaction, statutory  
34 and regulatory compliance, and technology systems and data management  
35 services. As part of this program, the auditor shall:

1 (1) Consult with and seek input from elected officials, state  
2 employees including front-line employees, and professionals with a  
3 background in performance management for establishing the grading  
4 standards. In developing the criteria, the auditor shall consider  
5 already developed best practices and audit criteria used by government  
6 or nongovernment organizations. Before the assessment, the agencies  
7 must be given the criteria for the assessment and the standards for  
8 grading;

9 (2) Contract or partner with public or private entities that have  
10 expertise in either public sector reviews or technical expertise, or  
11 both, in individual assessment areas to perform the assessments and  
12 grading of all state agencies. The auditor may contract or partner  
13 with more than one entity for different assessment areas; and

14 (3) Submit the results of the assessment and grading program to the  
15 governor, the office of financial management, appropriate legislative  
16 committees, and the public by December 15th of each year. The results  
17 of the annual assessments and performance grading must be posted on the  
18 internet.

19 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.09 RCW  
20 to read as follows:

21 Beginning January 1, 2013, and every four years thereafter, the  
22 state auditor must audit the executive ethics board.

23 **Sec. 9.** RCW 43.17.390 and 2009 c 564 s 931 are each amended to  
24 read as follows:

25 (1) Starting in 2012, and at least once every three years  
26 thereafter, each agency shall apply to the Washington (~~(state quality)~~)  
27 performance audit award(~~(, or similar organization,)~~) using Baldrige  
28 criteria for an independent assessment of its quality management,  
29 accountability, and performance system. The assessment shall evaluate  
30 the effectiveness of all elements of its management, accountability,  
31 and performance system, including: Leadership, strategic planning,  
32 customer focus, analysis and information, employee performance  
33 management, and process improvement. The purpose of the assessment is  
34 to recognize best practice and identify improvement opportunities.

35 (2) Pursuant to subsection (1) of this section, state agencies must  
36 provide electronic copies of Washington performance audit award

1 assessments, feedback reports, and corrective action plans to the  
2 government management accountability and performance program, the joint  
3 legislative audit and review committee, and the state auditor. Each of  
4 these entities must post the assessments, feedback reports, and  
5 corrective action plans on its web site.

6 (3) Agencies must track employees trained in performance management  
7 and report to the government management accountability and performance  
8 program.

9 (4) The government management accountability and performance  
10 program must coordinate with the Washington performance audit award to  
11 develop an implementation plan with dates for all state agencies to  
12 accomplish a full assessment by 2013 and every three years thereafter  
13 until a score of sixty percent is obtained.

14 (5) The office of financial management must use the Washington  
15 performance audit award assessments as a measure for the priorities of  
16 government program.

17 (6) A performance audit of the priorities of government program  
18 must be completed by January 2013. The state auditor must review each  
19 state agency's performance management system, Washington performance  
20 audit award assessment, annual self-assessments, and corrective action  
21 plans for all performance audits.

22 (7) As used in this section, "agency" has the definition in RCW  
23 42.56.010.

24 NEW SECTION. Sec. 10. A new section is added to chapter 44.04 RCW  
25 to read as follows:

26 The house of representatives must complete a Washington performance  
27 audit award assessment by June 30, 2013, and every two years thereafter  
28 until a score of sixty percent is obtained.

29 NEW SECTION. Sec. 11. A new section is added to chapter 44.28 RCW  
30 to read as follows:

31 Beginning January 1, 2013, and every four years thereafter, the  
32 joint legislative audit and review committee must audit the legislative  
33 ethics board and the house of representatives' and the senate's ethics  
34 and integrity programs.

1       **Sec. 12.** RCW 82.08.020 and 2011 c 171 s 120 are each amended to  
2 read as follows:

3       (1) There is levied and collected a tax equal to six and five-  
4 tenths percent of the selling price on each retail sale in this state  
5 of:

6       (a) Tangible personal property, unless the sale is specifically  
7 excluded from the RCW 82.04.050 definition of retail sale;

8       (b) Digital goods, digital codes, and digital automated services,  
9 if the sale is included within the RCW 82.04.050 definition of retail  
10 sale;

11       (c) Services, other than digital automated services, included  
12 within the RCW 82.04.050 definition of retail sale;

13       (d) Extended warranties to consumers; and

14       (e) Anything else, the sale of which is included within the RCW  
15 82.04.050 definition of retail sale.

16       (2) There is levied and collected an additional tax on each retail  
17 car rental, regardless of whether the vehicle is licensed in this  
18 state, equal to five and nine-tenths percent of the selling price. The  
19 revenue collected under this subsection must be deposited in the  
20 multimodal transportation account created in RCW 47.66.070.

21       (3) Beginning July 1, 2003, there is levied and collected an  
22 additional tax of three-tenths of one percent of the selling price on  
23 each retail sale of a motor vehicle in this state, other than retail  
24 car rentals taxed under subsection (2) of this section. The revenue  
25 collected under this subsection must be deposited in the multimodal  
26 transportation account created in RCW 47.66.070.

27       (4) For purposes of subsection (3) of this section, "motor vehicle"  
28 has the meaning provided in RCW 46.04.320, but does not include farm  
29 tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181,  
30 (~~off road vehicles as defined in RCW 46.04.365,~~) nonhighway vehicles  
31 as defined in RCW 46.09.310, and snowmobiles as defined in RCW  
32 46.04.546.

33       (5) Beginning on December 8, 2005, 0.16 percent of the taxes  
34 collected under subsection (1) of this section must be dedicated to  
35 funding comprehensive performance audits required under RCW 43.09.470  
36 and the performance assessments and scorecard program in section 7 of  
37 this act. The revenue identified in this subsection must be deposited

1 in the performance audits of government account created in RCW  
2 43.09.475.

3 (6) The taxes imposed under this chapter apply to successive retail  
4 sales of the same property.

5 (7) The rates provided in this section apply to taxes imposed under  
6 chapter 82.12 RCW as provided in RCW 82.12.020.

7 **Sec. 13.** RCW 82.12.0201 and 2006 c 1 s 4 are each amended to read  
8 as follows:

9 Beginning on December 8, 2005, 0.16 percent of the taxes collected  
10 under RCW 82.12.020 based on the rate in RCW 82.08.020(1) shall be  
11 dedicated to funding comprehensive performance audits under RCW  
12 43.09.470 and the performance assessments and scorecard program under  
13 section 7 of this act. Revenue identified in this section shall be  
14 deposited in the performance audits of government account created in  
15 RCW 43.09.475.

16 **Sec. 14.** RCW 43.06.335 and 2004 c 245 s 1 are each amended to read  
17 as follows:

18 (1) The Washington (~~(quality)~~) performance audit award council  
19 shall be organized as a private, nonprofit corporation, in accordance  
20 with chapter 24.03 RCW and this section.

21 (2) The council shall oversee the governor's Washington (~~(state~~  
22 ~~quality)~~) performance audit award program. The purpose of the program  
23 is to improve the overall competitiveness of the state's economy by  
24 stimulating Washington state industries, business, and organizations to  
25 bring about measurable success through setting standards of  
26 organizational excellence, encouraging organizational self-assessment,  
27 identifying successful organizations as role models, and providing a  
28 valuable mechanism for promoting and strengthening a commitment to  
29 continuous quality improvement in all sectors of the state's economy.  
30 The governor shall annually present the award to organizations that  
31 improve the quality of their products and services and are noteworthy  
32 examples of high-performing work organizations, as determined by the  
33 council in consultation with the governor or appointed representative.

34 (3) The governor shall appoint a representative to serve on the  
35 board of directors of the council.

1 (4) The council shall establish a board of examiners, a recognition  
2 committee, and such other committees or subgroups as it deems  
3 appropriate to carry out its responsibilities.

4 (5) The council may conduct such public information, research,  
5 education, and assistance programs as it deems appropriate to further  
6 quality improvement in organizations operating in the state of  
7 Washington.

8 (6) The council shall:

9 (a) Approve and announce award recipients;

10 (b) Approve guidelines to examine applicant organizations;

11 (c) Approve appointment of board of examiners; and

12 (d) Arrange appropriate annual awards and recognition for  
13 recipients.

14 **Sec. 15.** RCW 43.17.390 and 2009 c 564 s 931 are each amended to  
15 read as follows:

16 Starting in 2012, and at least once every three years thereafter,  
17 each agency shall apply to the Washington (~~(state quality)~~) performance  
18 audit award council, or similar organization, for an independent  
19 assessment of its quality management, accountability, and performance  
20 system. The assessment shall evaluate the effectiveness of all  
21 elements of its management, accountability, and performance system,  
22 including: Leadership, strategic planning, customer focus, analysis  
23 and information, employee performance management, and process  
24 improvement. The purpose of the assessment is to recognize best  
25 practice and identify improvement opportunities.

26 **Sec. 16.** RCW 43.185C.210 and 2011 c 353 s 6 are each amended to  
27 read as follows:

28 (1) The transitional housing operating and rent program is created  
29 in the department to assist individuals and families who are homeless  
30 or who are at risk of becoming homeless to secure and retain safe,  
31 decent, and affordable housing. The department shall provide grants to  
32 eligible organizations, as described in RCW 43.185.060, to provide  
33 assistance to program participants. The eligible organizations must  
34 use grant moneys for:

35 (a) Rental assistance, which includes security or utility deposits,

1 first and last month's rent assistance, and eligible moving expenses to  
2 be determined by the department;

3 (b) Case management services designed to assist program  
4 participants to secure and retain immediate housing and to transition  
5 into permanent housing and greater levels of self-sufficiency;

6 (c) Operating expenses of transitional housing facilities that  
7 serve homeless families with children; and

8 (d) Administrative costs of the eligible organization, which must  
9 not exceed limits prescribed by the department.

10 (2) Eligible to receive assistance through the transitional housing  
11 operating and rent program are:

12 (a) Families with children who are homeless or who are at risk of  
13 becoming homeless and who have household incomes at or below fifty  
14 percent of the median household income for their county;

15 (b) Families with children who are homeless or who are at risk of  
16 becoming homeless and who are receiving services under chapter 13.34  
17 RCW;

18 (c) Individuals or families without children who are homeless or at  
19 risk of becoming homeless and who have household incomes at or below  
20 thirty percent of the median household income for their county;

21 (d) Individuals or families who are homeless or who are at risk of  
22 becoming homeless and who have a household with an adult member who has  
23 a mental health or chemical dependency disorder; and

24 (e) Individuals or families who are homeless or who are at risk of  
25 becoming homeless and who have a household with an adult member who is  
26 an offender released from confinement within the past eighteen months.

27 (3) All program participants must be willing to create and actively  
28 participate in a housing stability plan for achieving permanent housing  
29 and greater levels of self-sufficiency.

30 (4) Data on all program participants must be entered into and  
31 tracked through the Washington homeless client management information  
32 system as described in RCW 43.185C.180. For eligible organizations  
33 serving victims of domestic violence or sexual assault, compliance with  
34 this subsection must be accomplished in accordance with 42 U.S.C. Sec.  
35 11383(a)(8).

36 (5)(a) Except as provided in (b) of this subsection, beginning in  
37 2011, each eligible organization receiving over five hundred thousand  
38 dollars during the previous calendar year from the transitional housing

1 operating and rent program and from sources including: (i) State  
2 housing-related funding sources; (ii) the affordable housing for all  
3 surcharge in RCW 36.22.178; (iii) the home security fund surcharges in  
4 RCW 36.22.179 and 36.22.1791; and (iv) any other surcharge imposed  
5 under chapter 36.22 (~~or 43.185C~~) RCW or this chapter to fund  
6 homelessness programs or other housing programs, shall apply to the  
7 Washington (~~state quality~~) performance audit award program for an  
8 independent assessment of its quality management, accountability, and  
9 performance system, once every three years.

10 (b) Cities and counties are exempt from the provisions of (a) of  
11 this subsection until 2018.

12 (6) The department may develop rules, requirements, procedures, and  
13 guidelines as necessary to implement and operate the transitional  
14 housing operating and rent program.

15 (7) The department shall produce an annual transitional housing  
16 operating and rent program report that must be included in the  
17 department's homeless housing strategic plan as described in RCW  
18 43.185C.040. The report must include performance measures to be  
19 determined by the department that address, at a minimum, the following  
20 issue areas:

21 (a) The success of the program in helping program participants  
22 transition into permanent affordable housing and achieve self-  
23 sufficiency or increase their levels of self-sufficiency, which shall  
24 be defined by the department based upon the costs of living, including  
25 housing costs, needed to support: (i) One adult individual; and (ii)  
26 two adult individuals and one preschool-aged child and one school-aged  
27 child;

28 (b) The financial performance of the program related to efficient  
29 program administration by the department and program operation by  
30 selected eligible organizations, including an analysis of the costs per  
31 program participant served;

32 (c) The quality, completeness, and timeliness of the information on  
33 program participants provided to the Washington homeless client  
34 management information system database; and

35 (d) The satisfaction of program participants in the assistance  
36 provided through the program.

1       **Sec. 17.** RCW 43.330.080 and 2011 c 286 s 2 are each amended to  
2 read as follows:

3       In carrying out its obligations under RCW 43.330.070, the  
4 department must provide business services training to and contract with  
5 county-designated associate development organizations to increase the  
6 support for and coordination of community and economic development  
7 services in communities or regional areas. The business services  
8 training provided to the organizations contracted with must include,  
9 but need not be limited to, training in the fundamentals of export  
10 assistance and the services available from private and public export  
11 assistance providers in the state. The organizations contracted within  
12 each community or regional area must work closely with the department  
13 to carry out state-identified economic development priorities and must  
14 be broadly representative of community and economic interests. The  
15 organization must be capable of identifying key economic and community  
16 development problems, developing appropriate solutions, and mobilizing  
17 broad support for recommended initiatives. The contracting  
18 organization must work with and include local governments, local  
19 chambers of commerce, workforce development councils, port districts,  
20 labor groups, institutions of higher education, community action  
21 programs, and other appropriate private, public, or nonprofit community  
22 and economic development groups. The scope of services delivered under  
23 these contracts must include two broad areas of work:

24       (1) Direct assistance, including business planning, to companies  
25 throughout the county who need support to stay in business, expand, or  
26 relocate to Washington from out of state or other countries.  
27 Assistance must comply with business recruitment and retention  
28 protocols established in RCW 43.330.062, and includes:

29       (a) Working with the appropriate partners throughout the  
30 county((7)) including, but not limited to, local governments, workforce  
31 development councils, port districts, community and technical colleges  
32 and higher education institutions, export assistance providers, the  
33 Washington manufacturing services, the Washington ((state-quality))  
34 performance audit award council, small business assistance programs,  
35 and other federal, state, and local programs to facilitate the  
36 alignment of planning efforts and the seamless delivery of business  
37 support services within the entire county;

1 (b) Providing information on state and local permitting processes,  
2 tax issues, export assistance, and other essential information for  
3 operating, expanding, or locating a business in Washington;

4 (c) Marketing Washington and local areas as excellent locations to  
5 expand or relocate a business and positioning Washington as a globally  
6 competitive place to grow business, which may include developing and  
7 executing regional plans to attract companies from out of state;

8 (d) Working with businesses on site location and selection  
9 assistance;

10 (e) Providing business retention and expansion services throughout  
11 the county, including business outreach and monitoring efforts to  
12 identify and address challenges and opportunities faced by businesses;

13 (f) Participating in economic development system-wide discussions  
14 regarding gaps in business start-up assistance in Washington; and

15 (g) Providing or facilitating the provision of export assistance  
16 through workshops or one-on-one assistance; and

17 (2) Support for regional economic research and regional planning  
18 efforts to implement target industry sector strategies and other  
19 economic development strategies, including cluster-based strategies,  
20 that support increased living standards and increase foreign direct  
21 investment throughout Washington. Activities include:

22 (a) Participation in regional planning efforts with workforce  
23 development councils involving coordinated strategies around workforce  
24 development and economic development policies and programs.  
25 Coordinated planning efforts must include, but not be limited to,  
26 assistance to industry clusters in the region;

27 (b) Participation between the contracting organization and the  
28 state board for community and technical colleges as created in RCW  
29 28B.50.050, and any community and technical colleges in providing for  
30 the coordination of the job skills training program and the customized  
31 training program within its region;

32 (c) Collecting and reporting data as specified by the contract with  
33 the department for statewide systemic analysis. The department must  
34 consult with the Washington state economic development commission in  
35 the establishment of such uniform data as is needed to conduct a  
36 statewide systemic analysis of the state's economic development  
37 programs and expenditures. In cooperation with other local, regional,  
38 and state planning efforts, contracting organizations may provide

1 insight into the needs of target industry clusters, business expansion  
2 plans, early detection of potential relocations or layoffs, training  
3 needs, and other appropriate economic information;

4 (d) In conjunction with other governmental jurisdictions and  
5 institutions, participate in the development of a countywide economic  
6 development plan, consistent with the state comprehensive plan for  
7 economic development developed by the Washington state economic  
8 development commission.

9 **Sec. 18.** RCW 43.330.084 and 2007 c 249 s 4 are each amended to  
10 read as follows:

11 Up to five associate development organizations per year contracting  
12 with the department under chapter 249, Laws of 2007 that apply for the  
13 Washington ((~~state quality~~)) performance audit award or its equivalent  
14 shall receive reimbursement for the award application fee, but may not  
15 be reimbursed more than once every three years.

16 NEW SECTION. **Sec. 19.** The sum of fifty thousand dollars, or as  
17 much thereof as may be necessary, is appropriated for the fiscal year  
18 ending June 30, 2014, from the general fund to the Washington  
19 performance audit award council for Washington performance audit  
20 awards, or other quality management training, as provided in section  
21 9(3) of this act.

22 NEW SECTION. **Sec. 20.** The sum of two hundred thousand dollars, or  
23 as much thereof as may be necessary, is appropriated for the fiscal  
24 year ending June 30, 2013, from the general fund to the state auditor  
25 for a performance audit of the priorities of government program as  
26 provided in section 9(6) of this act.

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