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HOUSE BILL 1969

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State of Washington

54th Legislature

1995 Regular Session

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

Read first time 02/17/95. Referred to Committee on Government Operations.

1 AN ACT Relating to competitive strategies in the delivery of  
2 government services; amending RCW 41.06.380, 41.06.070, and 41.06.382;  
3 adding a new section to chapter 28A.400 RCW; creating a new section;  
4 providing an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature that:

7 (1) All agencies, departments, offices of elective or appointed  
8 state officers, state institutions, colleges, universities, community  
9 colleges, technical colleges, college districts, public school  
10 districts, the supreme court, the court of appeals, and any other  
11 entity receiving appropriations from the legislature deliver high  
12 quality services to the people of the state of Washington in the most  
13 efficient and cost-effective manner possible.

14 (2) The director of general administration, through the state  
15 purchasing and material control director established in RCW 43.19.180,  
16 be provided the highest level of flexibility in the purchase of all  
17 materials, supplies, services, and equipment necessary for the  
18 efficient support, maintenance, repair, and use of all agencies and  
19 departments under RCW 43.19.190.

1 (3) Primary deliberation regarding the purchase or delivery of  
2 services by state agencies, departments, and institutions focus upon  
3 strategies that foster cost controls and increased quality or service  
4 levels through the use of free market enterprise competition.

5 **Sec. 2.** RCW 41.06.380 and 1979 ex.s. c 46 s 2 are each amended to  
6 read as follows:

7 ~~((Nothing contained in this chapter shall prohibit any department))~~  
8 An agency, as defined in RCW 41.06.020, ((from purchasing services by  
9 contract with individuals or business entities if such services were  
10 regularly purchased by valid contract by such department prior to April  
11 23, 1979: PROVIDED, That no such contract may be executed or renewed  
12 if it would have the effect of terminating classified employees or  
13 classified employee positions existing at the time of the execution or  
14 renewal of the contract)) may purchase services or the delivery of  
15 services through contracts with individuals or business entities. The  
16 execution or renewal of the contract must be in compliance with the  
17 provisions of RCW 43.19.1906.

18 **Sec. 3.** RCW 41.06.070 and 1994 c 264 s 13 are each amended to read  
19 as follows:

20 (1) The provisions of this chapter do not apply to:

21 (a) The members of the legislature or to any employee of, or  
22 position in, the legislative branch of the state government including  
23 members, officers, and employees of the legislative council,  
24 legislative budget committee, statute law committee, and any interim  
25 committee of the legislature;

26 (b) The justices of the supreme court, judges of the court of  
27 appeals, judges of the superior courts or of the inferior courts, or to  
28 any employee of, or position in the judicial branch of state  
29 government;

30 (c) Officers, academic personnel, and employees of technical  
31 colleges;

32 (d) The officers of the Washington state patrol;

33 (e) Elective officers of the state;

34 (f) The chief executive officer of each agency;

35 (g) In the departments of employment security and social and health  
36 services, the director and the director's confidential secretary; in  
37 all other departments, the executive head of which is an individual

1 appointed by the governor, the director, his or her confidential  
2 secretary, and his or her statutory assistant directors;

3 (h) In the case of a multimember board, commission, or committee,  
4 whether the members thereof are elected, appointed by the governor or  
5 other authority, serve ex officio, or are otherwise chosen:

6 (i) All members of such boards, commissions, or committees;

7 (ii) If the members of the board, commission, or committee serve on  
8 a part-time basis and there is a statutory executive officer: The  
9 secretary of the board, commission, or committee; the chief executive  
10 officer of the board, commission, or committee; and the confidential  
11 secretary of the chief executive officer of the board, commission, or  
12 committee;

13 (iii) If the members of the board, commission, or committee serve  
14 on a full-time basis: The chief executive officer or administrative  
15 officer as designated by the board, commission, or committee; and a  
16 confidential secretary to the chair of the board, commission, or  
17 committee;

18 (iv) If all members of the board, commission, or committee serve ex  
19 officio: The chief executive officer; and the confidential secretary  
20 of such chief executive officer;

21 (i) The confidential secretaries and administrative assistants in  
22 the immediate offices of the elective officers of the state;

23 (j) Assistant attorneys general;

24 (k) Commissioned and enlisted personnel in the military service of  
25 the state;

26 (l) Inmate, student, part-time, or temporary employees, and part-  
27 time professional consultants, as defined by the Washington personnel  
28 resources board;

29 (m) The public printer or to any employees of or positions in the  
30 state printing plant;

31 (n) Officers and employees of the Washington state fruit  
32 commission;

33 (o) Officers and employees of the Washington state apple  
34 advertising commission;

35 (p) Officers and employees of the Washington state dairy products  
36 commission;

37 (q) Officers and employees of the Washington tree fruit research  
38 commission;

39 (r) Officers and employees of the Washington state beef commission;

1 (s) Officers and employees of any commission formed under chapter  
2 15.66 RCW;

3 (t) Officers and employees of the state wheat commission formed  
4 under chapter 15.63 RCW;

5 (u) Officers and employees of agricultural commissions formed under  
6 chapter 15.65 RCW;

7 (v) Officers and employees of the nonprofit corporation formed  
8 under chapter 67.40 RCW;

9 (w) Liquor vendors appointed by the Washington state liquor control  
10 board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules adopted  
11 by the Washington personnel resources board pursuant to RCW 41.06.150  
12 regarding the basis for, and procedures to be followed for, the  
13 dismissal, suspension, or demotion of an employee, and appeals  
14 therefrom shall be fully applicable to liquor vendors except those part  
15 time agency vendors employed by the liquor control board when, in  
16 addition to the sale of liquor for the state, they sell goods, wares,  
17 merchandise, or services as a self-sustaining private retail business;

18 (x) Executive assistants for personnel administration and labor  
19 relations in all state agencies employing such executive assistants  
20 including but not limited to all departments, offices, commissions,  
21 committees, boards, or other bodies subject to the provisions of this  
22 chapter and this subsection shall prevail over any provision of law  
23 inconsistent herewith unless specific exception is made in such law;

24 (y) In each agency with fifty or more employees: Deputy agency  
25 heads, assistant directors or division directors, and not more than  
26 three principal policy assistants who report directly to the agency  
27 head or deputy agency heads;

28 (z) All employees of the marine employees' commission;

29 (aa) Up to a total of five senior staff positions of the western  
30 library network under chapter 27.26 RCW responsible for formulating  
31 policy or for directing program management of a major administrative  
32 unit. This subsection shall expire on June 30, 1997.

33 (2) The following classifications, positions, and employees of  
34 institutions of higher education and related boards are hereby exempted  
35 from coverage of this chapter:

36 (a) Members of the governing board of each institution of higher  
37 education and related boards, all presidents, vice-presidents and their  
38 confidential secretaries, administrative and personal assistants;  
39 deans, directors, and chairs; academic personnel; and executive heads

1 of major administrative or academic divisions employed by institutions  
2 of higher education; principal assistants to executive heads of major  
3 administrative or academic divisions; other managerial or professional  
4 employees in an institution or related board having substantial  
5 responsibility for directing or controlling program operations and  
6 accountable for allocation of resources and program results, or for the  
7 formulation of institutional policy, or for carrying out personnel  
8 administration or labor relations functions, legislative relations,  
9 public information, development, senior computer systems and network  
10 programming, or internal audits and investigations; and any employee of  
11 a community college district whose place of work is one which is  
12 physically located outside the state of Washington and who is employed  
13 pursuant to RCW 28B.50.092 and assigned to an educational program  
14 operating outside of the state of Washington;

15 (b) Student, part-time, or temporary employees, and part-time  
16 professional consultants, as defined by the Washington personnel  
17 resources board, employed by institutions of higher education and  
18 related boards;

19 (c) The governing board of each institution, and related boards,  
20 may also exempt from this chapter classifications involving research  
21 activities, counseling of students, extension or continuing education  
22 activities, graphic arts or publications activities requiring  
23 prescribed academic preparation or special training as determined by  
24 the board(~~(: PROVIDED, That no nonacademic employee engaged in office,~~  
25 ~~clerical, maintenance, or food and trade services may be exempted by~~  
26 ~~the board under this provision))~~);

27 (d) Printing craft employees in the department of printing at the  
28 University of Washington.

29 (3) In addition to the exemptions specifically provided by this  
30 chapter, the Washington personnel resources board may provide for  
31 further exemptions pursuant to the following procedures. The governor  
32 or other appropriate elected official may submit requests for exemption  
33 to the Washington personnel resources board stating the reasons for  
34 requesting such exemptions. The Washington personnel resources board  
35 shall hold a public hearing, after proper notice, on requests submitted  
36 pursuant to this subsection. If the board determines that the position  
37 for which exemption is requested is one involving substantial  
38 responsibility for the formulation of basic agency or executive policy  
39 or one involving directing and controlling program operations of an

1 agency or a major administrative division thereof, the Washington  
2 personnel resources board shall grant the request and such  
3 determination shall be final as to any decision made before July 1,  
4 1993. The total number of additional exemptions permitted under this  
5 subsection shall not exceed one percent of the number of employees in  
6 the classified service not including employees of institutions of  
7 higher education and related boards for those agencies not directly  
8 under the authority of any elected public official other than the  
9 governor, and shall not exceed a total of twenty-five for all agencies  
10 under the authority of elected public officials other than the  
11 governor. The Washington personnel resources board shall report to  
12 each regular session of the legislature during an odd-numbered year all  
13 exemptions granted under subsections (1) (x) and (y) and (2) of this  
14 section, together with the reasons for such exemptions.

15 The salary and fringe benefits of all positions presently or  
16 hereafter exempted except for the chief executive officer of each  
17 agency, full-time members of boards and commissions, administrative  
18 assistants and confidential secretaries in the immediate office of an  
19 elected state official, and the personnel listed in subsections (1) (j)  
20 through (v) and (2) of this section, shall be determined by the  
21 Washington personnel resources board.

22 Any person holding a classified position subject to the provisions  
23 of this chapter shall, when and if such position is subsequently  
24 exempted from the application of this chapter, be afforded the  
25 following rights: If such person previously held permanent status in  
26 another classified position, such person shall have a right of  
27 reversion to the highest class of position previously held, or to a  
28 position of similar nature and salary.

29 Any classified employee having civil service status in a classified  
30 position who accepts an appointment in an exempt position shall have  
31 the right of reversion to the highest class of position previously  
32 held, or to a position of similar nature and salary.

33 A person occupying an exempt position who is terminated from the  
34 position for gross misconduct or malfeasance does not have the right of  
35 reversion to a classified position as provided for in this section.

36 **Sec. 4.** RCW 41.06.382 and 1979 ex.s. c 46 s 1 are each amended to  
37 read as follows:

1       (~~Nothing contained in this chapter shall prohibit any~~) An  
2 institution of higher education, as defined in RCW 28B.10.016, or  
3 related board (~~from purchasing services by contract with individuals~~  
4 ~~or business entities if such services were regularly purchased by valid~~  
5 ~~contract at such institution prior to April 23, 1979: PROVIDED, That~~  
6 ~~no such contract may be executed or renewed if it would have the effect~~  
7 ~~of terminating classified employees or classified employee positions~~  
8 ~~existing at the time of the execution or renewal of the contract~~)) may  
9 purchase services or the delivery of services through contracts with  
10 individuals or business entities. The execution or renewal of the  
11 contract must be in compliance with the provisions of RCW 43.19.1906.

12       NEW SECTION. Sec. 5. A new section is added to chapter 28A.400  
13 RCW to read as follows:

14       Nothing in this chapter shall be construed as prohibiting the  
15 procurement or provision of nonacademic services. Directors of school  
16 districts may purchase services or the delivery of services through  
17 contracts with individuals or business entities. The execution or  
18 renewal of the contract must be in compliance with the provisions of  
19 RCW 43.19.1906.

20       NEW SECTION. Sec. 6. This act is necessary for the immediate  
21 preservation of the public peace, health, or safety, or support of the  
22 state government and its existing public institutions, and shall take  
23 effect July 1, 1995.

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