

# SENATE BILL REPORT

## SB 6480

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As Reported By Senate Committee On:  
Labor, Commerce & Trade, February 1, 1996

**Title:** An act relating to state contracts.

**Brief Description:** Prohibiting state contracts with employers who have permanently replaced lawfully striking employees.

**Sponsors:** Senators Pelz, Heavey, Franklin, Smith, Quigley, Fraser, Thibaudeau, McAuliffe, Kohl and Goings.

**Brief History:**

**Committee Activity:** Labor, Commerce & Trade: 2/1/96 [DP, DNP].

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

**Majority Report:** Do pass.

Signed by Senators Pelz, Chair; Heavey, Vice Chair; Franklin, Fraser and Wojahn.

**Minority Report:** Do not pass.

Signed by Senators A. Anderson and Deccio.

**Staff:** Jonathan Seib (786-7427)

**Background:** The Department of General Administration is charged with purchasing the goods and services needed in the operation of most state government agencies. Institutions of higher education are authorized to make their own purchases. Contracts are generally awarded through a competitive bid process to the lowest responsible bidder. The criteria to be considered in determining the lowest responsible bidder does not prohibit the awarding of contracts to an employer who has permanently replaced lawfully striking employees.

Court cases interpreting the National Labor Relations Act have held that act does not prohibit the hiring of persons to permanently replace employees engaged in a lawful economic strike.

**Summary of Bill:** The Department of General Administration, or agencies to which it has delegated contracting authority, and state institutions of higher education, may not contract for the purchase of goods or services from employers that permanently replace lawfully striking employees.

If the Director of the Department of Labor and Industries determines that an employer with whom the state has a contract for the supply of goods or services permanently replaced lawfully striking workers, the director may make a finding that it is appropriate to terminate the contract. The head of the contracting agency may object to the termination as severely disruptive to the agency or not in the public interest, in which case, the contract may not be terminated.

If the Director of the Department of Labor and Industries determines that a contractor permanently replaced lawfully striking employees, the director must debar the contractor. Agencies may not solicit offers from, award contracts to, or consent to subcontracts with debarred contractors unless the head of the agency determines in writing that there is a compelling reason for such action. The debarment may only extend to the date when the labor dispute precipitating the permanent replacement is resolved.

The names of debarred contractors are published in the Washington State Register.

A contract for the purchase of goods or services by the state must include a provision stating that the contracting employer cannot permanently replace lawfully striking employees.

The act applies only to contractors who permanently replace lawfully striking employees after the effective date of the act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 1996.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Permanently replacing striking employees violates the notion of a "level playing field" in the collective bargaining process. The state should use its purchasing power to discourage this practice.

**Testimony Against:** Court decisions suggest that this bill would be preempted by the National Labor Relations Act because it regulates a practice that is protected by that act.

**Testified:** PRO: Robby Stern, WA State Labor Council; Wayne Withrow, AFSCME; CON: Clif Finch, Assn. of Washington Business; Carolyn Logue, National Federation of Independent Business.