

Chapter 43.82 RCW
STATE AGENCY HOUSING

Sections

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Agricultural commodity commissions exempt: RCW 15.04.200.

RCW 43.82.010 Acquisition, lease, and disposal of real estate for state agencies—Long-range planning—Use of lease as collateral or security—Colocation and consolidation—Studies—Delegation of functions—Exemptions. (1) The director of enterprise services, on behalf of the agency involved and after consultation with the office of financial management, shall purchase, lease, lease purchase, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. Any such transfer, exchange, or sale must comply with RCW 43.17.400, and may be made in accordance with RCW 39.33.015. This section does not transfer financial liability for the acquired property to the department of enterprise services.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of enterprise services. The director of enterprise services shall report to the

office of financial management and the appropriate committees of the legislature annually on any exemptions granted pursuant to this subsection.

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

(4) (a) The director of enterprise services may fix the terms of leases for property under the department of enterprise services' control at the former Northern State Hospital site for up to sixty years.

(b) During the 2023-2025 fiscal biennium, the state board for community and technical colleges on behalf of North Seattle Community College may enter into a long-term lease, not to exceed 99 years, of a portion of the North Seattle Community College for purposes of affordable housing under RCW 39.33.015.

(5) Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a public offering. Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a private placement without the prior written approval of the state treasurer. However, this limitation shall not prevent a lessor from assigning or encumbering its interest in a lease as security for the repayment of a promissory note provided that the transaction would otherwise be an exempt transaction under RCW 21.20.320. The state treasurer shall adopt rules that establish the criteria under which any such approval may be granted. In establishing such criteria the state treasurer shall give primary consideration to the protection of the state's credit rating and the integrity of the state's debt management program. If it appears to the state treasurer that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection, then he or she may recommend that the governor cause such lease to be terminated. The department of enterprise services shall promptly notify the state treasurer whenever it may appear to the department that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection.

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

(7) The director of enterprise services shall provide coordinated long-range planning services to identify and evaluate opportunities for colocating and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of enterprise services shall determine whether an opportunity exists for colocating the agency or agencies in a single facility with other agencies located in the same geographic area. If a colocation opportunity exists, the director of enterprise services shall consult with the affected state agencies and the office of financial management to evaluate the impact colocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of enterprise services, in consultation with the office of financial management, shall develop procedures for implementing colocation and consolidation of state facilities.

(8) The director of enterprise services is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director of enterprise services shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

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

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

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

(12) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of enterprise services or the director's designee, and

recorded with the county auditor of the county in which the property is located.

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

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

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

(b) The state liquor and cannabis board for liquor stores and warehouses;

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

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

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

(16) The department of enterprise services shall report annually to the office of financial management and the appropriate fiscal committees of the legislature on facility leases executed for all state agencies for the preceding year, lease terms, and annual lease costs. The report must include leases executed under RCW 43.82.045 and subsection (13) of this section. [2023 c 474 § 8032; 2018 c 217 § 7; 2015 c 99 § 1; 2013 2nd sp.s. c 4 § 981; 2007 c 506 § 8; 2004 c 277 § 906; 1997 c 117 § 1. Prior: 1994 c 264 § 28; 1994 c 219 § 7; 1990 c 47 § 1; 1988 c 36 § 20; 1982 c 41 § 1; 1969 c 121 § 1; 1967 c 229 § 1; 1965 c 8 § 43.82.010; prior: 1961 c 184 § 1; 1959 c 255 § 1.]

Conflict with federal requirements—Effective date—2023 c 474:

See notes following RCW 28A.320.330.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

Severability—Effective dates—2004 c 277: See notes following RCW 89.08.550.

Finding—1994 c 219: See note following RCW 43.88.030.

Effective dates—1982 c 41: "This act shall take effect July 1, 1982, with the exception of section 2 of this act, which shall take effect July 1, 1983." [1982 c 41 § 3.]

Departments to share occupancy costs—Capital projects surcharge: RCW 43.01.090.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.530.

Public works: Chapter 39.04 RCW.

Use of enterprise services account in acquiring real estate: RCW 43.19.500.

RCW 43.82.020 Approval by capitol committee when real estate located in Thurston county. The acquisition of real estate, and use thereof, shall be subject to the approval of the state capitol committee when the real estate is located in Thurston county. [1965 c 8 § 43.82.020. Prior: 1961 c 184 § 2; 1959 c 255 § 2.]

RCW 43.82.030 Acquisition of property and rights declared public use—Eminent domain. The acquisition of any real property or any rights or interests therein for the purpose of this chapter is hereby declared to be for a public use. In furtherance of the purposes of this chapter, the right of eminent domain may be exercised as provided for in chapter 8.04 RCW. [1965 c 8 § 43.82.030. Prior: 1959 c 255 § 3.]

RCW 43.82.035 Predesign process for requests to lease, purchase, or build facilities for state programs—Approval of plans for major leased facilities. (1) The office of financial management shall design and implement a modified predesign process for any space request to lease, purchase, or build facilities that involve (a) the housing of new state programs, (b) a major expansion of existing state programs, or (c) the relocation of state agency programs. This includes the consolidation of multiple state agency tenants into one facility. The office of financial management shall define facilities that meet the criteria described in (a) and (b) of this subsection.

(2) State agencies shall submit modified predesigns to the office of financial management and the legislature. Modified predesigns must include a problem statement, an analysis of alternatives to address programmatic and space requirements, proposed locations, and a financial assessment. For proposed projects of twenty thousand gross square feet or less, the agency may provide a cost-benefit analysis, rather than a life-cycle cost analysis, as determined by the office of financial management.

(3) Projects that meet the capital requirements for predesign on major facility projects with an estimated project cost of 10 million dollars or more pursuant to chapter 43.88 RCW shall not be required to prepare a modified predesign.

(4) The office of financial management shall require state agencies to identify plans for major leased facilities as part of the ten-year capital budget plan. State agencies shall not enter into new or renewed leases of more than one million dollars per year unless such leases have been approved by the office of financial management except when the need for the lease is due to an unanticipated

emergency. The regular termination date on an existing lease does not constitute an emergency. The department of enterprise services shall notify the office of financial management and the appropriate legislative fiscal committees if an emergency situation arises.

(5) For project proposals in which there are estimates of operational savings, the office of financial management shall require the agency or agencies involved to provide details including but not limited to fund sources and timelines. [2021 c 54 § 3; 2015 c 225 § 75; 2007 c 506 § 4.]

Findings—Intent—2021 c 54: See note following RCW 43.88.110.

Findings—Intent—2007 c 506: "The legislature finds that the capital stock of facilities owned and leased by state agencies represents a significant financial investment by the citizens of the state of Washington. Capital construction projects funded in the state's capital budget require diligent analysis and approval by the governor and the legislature. In some cases, long-term leases obligate state agencies to a larger financial commitment than some capital construction projects without a comparable level of diligence. State facility analysis and portfolio management can be strengthened through greater oversight and support from the office of financial management and the legislature and with input from stakeholders.

The legislature finds that the state lacks specific policies and standards on conducting life-cycle cost analysis to determine the cost-effectiveness of owning or leasing state facilities and lacks clear guidance on when and how to use it. Further, there is limited oversight and review of the results of life-cycle cost analyses in the capital project review process. Unless decision makers are provided a thorough economic analysis, they cannot identify the most cost-effective alternative or identify opportunities for improving the cost-effectiveness of state facility alternatives.

The legislature finds that the statewide accounting system limits the ability of the office of financial management and the legislature to analyze agency expenditures that include only leases for land, buildings, and structures. Additionally, other statewide data systems that track state-owned and leased facility information are limited, onerous, and inflexible.

Therefore, it is the intent of the legislature to strengthen the office of financial management's oversight role in state facility analysis and decision making. Further, it is the intent of the legislature to support the office of financial management's and the *department of general administration's need for technical expertise and data systems to conduct thorough analysis, long-term planning, and state facility portfolio management by providing adequate resources in the capital and operating budgets." [2007 c 506 § 1.]

***Reviser's note:** The "department of general administration" was renamed the "department of enterprise services" by 2011 1st sp.s. c 43 § 107.

RCW 43.82.045 Approval of leases—Privately owned buildings being planned or under construction. State agencies are prohibited from entering into lease agreements for privately owned buildings that are in the planning stage of development or under construction unless there is prior written approval by the director of the office of

financial management. Approval of such leases shall not be delegated. Lease agreements described in this section must comply with RCW 43.82.035. [2007 c 506 § 5.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

RCW 43.82.055 Long-term facility needs—Six-year facility plan—Efficient use of state facilities. The office of financial management shall:

(1) Work with the department of enterprise services and all other state agencies to determine the long-term facility needs of state government;

(2) Develop and submit a six-year facility plan to the legislature by January 1st of every odd-numbered year that includes state agency space requirements and other pertinent data necessary for cost-effective facility planning. The department of enterprise services shall assist with this effort as required by the office of financial management; and

(3) Establish and enforce policies and workplace strategies that promote the efficient use of state facilities. [2015 3rd sp.s. c 1 § 301; 2015 c 225 § 76; 2007 c 506 § 6.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

RCW 43.82.110 Lease of space—Surplus space. All office or other space made available through the provisions of this chapter shall be leased by the director to such state or federal agencies, for such rental, and on such terms and conditions as he or she deems advisable: PROVIDED, HOWEVER, If space becomes surplus, the director is authorized to lease office or other space in any project to any person, corporation or body politic, for such period as the director shall determine said space is surplus, and upon such other terms and conditions as he or she may prescribe. [1994 c 219 § 13; 1969 c 121 § 2; 1965 c 8 § 43.82.110. Prior: 1961 c 184 § 4; 1959 c 255 § 11.]

Finding—1994 c 219: See note following RCW 43.88.030.

RCW 43.82.120 Enterprise services account—Rental income. All rental income collected by the department of enterprise services from rental of state buildings shall be deposited in the enterprise services account. [2011 1st sp.s. c 43 § 254; 1998 c 105 § 14; 1994 c 219 § 14; 1965 c 8 § 43.82.120. Prior: 1961 c 184 § 5; 1959 c 255 § 12.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Effective date—1998 c 105: See note following RCW 43.19.025.

Finding—1994 c 219: See note following RCW 43.88.030.

RCW 43.82.125 Authorized uses for enterprise services account.

The enterprise services account shall be used to pay all costs incurred by the department in the operation of real estate managed under the terms of this chapter. Moneys received into the enterprise services account shall be used to pay rent to the owner of the space for occupancy of which the charges have been made and to pay utility and operational costs of the space utilized by the occupying agency: PROVIDED, That moneys received into the account for occupancy of space owned by the state where utilities and other operational costs are covered by appropriation to the department of enterprise services shall be immediately transmitted to the general fund. [2011 1st sp.s. c 43 § 255; 1998 c 105 § 15; 1965 c 8 § 43.82.125. Prior: 1961 c 184 § 6.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Effective date—1998 c 105: See note following RCW 43.19.025.

RCW 43.82.130 Powers and duties of director. The director of the department of enterprise services is authorized to do all acts and things necessary or convenient to carry out the powers and duties expressly provided in this chapter. [2015 c 225 § 77; 1965 c 8 § 43.82.130. Prior: 1959 c 255 § 13.]

RCW 43.82.140 Insurance on buildings. The director may, in his or her discretion, obtain fire or other hazard insurance on any building under his or her management. [2009 c 549 § 5158; 1965 c 8 § 43.82.140. Prior: 1961 c 184 § 7.]

RCW 43.82.150 Inventory of state-owned or leased facilities—Report. (1) The office of financial management shall develop and maintain an inventory system to account for all facilities owned or leased by state government. At a minimum, the inventory system must include the facility owner, location, type, condition, use data, and size of each facility. In addition, for owned facilities, the inventory system must include the date and cost of original construction and the cost of any major remodeling or renovation. The inventory must be updated by all agencies, departments, boards, commissions, and institutions by June 30th of each year. The office of financial management shall publish a report summarizing information contained in the inventory system for each agency by October 1st of each year, beginning in 2010 and shall submit this report to the appropriate fiscal committees of the legislature.

(2) The inventory required under this subsection must be submitted in a standard format prescribed by the office of financial management.

(3) For the purposes of this section, "facilities" means buildings and other structures with walls and a roof. "Facilities" does not mean roads, bridges, parking areas, utility systems, and other similar improvements to real property. [2015 3rd sp.s. c 1 § 302; 2007 c 506 § 7; 1997 c 96 § 2; 1993 c 325 § 1.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

Findings—Purpose—1997 c 96: "The legislature finds that the capital stock of facilities owned by state agencies represents a significant financial investment by the citizens of the state of Washington, and that providing agencies with the tools and incentives needed to adequately maintain state facilities is critically important to realizing the full value of this investment. The legislature also finds that ongoing reporting of facility inventory, condition, and maintenance information by agencies will improve accountability and assist in the evaluation of budget requests and facility management by the legislature and governor. The purpose of this act is to ensure that recent enhancements to facility and maintenance reporting systems implemented by the office of financial management, and a new program created by the *department of general administration to provide maintenance information and technical assistance to state and local agencies, are sustained into the future." [1997 c 96 § 1.]

***Reviser's note:** The department of general administration was renamed the department of enterprise services by 2011 1st sp.s. c 43 § 107.