

**SENATE BILL REPORT**

**SB 5592**

**AS REPORTED BY COMMITTEE ON WAYS & MEANS, MARCH 7, 1991**

**Brief Description:** Contracting out for specific services.

**SPONSORS:** Senators McDonald, Owen, Sellar and Roach.

**SENATE COMMITTEE ON COMMERCE & LABOR**

**Majority Report:** That Substitute Senate Bill No. 5592 be substituted therefor, and the substitute bill do pass.

Signed by Senators Matson, Chairman; Anderson, Vice Chairman; Bluechel, McCaslin, and McDonald.

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

**Hearing Dates:** February 26, 1991; February 27, 1991; March 1, 1991; March 4, 1991

**SENATE COMMITTEE ON WAYS & MEANS**

**Majority Report:** That Substitute Senate Bill No. 5592 as recommended by Committee on Commerce & Labor be substituted therefor, and the substitute bill do pass.

Signed by Senators McDonald, Chairman; Craswell, Vice Chairman; Bailey, Bluechel, Cantu, Hayner, Johnson, Matson, Metcalf, Newhouse, Saling, and L. Smith.

**Minority Report:** Do not pass.

Signed by Senators Bauer, Gaspard, L. Kreidler, Murray, Rinehart, Talmadge, Williams, and Wojahn.

**Staff:** Linda Brownell (786-7715)

**Hearing Dates:** March 6, 1991; March 7, 1991

**BACKGROUND:**

Current law provides that certain nonacademic employees may not be exempted from the higher education personnel law.

Relying in part on this provision, a 1978 State Supreme Court decision held that although not specifically prohibited by state law, an institution of higher education could not independently contract for a new service where that service had customarily and historically been performed by classified state employees.

Current law thus allows higher education institutions and state agencies to contract out for services for which they had been contracting out prior to April 23, 1979, but not if it would have the effect of replacing state employees.

Some believe government contracting with the private sector should be expanded at the state level as a more effective and efficient means to provide public services.

**SUMMARY:**

Certain nonacademic employees may not be exempted from the higher education personnel law, but only if they are employed directly by a higher education institution.

Persons employed by an individual or business entity, or persons contracting with a higher education institution are exempt from the higher education personnel law.

The authority of higher education institutions and state agencies to contract out for services for which they had been contracting out prior to April 23, 1979 is removed.

Higher education institutions and state departments are authorized to contract out for the following services: printing, janitorial, including window washing, laundry, building and maintenance, telecommunications, security, groundskeeping, microfilming, and food service.

The Department of General Administration (for state agencies) and the Higher Education Personnel Board (for higher education institutions) are to adopt rules regulating the purchase of services by the state. The rules may include provisions regarding contract length and specificity, performance bonds and penalty provisions, contract monitoring, and the transition time between state employees and private contractors.

The Department of General Administration and the Higher Education Personnel Board are to study the impact of this act and report to the Legislature by January 1994. The reports are to compare services contracted out with having services provided by public employees, and analyze the potential for further contracting out.

**EFFECT OF PROPOSED SUBSTITUTE:**

Certain nonacademic employees may not be exempted from the higher education personnel law, but only if they are employed directly by a higher education institution.

Persons employed by an individual or business entity, or persons contracting with a higher education institution, are exempt from the higher education personnel law.

In addition to the purchasing authorized in current law, higher education institutions and state departments are authorized to contract out for the following services: printing, janitorial, including window washing, laundry, building and maintenance, telecommunications, security, groundskeeping, microfilming, computing, and food service.

The Department of General Administration is to adopt rules regulating state departments' purchase of services under the act. The rules may include provisions regarding contract length and specificity, performance bonds and penalty provisions, contract monitoring, and the transition time between state employees and private contractors. These factors are to be considered by each institution of higher education in preparing bid specifications to contract for services under the act.

The Department of General Administration is to study the impact of this act and report to the Legislature by January 1994. The report is to compare services contracted out with having services provided by public employees, and analyze the potential for further contracting out.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

The bill is permissive and not mandatory -- it allows contracting out when doing so would lead to savings for the state. If, in a particular instance, contracting out was not beneficial, it would not have to be done. In general, however, it will result in substantial savings and the more efficient delivery of services. With the regulations provided for in the bill, both the state and small business would benefit, without risking the quality and accountability of the services provided.

**TESTIMONY AGAINST:**

The bill represents privatization of public services. The existing system works just fine -- no compelling reason has been given to change it. The bill would require a whole new bureaucracy. Contracting out risks losing existing opportunities for women and minorities in government. Service should be valued over profits; increased contracting out will put the quality and accountability of public services in jeopardy; abuse and scandals are inevitable.

**TESTIFIED (Commerce & Labor):** PRO: Cliff Webster, Seattle Chamber of Commerce; Nancy Bratton, Seattle Chamber of Commerce; Jim Buss, Department of Transportation; Beverly Woods, Association of Washington Business, Nat Jackson, Association of Washington Business; Michael Stewart, Council of Presidents; Dick DuCharme, Utility Contractors; CON: Mark Brown, Washington Federation of State Employees, Tony Vivenzio, S.E.I.U.

**TESTIMONY FOR (Ways & Means):**

The importance of contracting out is growing and is very important for small businesses. Both the state and small business would benefit by passage of this bill. This measure

makes good business sense and allows management flexibility for higher education institutions.

**TESTIMONY AGAINST (Ways & Means):** None

**TESTIFIED (Ways & Means):** Nancy Bratton, Seattle Chamber of Commerce (pro); Cliff Webster, Seattle Chamber of Commerce (pro)