
SENATE BILL 5876

State of Washington

62nd Legislature

2011 Regular Session

By Senators Sheldon, Schoesler, Stevens, Honeyford, Carrell, Parlette, Benton, Hobbs, Shin, Zarelli, Kilmer, and Hewitt

Read first time 03/16/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to analyzing alternative methods of facilities
2 acquisition for state agencies; and amending RCW 43.82.010.

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

4 **Sec. 1.** RCW 43.82.010 and 2007 c 506 s 8 are each amended to read
5 as follows:

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

18 (2) Except for real estate occupied by federal agencies, the
19 director (~~shall~~) must determine the location, size, and design of any

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

11 (3) The director (~~of general administration~~) may fix the terms
12 and conditions of each lease entered into under this chapter, except
13 that no lease (~~shall~~) may extend greater than twenty years in
14 duration. The director (~~of general administration~~) may enter into a
15 long-term lease greater than ten years in duration upon a determination
16 by the director of the office of financial management that the long-
17 term 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 (2)
21 of this section. The director (~~of general administration~~) 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 less
24 than the life-cycle cost of purchasing or constructing a facility in
25 lieu of leasing the facility.

26 (4) Except as permitted under chapter 39.94 RCW, no lease for or on
27 behalf of any state agency may be used or referred to as collateral or
28 security for the payment of securities offered for sale through a
29 public offering. Except as permitted under chapter 39.94 RCW, no lease
30 for or on behalf of any state agency may be used or referred to as
31 collateral or security for the payment of securities offered for sale
32 through a private placement without the prior written approval of the
33 state treasurer. However, this limitation (~~shall~~) does not prevent
34 a lessor from assigning or encumbering its interest in a lease as
35 security for the repayment of a promissory note provided that the
36 transaction would otherwise be an exempt transaction under RCW
37 21.20.320. The state treasurer (~~shall~~) must adopt rules that
38 establish the criteria under which any such approval may be granted.

1 In establishing such criteria the state treasurer (~~(shall)~~) must give
2 primary consideration to the protection of the state's credit rating
3 and the integrity of the state's debt management program. If it
4 appears to the state treasurer that any lease has been used or referred
5 to in violation of this subsection or rules adopted under this
6 subsection, then he or she may recommend that the governor cause such
7 lease to be terminated. The department of general administration
8 (~~(shall)~~) must promptly notify the state treasurer whenever it may
9 appear to the department that any lease has been used or referred to in
10 violation of this subsection or rules adopted under this subsection.

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

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

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

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

4 (8) If the director (~~of general administration~~) determines that
5 it is necessary or advisable to undertake any work, construction,
6 alteration, repair, or improvement on any real estate acquired pursuant
7 to subsection (1) or (7) of this section, the director (~~shall~~) must
8 cause plans and specifications thereof and an estimate of the cost of
9 such work to be made and filed in his or her office and the state
10 agency benefiting thereby is hereby authorized to pay for such work out
11 of any available funds(~~:- PROVIDED, That~~). However, the cost of
12 executing such work (~~shall~~) may 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 that
15 done by the owner of the property if other than the state, (~~shall~~)
16 must be performed in accordance with the public works law of this
17 state.

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

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

33 (b) The director must also include representatives from private
34 sector organizations in conducting an analysis of alternative methods
35 of facilities acquisition. The alternative methods of facilities
36 acquisition must include: Short-term leasing, long-term leasing
37 (twenty to thirty years), alternative lease-to-purchase procedures,
38 leases with option(s) to purchase, and other methods suggested by the

1 private sector. The application of life-cycle cost analysis to various
2 alternative methods of facilities acquisition must include
3 considerations for maintenance costs, renovation costs, systems
4 replacement costs, and remodel costs occurring both before and after
5 state acquisition of ownership. The life-cycle term being analyzed
6 must be thirty years.

7 (11) All conveyances and contracts to purchase, lease, rent,
8 transfer, exchange, or sell real estate and to grant and accept
9 easements shall be approved as to form by the attorney general, signed
10 by the director (~~(of general administration)~~) or the director's
11 designee, and recorded with the county auditor of the county in which
12 the property is located.

13 (12) The director (~~(of general administration)~~) may delegate any or
14 all of the functions specified in this section to any agency upon such
15 terms and conditions as the director deems advisable. By January 1st
16 of each year, beginning January 1, 2008, the department (~~(shall)~~) must
17 submit an annual report to the office of financial management and the
18 appropriate committees of the legislature on all delegated leases.

19 (13) This section does not apply to the acquisition of real estate
20 by:

21 (a) The state college and universities for research or experimental
22 purposes;

23 (b) The state liquor control board for liquor stores and
24 warehouses; and

25 (c) The department of natural resources, the department of fish and
26 wildlife, the department of transportation, and the state parks and
27 recreation commission for purposes other than the leasing of offices,
28 warehouses, and real estate for similar purposes.

29 (14) Notwithstanding any provision in this chapter to the contrary,
30 the department of general administration may negotiate ground leases
31 for public lands on which property is to be acquired under a financing
32 contract pursuant to chapter 39.94 RCW under terms approved by the
33 state finance committee.

34 (15) The department of general administration (~~(shall)~~) must report
35 annually to the office of financial management and the appropriate
36 fiscal committees of the legislature on facility leases executed for
37 all state agencies for the preceding year, lease terms, and annual

1 lease costs. The report must include leases executed under RCW
2 43.82.045 and subsection (12) of this section.

3 (16) For the purposes of this section, "director" means the
4 director of general administration.

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