

HOUSE BILL REPORT

HB 1969

As Reported By House Committee On:

Government Operations
Appropriations

Title: An act relating to competitive strategies in the delivery of government services.

Brief Description: Providing for competitive strategies in the delivery of government services.

Sponsors: Representatives Reams, L. Thomas, McMorris, Sherstad, Dyer, Goldsmith, McMahan and Stevens.

Brief History:

Committee Activity:

Government Operations: 3/8/95, 3/17/95 [DPS];

Appropriations: 3/28/95, 3/29/95 [DP2S].

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Reams, Chairman; Goldsmith, Vice Chairman; L. Thomas, Vice Chairman; Hargrove; Honeyford; Hymes; Mulliken; D. Schmidt and Van Luven.

Minority Report: Do not pass. Signed by 6 members: Representatives Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Chopp; R. Fisher; Sommers and Wolfe.

Staff: Bill Lynch (786-7092).

Background: State agencies and institutions of higher education may contract with individuals or business entities for services if the services were regularly purchased by contract before April 23, 1979. These contracts may not be executed or renewed if they will result in the termination of either classified employees or classified positions.

When a school district enters into a contract for services that were previously performed by classified school employees, and the services were being performed by classified school employees as of July 25, 1993, the contract must contain a clause

requiring the contractor to provide to the people performing the work health benefits that are similar to those provided for school employees who would otherwise perform the work. School districts may enter into such contracts for services only if: (a) a feasibility study is conducted; (b) the decision to contract for services has been reviewed and approved by the Superintendent of Public Instruction; and (c) it meets all applicable requirements for collective bargaining.

The governing boards of institutions of higher education may exempt certain employees from the provisions of the state civil service laws, but may not exempt nonacademic employees engaged in office, clerical, maintenance, or food and trade services.

Summary of Substitute Bill: State agencies, institutions of higher education, and school districts may purchase services or the delivery of services through contracts with individuals, nonprofit organizations, businesses, or other entities. The execution or renewal of such a contract must comply with formal competitive bidding procedures. Any service obtained through competitive bidding must be rebid upon the expiration of the contract.

Provisions are deleted which prohibit contracting out for services by state agencies or institutions of higher education if the effect would be to terminate classified employees or classified employee positions existing at the time of the execution or renewal of the contract. The statute allowing school districts to contract for services only if the contractor provides similar health benefits to the employees performing the contracted services is repealed.

Rights of employees under existing contracts are not diminished. Any provisions in contracts that conflict with the provisions of this legislation are not effective beyond the term of the contract.

The managerial decision whether to contract for services is not subject to collective bargaining.

Any state agency, institution of higher education and related board, and school district must notify classified employees who would be directly affected by a contract for services, as well as their exclusive bargaining representative, of an intent to competitively contract for services. The employees and the exclusive bargaining representative have the right to submit alternatives for the service to be competitively contracted.

The Office of Financial Management (OFM) is required to develop a methodology for comparing the costs of government and privately delivered services. Agencies, higher education institutions and related boards, and school districts may, but are not required to, use this methodology when deciding whether to competitively contract for

services. The methodology must reflect the fully allocated costs of services, including employee salaries and benefits; capital outlays, including supplies and equipment; administrative and overhead expenditures; contract administration and evaluation; and taxes that would be received by the state or local governments from private contractors for services.

OFM and the Superintendent of Public Instruction must report on the implementation of this legislation by January 1, 1997.

A Joint Legislative Task Force on Competitive Strategies is created consisting of four members of the Senate and four members of the House of Representatives. Two members are appointed from each caucus.

The task force is required to identify state programs or services that can be competitively contracted to produce cost savings or improvements in the quality or level of services without harm to the public good. The task force must also evaluate the results in other states that have competitively contracted for services. The task force must issue a preliminary report to the Legislature by January 1, 1996, and a final report by January 1, 1997.

Substitute Bill Compared to Original Bill: The original bill would have removed a prohibition against designating certain non-academic employees of institutions of higher education as exempt employees. The original bill did not require OFM to develop a methodology, create the joint task force, allow employees to offer alternatives to contracting out, require reports to the Legislature, or specify that managerial decisions to competitively contract services are not subject to collective bargaining.

Appropriation: None.

Fiscal Note: Requested on substitute bill on March 8, 1995.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 1995.

Testimony For: This will give agencies more flexibility and provide taxpayers more value for their tax dollars. There are good examples of the state contracting out services already. Effective method of analyzing costs already exist.

Testimony Against: Management structures are what causes inefficiencies. Employees should be treated like investments rather than costs. Contracting out does not solve management problems. Public employees can save money over contracting out through collaborative efforts. Contracting out has not worked well. School

employees are the ones who sell the levies to the public. Private employees can strike.

Testified: Bill Cahill, Department of General Administration; Phil Peters, citizen, Krista Eickler, Seattle Chamber of Commerce, Carolyn Logue, NFIB, Nat Jackson, citizen; Gary Marciano, citizen; Devon Smith, Wash. Federation of State Employees; Wayne Gloger, WPEA; Bob Maier, Wash. Employees Association; Lynn McKinnon, Public School Employees; and Elaine Davis, Simeon Partnership.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 17 members: Representatives Silver, Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Beeksma; Brumsickle; Carlson; Cooke; Crouse; Foreman; Hargrove; Hickel; Lambert; Lisk; McMorris; Reams; Sehlin and Talcott.

Minority Report: Do not pass. Signed by 11 members: Representatives Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Chappell; Dellwo; Grant; Jacobsen; Poulsen; Rust; Sheahan; Thibaudeau and Wolfe.

Staff: Jennifer Priddy (786-7118).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Government Operations: The second substitute includes a provision to make explicit that services currently contracted out are not subject to any provisions of the act. Additionally, two statutes that would limit the implementation of the bill are repealed: under the second substitute, contracting out of health services by the Department of Corrections is permitted; and contracting out of auditing services, both in-state and out-of-state, is permitted.

Appropriation: None.

Fiscal Note: Requested on March 8, 1995.

Effective Date of Second Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 1995.

Testimony For: This bill would permit contracting out, not require contracting out. Management will make decisions. Additionally, employees will have the opportunity to present alternatives to contracting out. Studies show that contracting out results in better services that cost less than government services. The legislative task force is an important component of the legislation.

Testimony Against: Senate Bill 5841 is a more comprehensive response to this issue. There are many examples where contracting out would cost more money and/or result in reduced or poor quality services. The Department of Labor and Industries has made several contracting out proposals which would cost more, send Washington taxpayers' money out-of-state, and make it costly for the state to begin conducting the service at a later date.

Testified: Krista Eickler, Seattle Chamber (pro); Tom Dooley, Association of Washington Business (pro); Carolyn Logue, National Federation of Independent Business (pro); Joe Daniels, International Federation of Professional and Technical Engineers (concerns); Tim Welch, Washington Federation of State Employees (pro); and Bruce Zeller, citizen (con).