

SENATE BILL REPORT

SB 5375

AS PASSED SENATE, MARCH 11, 1993

Brief Description: Regulating personal service contracts.

SPONSORS: Senators Bauer, Wojahn, Barr, Oke, Rinehart, von Reichbauer and Winsley; by request of Legislative Budget Committee

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass.

Signed by Senators Haugen, Chairman; Drew, Vice Chairman; Loveland, Oke, Owen, von Reichbauer, and Winsley.

Staff: Barbara Howard (786-7410)

Hearing Dates: February 17, 1993; February 23, 1993

HOUSE COMMITTEE ON STATE GOVERNMENT

BACKGROUND:

Personal services contracts for state agencies must be awarded on a competitive basis. Contracts for more than \$2,500, or which involve a sole source contractor, an emergency, or expert witnesses, must be filed with the Office of Financial Management (OFM) and the Legislative Budget Committee (LBC). Filing is not required for competitively bid contracts. Advance approval by OFM is required for sole source contracts for more than \$10,000, or when a single contract exceeds \$10,000.

The current process does not require disclosure and competition for subcontractors or major contract amendments.

SUMMARY:

Legislative intent is expanded to include open competition for subcontracts to personal service contracts. "Subcontract" is defined to mean a contract assigning some of the work of a contract to a third party.

Substantial changes in the scope of work in the contract or formal solicitation document must be awarded as new contracts, must be submitted to OFM and LBC, and are subject to approval by OFM.

If the value of an amendment or amendments to a contract exceeds 50 percent of the original value, such amendments must be submitted to OFM and LBC. OFM must approve amendments submitted to it before services may be performed. Amendments submitted must be made available for public inspection at

least 10 working days before the start date of service. Criteria for approval of amendments are established by OFM.

If a contractor's response to a competitive solicitation specifies subcontracts and subcontractors, the process becomes a competitive solicitation. If subcontracts are authorized but the subcontractors are not identified in the contractor's response, the subcontracts must comply with the competitive solicitation process and selection of subcontractors is subject to prior agency approval.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The silence of the statute with respect to subcontractors and amendments leaves a considerable loophole in the competitive process. The bill is an outgrowth of the recommendations in the LBC audit of previous activities of the State Investment Board.

TESTIMONY AGAINST: None

TESTIFIED: Senator Bauer, prime sponsor

HOUSE AMENDMENT(S):

The statement of intent is expanded to centralize information about personal service contracts for public review, and ensure proper accounting for such expenditures.

For participating in personal service contracts, additional elements require that:

(1) On sole source contracts funded by the state at more than \$10,000, the agency must document that it attempted to identify potential consultants through newspaper advertising, other appropriate media, or the use of bidders' lists approved by OFM; (2) OFM must ensure that cost, fees or negotiated rates on state-funded sole source contracts are reasonable; (3) personal service contracts may be procured only if the service is critical to statutory responsibilities of the agency, current staffing or expertise is insufficient, and other qualified public sources are not available; (4) competitively solicited contracts must be filed with OFM and LBC, and OFM must approve such contracts if they are for management consulting, organizational development, marketing, communications, training, or recruiting services; (5) OFM must make a detailed list of all personal service contracts available to the public; and (6) architectural and engineering contracts must also be filed with OFM on a quarterly basis.