
Judiciary Committee

HB 1374

Title: An act relating to disclosure of contract information by state and local agencies.

Brief Description: Requiring disclosure of specified contract information by state and local agencies.

Sponsors: Representatives Taylor, Shea, Scott, G. Hunt, Young, Condotta and Buys.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Voids any clause within a contract between state or local agencies and private vendors that prevents disclosure of either the existence or purpose of the contract.• Prohibits contracts for software and data storage from preventing disclosure of the extent of any databases held or the number of private individuals and entities about whom information is contained in the database.

Hearing Date: 2/10/15

Staff: Brent Campbell (786-7152).

Background:

Contract terms are generally allowed based on the theory of freedom of contract. However, a contract or its terms may be void and unenforceable if the contract violates certain principles of contract law. For example, a contract may be unenforceable if there is no consideration, if it is unconscionable, or if it contravenes public policy.

Contract terms are unenforceable on grounds of public policy when the interest in their enforcement is clearly outweighed by a public policy against the enforcement of such terms. In order to determine whether a contract violates public policy, courts ask if the contract has a tendency to be against the public good, or to be injurious to the public.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Examples of contracts, or their terms, that are declared by statute to be void as against public policy in Washington include contracts that require:

- a bidder on a public building or construction contract to obtain or procure any surety bonds or insurance specified in connection with the contract; and
- a party to a construction contract to indemnify against liability for negligence caused by the sole negligence of the person requesting indemnification.

Summary of Bill:

Any clause in a contract between state or local agencies and private vendors that prevents disclosure of either the existence or the purpose of the contract to the public is void and unenforceable as against public policy.

Contracts for software and data storage may not prevent disclosure of the extent of any databases held by the vendor. These contracts also may not prohibit disclosure of the number of private individuals and entities about whom information is contained in the database.

This bill does require disclosure of financial, commercial, and proprietary information.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.