
SUBSTITUTE HOUSE BILL 2035

State of Washington 64th Legislature 2015 Regular Session

By House Capital Budget (originally sponsored by Representatives Scott, Morris, and Lytton)

1 AN ACT Relating to lengthening the maximum terms of leases
2 entered into by the director of enterprise services in certain
3 counties; and amending RCW 43.82.010.

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

5 **Sec. 1.** RCW 43.82.010 and 2013 2nd sp.s. c 4 s 981 are each
6 amended to read as follows:

7 (1) The director of enterprise services, on behalf of the agency
8 involved and after consultation with the office of financial
9 management, shall purchase, lease, lease purchase, rent, or otherwise
10 acquire all real estate, improved or unimproved, as may be required
11 by elected state officials, institutions, departments, commissions,
12 boards, and other state agencies, or federal agencies where joint
13 state and federal activities are undertaken and may grant easements
14 and transfer, exchange, sell, lease, or sublease all or part of any
15 surplus real estate for those state agencies which do not otherwise
16 have the specific authority to dispose of real estate. This section
17 does not transfer financial liability for the acquired property to
18 the department of enterprise services.

19 (2) Except for real estate occupied by federal agencies, the
20 director shall determine the location, size, and design of any real
21 estate or improvements thereon acquired or held pursuant to

1 subsection (1) of this section. Facilities acquired or held pursuant
2 to this chapter, and any improvements thereon, shall conform to
3 standards adopted by the director and approved by the office of
4 financial management governing facility efficiency unless a specific
5 exemption from such standards is provided by the director of
6 enterprise services. The director of enterprise services shall report
7 to the office of financial management and the appropriate committees
8 of the legislature annually on any exemptions granted pursuant to
9 this subsection.

10 (3) Except for leases permitted under subsection (4) of this
11 section, the director of enterprise services may fix the terms and
12 conditions of each lease entered into under this chapter, except that
13 no lease shall extend greater than twenty years in duration. The
14 director of enterprise services may enter into a long-term lease
15 greater than ten years in duration upon a determination by the
16 director of the office of financial management that the long-term
17 lease provides a more favorable rate than would otherwise be
18 available, it appears to a substantial certainty that the facility is
19 necessary for use by the state for the full length of the lease term,
20 and the facility meets the standards adopted pursuant to subsection
21 (2) of this section. The director of enterprise services may enter
22 into a long-term lease greater than ten years in duration if an
23 analysis shows that the life-cycle cost of leasing the facility is
24 less than the life-cycle cost of purchasing or constructing a
25 facility in lieu of leasing the facility.

26 (4) The director of enterprise services may fix the terms of
27 leases for property under the department of enterprise services
28 control at the former northern state hospital site for up to sixty
29 years.

30 (5) Except as permitted under chapter 39.94 RCW, no lease for or
31 on behalf of any state agency may be used or referred to as
32 collateral or security for the payment of securities offered for sale
33 through a public offering. Except as permitted under chapter 39.94
34 RCW, no lease for or on behalf of any state agency may be used or
35 referred to as collateral or security for the payment of securities
36 offered for sale through a private placement without the prior
37 written approval of the state treasurer. However, this limitation
38 shall not prevent a lessor from assigning or encumbering its interest
39 in a lease as security for the repayment of a promissory note
40 provided that the transaction would otherwise be an exempt

1 transaction under RCW 21.20.320. The state treasurer shall adopt
2 rules that establish the criteria under which any such approval may
3 be granted. In establishing such criteria the state treasurer shall
4 give primary consideration to the protection of the state's credit
5 rating and the integrity of the state's debt management program. If
6 it appears to the state treasurer that any lease has been used or
7 referred to in violation of this subsection or rules adopted under
8 this subsection, then he or she may recommend that the governor cause
9 such lease to be terminated. The department of enterprise services
10 shall promptly notify the state treasurer whenever it may appear to
11 the department that any lease has been used or referred to in
12 violation of this subsection or rules adopted under this subsection.

13 ~~((+5))~~ (6) It is the policy of the state to encourage the
14 colocation and consolidation of state services into single or
15 adjacent facilities, whenever appropriate, to improve public service
16 delivery, minimize duplication of facilities, increase efficiency of
17 operations, and promote sound growth management planning.

18 ~~((+6))~~ (7) The director of enterprise services shall provide
19 coordinated long-range planning services to identify and evaluate
20 opportunities for collocating and consolidating state facilities. Upon
21 the renewal of any lease, the inception of a new lease, or the
22 purchase of a facility, the director of enterprise services shall
23 determine whether an opportunity exists for collocating the agency or
24 agencies in a single facility with other agencies located in the same
25 geographic area. If a colocation opportunity exists, the director of
26 enterprise services shall consult with the affected state agencies
27 and the office of financial management to evaluate the impact
28 colocation would have on the cost and delivery of agency programs,
29 including whether program delivery would be enhanced due to the
30 centralization of services. The director of enterprise services, in
31 consultation with the office of financial management, shall develop
32 procedures for implementing colocation and consolidation of state
33 facilities.

34 ~~((+7))~~ (8) The director of enterprise services is authorized to
35 purchase, lease, rent, or otherwise acquire improved or unimproved
36 real estate as owner or lessee and to lease or sublet all or a part
37 of such real estate to state or federal agencies. The director of
38 enterprise services shall charge each using agency its proportionate
39 rental which shall include an amount sufficient to pay all costs,
40 including, but not limited to, those for utilities, janitorial and

1 accounting services, and sufficient to provide for contingencies;
2 which shall not exceed five percent of the average annual rental, to
3 meet unforeseen expenses incident to management of the real estate.

4 ~~((+8))~~ (9) If the director of enterprise services determines
5 that it is necessary or advisable to undertake any work,
6 construction, alteration, repair, or improvement on any real estate
7 acquired pursuant to subsection (1) or ~~((+7))~~ (8) of this section,
8 the director shall cause plans and specifications thereof and an
9 estimate of the cost of such work to be made and filed in his or her
10 office and the state agency benefiting thereby is hereby authorized
11 to pay for such work out of any available funds: PROVIDED, That the
12 cost of executing such work shall not exceed the sum of twenty-five
13 thousand dollars. Work, construction, alteration, repair, or
14 improvement in excess of twenty-five thousand dollars, other than
15 that done by the owner of the property if other than the state, shall
16 be performed in accordance with the public works law of this state.

17 ~~((+9))~~ (10) In order to obtain maximum utilization of space, the
18 director of enterprise services shall make space utilization studies,
19 and shall establish standards for use of space by state agencies.
20 Such studies shall include the identification of opportunities for
21 colocation and consolidation of state agency office and support
22 facilities.

23 ~~((+10))~~ (11) The director of enterprise services may construct
24 new buildings on, or improve existing facilities, and furnish and
25 equip, all real estate under his or her management. Prior to the
26 construction of new buildings or major improvements to existing
27 facilities or acquisition of facilities using a lease purchase
28 contract, the director of enterprise services shall conduct an
29 evaluation of the facility design and budget using life-cycle cost
30 analysis, value-engineering, and other techniques to maximize the
31 long-term effectiveness and efficiency of the facility or
32 improvement.

33 ~~((+11))~~ (12) All conveyances and contracts to purchase, lease,
34 rent, transfer, exchange, or sell real estate and to grant and accept
35 easements shall be approved as to form by the attorney general,
36 signed by the director of enterprise services or the director's
37 designee, and recorded with the county auditor of the county in which
38 the property is located.

39 ~~((+12))~~ (13) The director of enterprise services may delegate
40 any or all of the functions specified in this section to any agency

1 upon such terms and conditions as the director deems advisable. By
2 January 1st of each year, beginning January 1, 2008, the department
3 shall submit an annual report to the office of financial management
4 and the appropriate committees of the legislature on all delegated
5 leases.

6 ~~((13))~~ (14) This section does not apply to the acquisition of
7 real estate by:

8 (a) The state college and universities for research or
9 experimental purposes;

10 (b) The state liquor control board for liquor stores and
11 warehouses;

12 (c) The department of natural resources, the department of fish
13 and wildlife, the department of transportation, and the state parks
14 and recreation commission for purposes other than the leasing of
15 offices, warehouses, and real estate for similar purposes; and

16 (d) The department of commerce for community college health
17 career training programs, offices for the department of commerce or
18 other appropriate state agencies, and other nonprofit community uses,
19 including community meeting and training facilities, where the real
20 estate is acquired during the 2013-2015 fiscal biennium.

21 ~~((14))~~ (15) Notwithstanding any provision in this chapter to
22 the contrary, the department of enterprise services may negotiate
23 ground leases for public lands on which property is to be acquired
24 under a financing contract pursuant to chapter 39.94 RCW under terms
25 approved by the state finance committee.

26 ~~((15))~~ (16) The department of enterprise services shall report
27 annually to the office of financial management and the appropriate
28 fiscal committees of the legislature on facility leases executed for
29 all state agencies for the preceding year, lease terms, and annual
30 lease costs. The report must include leases executed under RCW
31 43.82.045 and subsection ~~((12))~~ (13) of this section.

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