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SENATE BILL 5592

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators McDonald, Owen, Sellar and Roach.

Read first time February 8, 1991. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to purchasing services by contract; amending RCW  
2 28B.16.040, 28B.16.240, and 41.06.380; adding a new section to chapter  
3 43.19 RCW; adding a new section to chapter 28B.16 RCW; and creating a  
4 new section.

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

6            **Sec. 1.** RCW 28B.16.040 and 1990 c 60 s 201 are each amended to  
7 read as follows:

8            (1) The following classifications, positions, and employees of  
9 institutions of higher education and related boards are hereby exempted  
10 from coverage of this chapter:

11            ~~((1))~~ (a) Members of the governing board of each institution and  
12 related boards, all presidents, vice presidents and their confidential  
13 secretaries, administrative and personal assistants; deans, directors,  
14 and chairmen; academic personnel; and executive heads of major  
15 administrative or academic divisions employed by institutions of higher

1 education; and any employee of a community college district whose place  
2 of work is one which is physically located outside the state of  
3 Washington and who is employed pursuant to RCW 28B.50.092 and assigned  
4 to an educational program operating outside of the state of Washington.

5 ~~((2))~~ (b) Student, part time, or temporary employees, and part  
6 time professional consultants, as defined by the higher education  
7 personnel board, employed by institutions of higher education and  
8 related boards.

9 ~~((3))~~ (c) The director, his or her confidential secretary,  
10 assistant directors, and professional education employees of the state  
11 board for community college education.

12 ~~((4))~~ (d) The personnel director of the higher education  
13 personnel board and his or her confidential secretary.

14 ~~((5))~~ (e) The governing board of each institution, and related  
15 boards, may also exempt from this chapter, subject to the employees  
16 right of appeal to the higher education personnel board,  
17 classifications involving research activities, counseling of students,  
18 extension or continuing education activities, graphic arts or  
19 publications activities requiring prescribed academic preparation or  
20 special training, and principal assistants to executive heads of major  
21 administrative or academic divisions, as determined by the higher  
22 education personnel board: PROVIDED, That no nonacademic employee  
23 employed directly by the institution of higher education or related  
24 boards engaged in office, clerical, maintenance, or food and trade  
25 services may be exempted by the higher education personnel board under  
26 this provision.

27 (f) Persons employed by an individual or business entity, or any  
28 individual that has contracted with an institution for higher education  
29 or related board for delivery of services.

1       (2) Any classified employee having civil service status in a  
2 classified position who accepts an appointment in an exempt position  
3 shall have the right of reversion to the highest class of position  
4 previously held, or to a position of similar nature and salary.

5       A person occupying an exempt position who is terminated from the  
6 position for gross misconduct or malfeasance does not have the right of  
7 reversion to a classified position as provided for in this section.

8       **Sec. 2.** RCW 28B.16.240 and 1979 ex.s. c 46 s 1 are each amended to  
9 read as follows:

10       (~~Nothing contained in this chapter shall prohibit any~~) An  
11 institution of higher education, as defined in RCW 28B.10.016, or  
12 related board (~~from purchasing~~) may purchase services by contract  
13 with individuals or business entities (~~if such services were regularly~~  
14 ~~purchased by valid contract at such institution prior to April 23,~~  
15 ~~1979: PROVIDED, That no such contract may be executed or renewed if it~~  
16 ~~would have the effect of terminating classified employees or classified~~  
17 ~~employee positions existing at the time of the execution or renewal of~~  
18 ~~the contract~~) for the following services: Printing, janitorial,  
19 including window washing, laundry, building maintenance,  
20 telecommunications, security, groundskeeping, microfilming, and food  
21 service.

22       **Sec. 3.** RCW 41.06.380 and 1979 ex.s. c 46 s 2 are each amended to  
23 read as follows:

24       (~~Nothing contained in this chapter shall prohibit any~~) A  
25 department, as defined in RCW 41.06.020, (~~from purchasing~~) may  
26 purchase services by contract with individuals or business entities  
27 (~~if such services were regularly purchased by valid contract by such~~  
28 ~~department prior to April 23, 1979: PROVIDED, That no such contract~~

1 ~~may be executed or renewed if it would have the effect of terminating~~  
2 ~~classified employees or classified employee positions existing at the~~  
3 ~~time of the execution or renewal of the contract))~~ for the following  
4 services: Printing, janitorial, including window washing, laundry,  
5 building maintenance, telecommunications, security, groundskeeping,  
6 microfilming, and food service.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.19 RCW  
8 to read as follows:

9 The department of general administration shall adopt rules  
10 regulating the purchase of services by state agencies and institutions.  
11 The rules may include provisions to:

12 (1) Establish contracts for a length of time long enough to attract  
13 prospective contractors, but short enough to maintain a competitive  
14 environment;

15 (2) Require sufficient specificity in the contract to ensure  
16 quality service delivery;

17 (3) Require a performance bond or some other demonstration of  
18 financial security from the contractor and include penalty provisions  
19 for not meeting contract specifications;

20 (4) Monitor contracts to ensure service quality and build  
21 monitoring costs into the evaluation of the cost-effectiveness of  
22 contracting; and

23 (5) Bid contracts far enough in advance to allow for a smooth  
24 transition between the state and private contractors and to avoid  
25 unreasonable dislocation of classified employees.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.16 RCW  
27 to read as follows:

1       The higher education personnel board shall adopt rules regulating  
2 the purchase of services by institutions of higher education. The  
3 rules may include provisions to:

4       (1) Establish contracts for a length of time long enough to attract  
5 prospective contractors, but short enough to maintain a competitive  
6 environment;

7       (2) Require sufficient specificity in the contract to ensure  
8 quality service delivery;

9       (3) Require a performance bond or some other demonstration of  
10 financial security from the contractor and include penalty provisions  
11 for not meeting contract specifications;

12       (4) Monitor contracts to ensure service quality and build  
13 monitoring costs into the evaluation of the cost-effectiveness of  
14 contracting; and

15       (5) Bid contracts far enough in advance to allow for a smooth  
16 transition between the state and private contractors and to avoid  
17 unreasonable dislocation of classified employees.

18       NEW SECTION.   **Sec. 6.**       The department of general administration  
19 and the state higher education personnel board are each directed to  
20 study the impact of this act on their respective organizations, and  
21 submit reports to the Washington state senate and house of  
22 representatives by January 1994. The reports shall include a  
23 comparison of the use of contracting with private entities to provide  
24 public services versus the traditional practice of public employees  
25 providing public services. The reports shall also analyze the  
26 potential for expanding the practice of contracting with private  
27 entities to provide public services.