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SENATE BILL 5780

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Baumgartner, Kohl-Welles, and McAuliffe

1 AN ACT Relating to creating efficiencies for institutions of higher  
2 education; amending RCW 43.88.110 and 28B.10.022; and reenacting and  
3 amending RCW 39.94.040.

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

5 **Sec. 1.** RCW 43.88.110 and 2009 c 518 s 3 are each amended to read  
6 as follows:

7 This section sets forth the expenditure programs and the allotment  
8 and reserve procedures to be followed by the executive branch for  
9 public funds.

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

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

17 (3) Within forty-five days after the beginning of the fiscal period  
18 or within forty-five days after the governor signs the omnibus biennial

1 appropriations act, whichever is later, all agencies shall submit to  
2 the governor a statement of proposed expenditures at such times and in  
3 such form as may be required by the governor.

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

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

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

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

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

14 (e) Documentation of fund shifts between projects.

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

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

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

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

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

32 (6) No expenditure may be incurred or obligation entered into for  
33 such major capital construction projects including, without exception,  
34 land acquisition, site development, predesign, design, construction,  
35 and equipment acquisition and installation, until the allotment of the  
36 funds to be expended has been approved by the office of financial  
37 management. This limitation does not prohibit the continuation of

1 expenditures and obligations into the succeeding biennium for projects  
2 for which allotments have been approved in the immediate prior  
3 biennium.

4 (7) Minor works projects, as defined by the office of financial  
5 management, may be valued up to five million dollars for institutions  
6 of higher education as defined in RCW 28B.10.016.

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

1 agencies. If an agency or the director of financial management is  
2 unable to meet these requirements, the director of financial management  
3 shall provide a timely explanation in writing to the legislative fiscal  
4 committees.

5 ~~((+8))~~ (9) It is expressly provided that all agencies shall be  
6 required to maintain accounting records and to report thereon in the  
7 manner prescribed in this chapter and under the regulations issued  
8 pursuant to this chapter. Within ninety days of the end of the fiscal  
9 year, all agencies shall submit to the director of financial management  
10 their final adjustments to close their books for the fiscal year.  
11 Prior to submitting fiscal data, written or oral, to committees of the  
12 legislature, it is the responsibility of the agency submitting the data  
13 to reconcile it with the budget and accounting data reported by the  
14 agency to the director of financial management.

15 ~~((+9))~~ (10) The director of financial management may exempt  
16 certain public funds from the allotment controls established under this  
17 chapter if it is not practical or necessary to allot the funds.  
18 Allotment control exemptions expire at the end of the fiscal biennium  
19 for which they are granted. The director of financial management shall  
20 report any exemptions granted under this subsection to the legislative  
21 fiscal committees.

22 **Sec. 2.** RCW 39.94.040 and 2011 1st sp.s. c 43 s 726 and 2011 c 151  
23 s 7 are each reenacted and amended to read as follows:

24 (1) Except as provided in RCW 28B.10.022, the state may not enter  
25 into any financing contract for itself if the aggregate principal  
26 amount payable thereunder is greater than an amount to be established  
27 from time to time by the state finance committee or participate in a  
28 program providing for the issuance of certificates of participation,  
29 including any contract for credit enhancement, without the prior  
30 approval of the state finance committee. Except as provided in RCW  
31 28B.10.022, the state finance committee shall approve the form of all  
32 financing contracts or a standard format for all financing contracts.  
33 The state finance committee also may:

34 (a) Consolidate existing or potential financing contracts into  
35 master financing contracts with respect to property acquired by one or  
36 more agencies, departments, instrumentalities of the state, the state

1 board for community and technical colleges, or a state institution of  
2 higher learning; or to be acquired by another agency;

3 (b) Approve programs providing for the issuance of certificates of  
4 participation in master financing contracts for the state or for other  
5 agencies;

6 (c) Enter into agreements with trustees relating to master  
7 financing contracts; and

8 (d) Make appropriate rules for the performance of its duties under  
9 this chapter.

10 (2) In the performance of its duties under this chapter, the state  
11 finance committee may consult with representatives from the department  
12 of general administration, the office of financial management, and the  
13 office of the chief information officer.

14 (3) With the approval of the state finance committee, the state  
15 also may enter into agreements with trustees relating to financing  
16 contracts and the issuance of certificates of participation.

17 (4) Except for financing contracts for real property authorized  
18 under RCW 28B.10.022(4) or used for the purposes described under  
19 chapter 28B.140 RCW, the state may not enter into any financing  
20 contract for real property of the state without prior approval of the  
21 legislature. For the purposes of this requirement, a financing  
22 contract must be treated as used for real property if it is being  
23 entered into by the state for the acquisition of land; the acquisition  
24 of an existing building; the construction of a new building; or a major  
25 remodeling, renovation, rehabilitation, or rebuilding of an existing  
26 building. Prior approval of the legislature is not required under this  
27 chapter for a financing contract entered into by the state under this  
28 chapter for energy conservation improvements to existing buildings  
29 where such improvements include: (a) Fixtures and equipment that are  
30 not part of a major remodeling, renovation, rehabilitation, or  
31 rebuilding of the building, or (b) other improvements to the building  
32 that are being performed for the primary purpose of energy  
33 conservation. Such energy conservation improvements must be determined  
34 eligible for financing under this chapter by the office of financial  
35 management in accordance with financing guidelines established by the  
36 state treasurer, and are to be treated as personal property for the  
37 purposes of this chapter.

1 (5) The state may not enter into any financing contract on behalf  
2 of another agency without the approval of such a financing contract by  
3 the governing body of the other agency.

4 **Sec. 3.** RCW 28B.10.022 and 2003 c 6 s 1 are each amended to read  
5 as follows:

6 (1) The boards of regents of the state universities and the boards  
7 of trustees of the regional universities, The Evergreen State College,  
8 and the state board for community and technical colleges, are severally  
9 authorized to enter into financing contracts as provided in chapter  
10 39.94 RCW. Except as provided in subsection (2) of this section,  
11 financing contracts shall be subject to the approval of the state  
12 finance committee.

13 (2) The board of regents of a state university may enter into  
14 financing contracts which are payable solely from and secured by all or  
15 any component of the fees and revenues of the university derived from  
16 its ownership and operation of its facilities not subject to  
17 appropriation by the legislature and not constituting "general state  
18 revenues," as defined in Article VIII, section 1 of the state  
19 Constitution, without the prior approval of the state finance  
20 committee.

21 (3) Except for financing contracts for facilities or equipment  
22 described under chapter 28B.140 RCW, the board of regents shall notify  
23 the state finance committee at least sixty days prior to entering into  
24 such contract and provide information relating to such contract as  
25 requested by the state finance committee.

26 (4) The regional universities, The Evergreen State College, and the  
27 community and technical colleges may enter into financing contracts for  
28 real property as defined in RCW 39.94.040(4) when the financing  
29 contracts are payable solely from and secured by all or any component  
30 of the fees and revenues of that college or university that are (a)  
31 derived from its ownership and operation of its facilities, (b) not  
32 subject to allotment under chapter 43.88 RCW, (c) not subject to  
33 appropriation by the legislature, and (d) not constituting "general  
34 state revenues," as defined in Article VIII, section 1 of the state  
35 Constitution. Financing contracts under this subsection must be

1 approved by the state finance committee but do not require further  
2 legislative authorization.

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