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**SENATE BILL 5295**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Keiser, Hasegawa, and Saldaña

AN ACT Relating to ensuring labor neutrality and contractor compliance for certain contracted service providers; amending RCW 39.26.200; adding a new section to chapter 43.20A RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature intends to prevent or mitigate service disruptions caused by labor unrest within private sector providers of certain state services that could harm vulnerable members of the community or compromise the efficient delivery of state services.

NEW SECTION. **Sec.**  A new section is added to chapter 43.20A RCW to read as follows:

(1) Any contract entered into by the department with a private contractor for adult care, behavioral health, disability support, or youth services must contain a provision that requires the private contractor to have a labor neutrality agreement between it and any labor organization representing or seeking to represent the employees of the private contractor who perform or will perform work under the contract.

(2) The labor neutrality agreements required in subsection (1) of this section must, at a minimum, contain provisions that:

(a) Require the contractor remain neutral in its policies, practices, and activities with regard to its employees seeking to exercise rights guaranteed by the national labor relations act, 29 U.S.C. Sec. 151 et seq.;

(b) Provide for an election by card check as a means to certify representation;

(c) Require the contractor to provide a list of current workers upon request of the labor organization; and

(d) Prohibit the contractor from expending income from state contracts or other sources to obstruct, delay, or in any way compromise the labor neutrality agreement.

(3) In awarding contracts listed in subsection (1) of this section, the department must require bidders to disclose past violations of the national labor relations act, 29 U.S.C. Sec. 151 et seq., as determined by the national labor relations board. The department must take into consideration such violations in awarding the contract.

**Sec.**  RCW 39.26.200 and 2017 3rd sp.s. c 1 s 996 are each amended to read as follows:

(1)(a) The director shall provide notice to the contractor of the director's intent to either fine or debar with the specific reason for either the fine or debarment. The department must establish the debarment and fining processes by rule.

(b) After reasonable notice to the contractor and reasonable opportunity for that contractor to be heard, the director has the authority to debar a contractor for cause from consideration for award of contracts. The debarment must be for a period of not more than three years.

(2) The director may either fine or debar a contractor based on a finding of one or more of the following causes:

(a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(b) Conviction or a final determination in a civil action under state or federal statutes of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the federal false claims act, 31 U.S.C. Sec. 3729 et seq., or the state medicaid fraud false claims act, chapter 74.66 RCW, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects responsibility as a state contractor;

(c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(d) Two or more violations within the previous five years of the ((~~federal~~)) national labor relations act as determined by the national labor relations board or court of competent jurisdiction. Significant findings by an administrative law judge of the national labor relations board of unfair labor practices by a contractor are grounds for termination of a contract with the contractor;

(e) Violation of contract provisions, as set forth in this subsection, of a character that is regarded by the director to be so serious as to justify debarment action:

(i) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, however the failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;

(f) Violation of ethical standards set forth in RCW 39.26.020;

(g) Any other cause the director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations; and

(h) During the 2017-2019 fiscal biennium, the failure to comply with a provision in a state master contract or other agreement with a state agency that requires equality among its workers by ensuring similarly employed individuals are compensated as equals.

(3) The director must issue a written decision to debar. The decision must:

(a) State the reasons for the action taken; and

(b) Inform the debarred contractor of the contractor's rights to judicial or administrative review.

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