
Ways & Means Committee

HB 2122

Brief Description: Clarifying the administration of child welfare services.

Sponsors: Representatives Kagi and Carlyle.

Brief Summary of Bill

- Provides that the Request for Proposal issued by the Department of Social and Health Services (DSHS) for child welfare services is expressly mandated by the Legislature and not subject to competitive requirements.
- Requires that by July 1, 2011, the DSHS must enter into performance-based contracts with a substantially decreased number of entities for child welfare services and not renew current contracts with providers for child welfare services.
- Provides that the act applies both prospectively and retroactively to cover all actions taken by the DSHS to implement Second Substitute House Bill 2106 (2009) and Substitute Senate Bill 6832 (2010).

Hearing Date: 5/23/11

Staff: Melissa Palmer (786-7388) and Linda Merelle (786-7092).

Background:

In 2009 the Legislature passed Second Substitute House Bill 2106 (2SHB 2106). The Legislature directed the Department of Social and Health Services (DSHS) to, by January 1, 2011, convert its existing contracts for child welfare services to performance-based contracts. These contracts would link the contractors' performance to the level and timing of reimbursement for services. The provisions of the bill also directed the DSHS to decrease the number of contracts for child welfare services.

In 2010 the Legislature passed Substitute Senate Bill 6832 (SSB 6832), which allowed the DSHS to consolidate and convert its existing contracts for child welfare services to performance-based

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contracts until July 1, 2010. The consolidation and conversion was to be accomplished without jeopardizing federal funding.

On February 18, 2011, the DSHS issued a Request for Proposal (RFP) for performance-based contracts. Under the Personnel System Reform Act of 2002, state agencies may contract for services customarily and historically performed by state employees if the agency provides 90 days notice to the affected employees, who have 60 days to offer alternatives to the purchase of services by contract and then may compete for the contract if the agency does not accept the alternatives. If, however, the contracting is expressly mandated by the Legislature, then for those contracts the agency is not subject to these requirements. Under 2SHB 2106, the Legislature mandated that the DSHS convert to performance-based contracts, and the legislation declared that conversion was not subject to the competitive bidding process.

Upon issuance of the contract, the DSHS did not allow the affected employees to offer alternatives to the purchase of services by contract. On May 5, 2011, the Washington Federation of State Employees (WFSE) filed a motion for preliminary injunction in Thurston County Superior Court, asking the court to stop the DSHS from proceeding with the RFP. On May 13, 2011, the court issued an oral ruling granting the WFSE's motion for preliminary injunction, and enjoining the DSHS from proceeding with its solicitations of the February RFP. The court found that the scope of the RFP exceeded the Legislative mandate, and as a result, the issuance of the RFP was not exempt from the competitive bidding process. The injunction was ordered to remain in place until the DSHS complied with the requirements of the competitive bidding process.

Summary of Bill:

The services contracted for in the RFP issued by the DSHS in February 2011 are expressly mandated by the Legislature and are not subject to competitive bidding requirements. By July 1, 2011, the DSHS shall not renew its current contracts for child welfare services and must enter into performance-based contracts with a substantially decreased number of providers.

The provisions of this bill apply both prospectively and retroactively to cover all actions taken by the DSHS to implement 2SHB 2106 (2009) and SSB 6832 (2010).

Appropriation: None.

Fiscal Note: Requested on May 22, 2011.

Effective Date: The bill contains an emergency clause and takes effect immediately.