

1 **SHB 1410 - H AMD 502 WITHDRAWN 3/24/95**

2 By Representative Conway

3 On page 103, after line 5, insert the following:

4 "NEW SECTION. **Sec. 909. CONTRACTING REQUIREMENTS.** To  
5 ensure the economical and efficient administration and completion  
6 of state contracts, agencies shall comply with the following  
7 requirements in procuring goods and services during the 1995-97  
8 biennium:

9 (1)(a) Contracting agencies shall not contract with employers  
10 that permanently replace lawfully striking employees. No agency  
11 may enter into a contract for goods or services unless the contract  
12 includes a provision certifying that the contracting employer will  
13 not permanently replace lawfully striking employees.

14 (b) Contracts awarded by an agency for goods and services  
15 shall be subject to termination in accordance with this section for  
16 violation of (a) of this subsection.

17 (2)(a) The director of the department of labor and industries  
18 may investigate an organizational unit of an employer contracting  
19 with the state to determine whether the unit has permanently  
20 replaced lawfully striking workers. The investigation shall be  
21 conducted in accordance with procedures established by the  
22 director.

23 (b) The director shall receive and may investigate complaints  
24 by employees of any employer covered under (a) of this subsection  
25 where the complaints allege that lawfully striking employees have  
26 been permanently replaced.

27 (3)(a) When the director of the department of labor and  
28 industries determines, after notice and an opportunity for hearing,  
29 that an employer contracting with the state has permanently  
30 replaced lawfully striking employees, the director may make a  
31 finding that is appropriate to terminate the contract. The

1 director shall transmit that finding to the head of any agency that  
2 contracts with the contractor.

3 (b) The head of the contracting agency may object to the  
4 termination of a contract or contracts of a state contractor  
5 determined to have permanently replaced legally striking employees.  
6 If the head of the agency so objects because termination of the  
7 contract would severely disrupt the operation of the agency to the  
8 detriment of state government or would not be in the public  
9 interest, he or she shall set forth the reasons for not terminating  
10 the contract or contracts in a response in writing to the director.  
11 In that case, the contract shall not be terminated. The head of  
12 the contracting agency shall report to the director and appropriate  
13 committees of the legislature at least annually regarding those  
14 contracts that have been terminated under this section.

15 (4)(a) When the director of the department of labor and  
16 industries determines that a contractor has permanently replaced  
17 lawfully striking employees, the director shall debar the  
18 contractor, thereby making the contractor ineligible to receive  
19 state contracts. Agencies shall not solicit offers from, award  
20 contracts to, or consent to subcontracts with these contractors  
21 unless the head of the agency or his or her designee determines, in  
22 writing, that there is a compelling reason for such action.

23 (b) Unless exceptional circumstances exist, the scope of the  
24 debarment is limited to those organizational units of a state  
25 contractor that the director finds to have permanently replaced  
26 lawfully striking workers. The period of the debarment may not  
27 extend beyond the date when the labor dispute precipitating the  
28 permanent replacement of lawfully striking workers has been  
29 resolved, as determined by the director.

30 (5) The director of the department of labor and industries  
31 shall publish, or cause to be published, in the Washington  
32 register, the names of contractors that have, in the judgment of

1 the director, permanently replaced lawfully striking employees and  
2 have been the subject of debarment.

3 (6)(a) The director of the department of labor and industries  
4 shall be responsible for the administration and enforcement of this  
5 section. The director may adopt such rules as may be deemed  
6 necessary and appropriate to achieve the purposes of this section.

7 (b) Each agency awarding a contract for goods or services  
8 shall cooperate with the director and provide such information and  
9 assistance as the director may require in the performance of the  
10 director's functions under this section.

11 (c) The director may delegate any function or duty under this  
12 section to any employee of the department of labor and industries  
13 or to any other employee of an agency, with the consent of the head  
14 of the agency in which that employee serves.

15 (7) This section is not intended, and should not be  
16 construed, to create any right or benefit, substantive or  
17 procedural, enforceable at law by a party against the state, its  
18 agencies, its officers, or its employees. This section is not  
19 intended, however, to preclude review of final agency decisions in  
20 accordance with chapter 34.05 RCW.

21 (8) This section shall only apply to situations in which  
22 contractors have permanently replaced lawfully striking employees  
23 after the effective date of this section."  
24

25 Renumber the sections consecutively and correct internal references  
26 accordingly.

**EFFECT:** Adds provisions requiring agencies who procure goods or services by contract during the 1995-97 biennium to not contract with employers that permanently replace lawfully striking employees. Contracts may be terminated if replacement of workers occurs and contractors are debarred from bidding until the labor dispute that precipitated the permanent replacement of workers has been resolved.