

SENATE BILL REPORT

SB 6096

As Passed Senate, February 13, 2020

Title: An act relating to preventing disruption of certain state-financed and procured services due to labor unrest within contracted service providers.

Brief Description: Preventing disruption of certain state-financed and procured services due to labor unrest within contracted service providers.

Sponsors: Senators Keiser, Stanford and Saldaña.

Brief History:

Committee Activity: Labor & Commerce: 1/14/20, 1/16/20 [DP, w/oRec].

Floor Activity:

Passed Senate: 2/13/20, 35-12.

Brief Summary of Bill

- Requires certain Department of Social and Health Services contracts to contain an assurance from the contractor that the services provided will not be disrupted by economic or industrial action.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Saldaña, Schoesler, Stanford, Walsh and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senator Braun.

Staff: Jarrett Sacks (786-7448)

Background: Under the National Labor Relations Act, covered employees in the private sector have the right to organize into labor organizations, engage in collective bargaining for better terms and conditions at work, and take collective action if necessary.

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.

Sometimes, economic or industrial actions are taken by employees or employers during a labor dispute. Examples of economic and industrial actions include:

- strikes;
- lock-outs;
- performing work in a manner different from how it is normally performed; or
- restricting or delaying the performance of work.

The Department of Social and Health Services (DSHS) provides a wide range of services across various programmatic divisions. Services include adult care, juvenile justice services, disability support, and mental health and addiction services.

Summary of Bill: Any contract entered into or renewed by DSHS with a private contractor for adult care, mental health, addiction, disability support, or youth services must contain an assurance that the contracted services will not be disrupted or delayed by economic or industrial action. The assurance may be provided through an agreement between the contractor and any labor organization that represents, or seeks to represent, the employees of the private contractor that perform or will perform the contracted services.

The assurance must be a required condition of contracting with DSHS and may be satisfied through one or more of the following contractual commitments:

- an agreement between the contractor and an exclusive representative labor organization representing the employees performing the contracted services that contains a provision prohibiting economic or industrial action on the part of all parties and includes a process for resolution of disputes;
- an agreement between the contractor and any labor organization seeking to represent the employees performing the contracted services that includes a provision prohibiting the parties from causing, promoting, or encouraging economic, industrial, or other disruptive activity on the part of the contractor or employees performing services under the contract and includes a dispute resolution process; or
- any other agreement or binding obligation providing equivalent assurances.

Failure to maintain the assurance, such that the contracted services are disrupted entitles DSHS to terminate, suspend, or revoke the contract. When awarding contracts, DSHS must consider prior disruptions of services by the contractor and whether the assurance provided has mitigated the risk of a reoccurrence.

A contract subject to the requirements of the bill that is awarded must contain a provision for reimbursement to DSHS of the actual costs arising from the inadequacy of the assurance provided by the contractor.

Appropriation: None.

Fiscal Note: Requested on January 9, 2020.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The bill ensures that providers will not have future difficulties and provides a way to resolve problems. The bill protects the state's interest in the continuity of vital services. The NLRA allows employees to strike, but it is not in the best interest of the state. There is an example of an employer who refuses to bargain and the only recourse for the employees is to strike, but that will hurt vulnerable individuals.

OTHER: Parts of the bill are overly prescriptive when requiring an agreement with the contractor and a labor organization. The goals of the bill are good and having uninterrupted state services is important. Last year, the bill contained a neutrality requirement, that being removed from the bill is good and it should remain out of the bill.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Dennis Eagle, Washington Federation of State Employees.

OTHER: Robert Battles, Association of Washington Business; Maxford Nelsen, Freedom Foundation.

Persons Signed In To Testify But Not Testifying: No one.