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ATTORNEY GENERAL OF WASHINGTON

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June 20, 2012

The Honorable Jim Kastama
State Senator, District 25
PO Box 40425
Olympia, WA 98504-0425

The Honorable Mark Miloscia
State Representative, District 30
PO Box 40600
Olympia, WA 98504-0425

Dear Senator Kastama and Representative Miloscia:

This is to respond to your letter, which we received June 6, 2012, requesting two opinions.

You first request an informal opinion addressing the development and implementation of a quality management, accountability, and reporting system. Your letter requesting this opinion explains, by way of background, that you ask about the requirement that agencies develop such systems “within available funds,” and that quality management assessments begin in 2012. By way of additional background, you attach a memorandum recently issued by the Office of Financial Management.

As I understand your questions, you ask for our legal analysis of RCW 43.17.385, with particular regard to the phrase “within available funds.” I understand the thrust of your two questions to be asking what the inclusion of the phrase “within available funds” means with regard to any requirement for state agencies to perform quality assessments within the current biennium.

We have determined to answer this question through an informal opinion, as you requested. This means that it will be fully researched and subjected to peer review, but will not be published as a formal opinion. Our goal is to process informal opinions within 60 days, so we estimate that we will complete this opinion by mid August.

Your second request is for a formal Opinion of the Attorney General, providing “the Legislature with a more comprehensive review as to your interpretation of a requirement to be completed ‘within available resources’ which could be relied upon for future direction.” The informal opinion discussed above will necessarily set forth legal analysis regarding the meaning of the phrase “within available funds” as it appears in RCW 43.17.385. I understand your second

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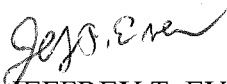
request to seek a more comprehensive interpretation of the potential meaning of this phrase, as a general reference for use of the phrase in drafting legislation.

The Washington Supreme Court has explained that, “[t]he meaning of words in a statute is not gleaned from those words alone but from all the terms and provisions of the act in relation to the subject of the legislation, the nature of the act, the general object to be accomplished and consequences that would result from construing the particular statute in one way or another.” *Burns v. City of Seattle*, 161 Wn.2d 129, 146, 164 P.3d 475 (2007). Factors that can affect the meaning of statutory language include not only the choice of words used, but the context in which those words appear. *Id.* The underlying legislative purpose of the act can also influence the construction of particular words. *State ex rel. Citizens Against Tolls v. Murphy*, 151 Wn.2d 26, 242, 88 P.3d 375 (2004) (looking to the “underlying legislative purpose”). Additional guidance as to the meaning of a term could also arise from an enacted statement of legislative purpose or intent included within legislation, or the inclusion of a definition section within legislation. *G-P Gypsum Corp. v. Dep’t of Revenue*, 169 Wn.2d 304, 309, 237 P.3d 256 (2010) (reliance upon a statement of legislative purpose); *United States v. Hoffman*, 154 Wn.2d 730, 741, 116 P.3d 999 (2005) (“It is an axiom of statutory interpretation that where a term is defined we will use that definition.”).

In keeping with the legal principles cited above, the informal opinion that will be issued in response to your first request, relating to the meaning of the phrase “within available funds” in RCW 43.17.385, necessarily will involve discussion of the use of this language in drafting legislation. Given the factors that may affect statutory construction in any specific context, we could not meaningfully offer additional guidance in abstract terms. If, after reviewing the informal opinion that will be provided, you have additional questions, please feel free to pose them.

In the meantime, if you have any additional information, questions, or concerns to convey, please contact me in writing, by telephone, or by e-mail at jeffe@atg.wa.gov.

Sincerely,



JEFFREY T. EVEN

Deputy Solicitor General

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