

# HOUSE BILL REPORT

## HB 2880

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**As Reported By The House Select Committee On:**  
Vendor Contracting & Services

**Title:** An act relating to state agency personal service contract guidelines.

**Brief Description:** Creating a task force on agency vendor contracting practices.

**Sponsors:** Representatives Clements, Dickerson, Backlund, Gombosky, Parlette, Gardner and Delvin.

**Brief History:**

**Committee Activity:**

Vendor Contracting & Services: 1/27/98, 2/3/98 [DPS].

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### HOUSE SELECT COMMITTEE ON VENDOR CONTRACTING & SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Clements, Chairman; Backlund; Delvin; Dickerson; Gardner; Gombosky and Parlette.

**Staff:** Josh Weiss (786-7292).

**Background:** RCW 39.29 governs the procurement of personal service contracts. Due to the exemption of fee-for-service contracts and client service contracts from RCW 39.29, there are no uniform contracting guidelines governing the procurement of all personal service contracts. Other states such as Texas have performed in-depth studies culminating in uniform contract guidelines for personal service contracts.

**Summary of Substitute Bill:** A nine-member task force is selected and headed by the Office of Financial Management (OFM). The task force is charged with the duty of reviewing and suggesting legislative and administrative remedies to specific issues regarding fee-for-services and client services contracts held by not-for-profit entities. The task force is required to look at: 1) the adequacy of 39.29 RCW, including the exemption of fee-for-service and client-service contracts; 2) process improvements to ensure contract oversight and the specific role of agencies in ensuring accountability of public moneys; 3) the appropriate level of state reimbursement which will determine which contractors are eligible to be audited by the state auditor under 43.88.570 RCW, and appropriate funding sources for the auditor to perform audits under 43.09 and 43.88.570 RCW; and 4) several factors related to the adoption of uniform contract

guidelines. The task force is required to make a report of its findings and suggestions to the Legislature by November 1, 1999.

**Substitute Bill Compared to Original Bill:** This bill is narrowed in scope to review only fee-for-services and client-services contracts held by not-for-profit entities. The definition of Contractor~~–~~ is amended, and a definition of Contract~~–~~ is added, to reflect this change in scope. The intent section (Sec. 1) is rewritten to avoid unintended negative connotations. The definition of Agency~~–~~ has been redrafted in a more general manner.

The task force is no longer made responsible for electing a chair (Sec. 3). The director of the Office of Financial Management is given authority to appoint a chair. Two additional interests are represented on the task force (Sec. 3). Two representatives of contractors and two representatives of state employees who have experience administering contracts are added. In addition, the task force is now required to invite and incorporate the participation of interested legislative members (Sec. 3).

Several comments indicated that use of the word investigate~~–~~ with respect to the duties of the task force, was inappropriate. This has been replaced with review~~–~~. Language formerly found in Section 4(1) requires now that the task force make administrative~~–~~ in addition to legislative recommendations. This section, which formerly listed factors to be considered with relation to the promulgation of uniform contract guidelines has been replaced with a more generalized statement. The task force is additionally required to look at the adequacy of contract oversight and the role of state agencies in accountability for state moneys, the appropriate monetary trigger for the auditor to perform random audits under 43.88.570 RCW, and appropriate funding sources for the auditor to complete discretionary audits as under 43.88.570 and 43.09 RCW, and Section 4(2) relating to the task force promulgating rules has been deleted. The task force is also now required to develop proposed procedures, policies, and guidelines and, if necessary proposed legislation or administrative rules~~–~~. Section 4(2) also gives the task force the ability to consider a cost/benefit analysis when preparing its recommendations.

New language in Section 5 requires state agencies to assist the OFM and task force in carrying out the purposes of the act. The task force, in turn, may consider agency suggestions including that provided by the Joint Legislative Audit and Review Committee. Section 6 which formerly allowed the task force to rent equipment and facilities, and purchase supplies, has been deleted.

**Appropriation:** The sum of \$207,825 is appropriated to the Office of Financial Management for the fiscal year ending June 30, 1999.

**Fiscal Note:** Requested on January 20, 1998.

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

**Testimony For:** The bill is too narrow in looking only to personal services contracts, the Legislature needs to fundamentally re-examine the laws, methods, and practices pertaining to the use of all contracted resources. Terminology used in the bill needs to be carefully considered and weighed for their effective meanings. The task force should be charged with making legislative– and administrative– recommendations. Investigation– is too strong, and has negative connotations. The task force should be allowed to take into account cost/benefit analysis when making recommendations. The task force should define the specific roles of state agencies in ensuring the accountability of public funds.

Testified Neutral (with comments): The bill is too narrow in only looking at personal service contracts.

**Testimony Against:** None.

**Testified:** Susan Johnsen, Office of Financial Management (comments only). Linda Long, Office of the State Auditor (pro).