

HOUSE BILL REPORT

HB 2880

As Reported By The House Select Committee On:

Vendor Contracting & Services
Government Administration
Appropriations

Title: An act relating to state agency personal service contract guidelines.

Brief Description: Creating a task force on agency vendor contracting practices.

Sponsors: Representatives Clements, Dickerson, Backlund, Gombosky, Parlette, Gardner and Delvin.

Brief History:

Committee Activity:

Vendor Contracting & Services: 1/27/98, 2/3/98 [DPS];
Government Administration: 2/5/98 [DPS(SVC)];
Appropriations: 2/7/98 [DP2S(w/o sub SVC)].

HOUSE SELECT COMMITTEE ON VENDOR CONTRACTING & SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Clements, Chairman; Backlund; Delvin; Dickerson; Gardner; Gombosky and Parlette.

Staff: Josh Weiss (786-7292).

Background: RCW 39.29 governs the procurement of personal service contracts. Due to the exemption of fee-for-service contracts and client service contracts from RCW 39.29, there are no uniform contracting guidelines governing the procurement of all personal service contracts. Other states such as Texas have performed in-depth studies culminating in uniform contract guidelines for personal service contracts.

Summary of Substitute Bill: A nine-member task force is selected and headed by the Office of Financial Management (OFM). The task force is charged with the duty of reviewing and suggesting legislative and administrative remedies to specific issues regarding fee-for-services and client services contracts held by not-for-profit entities. The task force is required to look at: 1) the adequacy of 39.29 RCW, including the exemption of fee-for-service and client-service contracts; 2) process improvements to ensure contract oversight and the specific role of agencies in ensuring accountability of

public moneys; 3) the appropriate level of state reimbursement which will determine which contractors are eligible to be audited by the state auditor under 43.88.570 RCW, and appropriate funding sources for the auditor to perform audits under 43.09 and 43.88.570 RCW; and 4) several factors related to the adoption of uniform contract guidelines. The task force is required to make a report of its findings and suggestions to the Legislature by November 1, 1999.

Substitute Bill Compared to Original Bill: This bill is narrowed in scope to review only fee-for-services and client-services contracts held by not-for-profit entities. The definition of "Contractor" is amended, and a definition of "Contract" is added, to reflect this change in scope. The intent section (Sec. 1) is rewritten to avoid unintended negative connotations. The definition of "Agency" has been redrafted in a more general manner.

The task force is no longer made responsible for electing a chair (Sec. 3). The director of the Office of Financial Management is given authority to appoint a chair. Two additional interests are represented on the task force (Sec. 3). Two representatives of contractors and two representatives of state employees who have experience administering contracts are added. In addition, the task force is now required to invite and incorporate the participation of interested legislative members (Sec. 3).

Several comments indicated that use of the word "investigate," with respect to the duties of the task force, was inappropriate. This has been replaced with "review." Language formerly found in Section 4(1) requires now that the task force make "administrative" in addition to legislative recommendations. This section, which formerly listed factors to be considered with relation to the promulgation of uniform contract guidelines has been replaced with a more generalized statement. The task force is additionally required to look at the adequacy of contract oversight and the role of state agencies in accountability for state moneys, the appropriate monetary trigger for the auditor to perform random audits under 43.88.570 RCW, and appropriate funding sources for the auditor to complete discretionary audits as under 43.88.570 and 43.09 RCW, and Section 4(2) relating to the task force promulgating rules has been deleted. The task force is also now required to "develop proposed procedures, policies, and guidelines and, if necessary proposed legislation or administrative rules." Section 4(2) also gives the task force the ability to consider a cost/benefit analysis when preparing its recommendations.

New language in Section 5 requires state agencies to assist the OFM and task force in carrying out the purposes of the act. The task force, in turn, may consider agency suggestions including that provided by the Joint Legislative Audit and Review Committee. Section 6 which formerly allowed the task force to rent equipment and facilities, and purchase supplies, has been deleted.

Appropriation: The sum of \$207,825 is appropriated to the Office of Financial Management for the fiscal year ending June 30, 1999.

Fiscal Note: Requested on January 20, 1998.

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

Testimony For: The bill is too narrow in looking only to personal services contracts, the Legislature needs to fundamentally re-examine the laws, methods, and practices pertaining to the use of all contracted resources. Terminology used in the bill needs to be carefully considered and weighed for their effective meanings. The task force should be charged with making "legislative" and "administrative" recommendations. "Investigation" is too strong, and has negative connotations. The task force should be allowed to take into account cost/benefit analysis when making recommendations. The task force should define the specific roles of state agencies in ensuring the accountability of public funds.

Testified Neutral (with comments): The bill is too narrow in only looking at personal service contracts.

Testimony Against: None.

Testified: Susan Johnsen, Office of Financial Management (comments only). Linda Long, Office of the State Auditor (pro).

HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

Majority Report: The substitute bill by Committee on Select Vendor Committee be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives D. Schmidt, Chairman; D. Sommers, Vice Chairman; Scott, Ranking Minority Member; Gardner, Assistant Ranking Minority Member; Doumit; Dunn; Dunshee; Murray; Reams; Smith; L. Thomas; Wensman and Wolfe.

Staff: Josh Weiss (786-7292).

Summary of Recommendation of Committee on Government Administration Compared to Recommendation of Committee on Vendor Contracting & Services:
No new changes.

Appropriation: The sum of \$207,825 is appropriated to the Office of Financial Management for the fiscal year ending June 30, 1999.

Fiscal Note: Requested on January 20, 1998.

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

Testimony For: None.

Testimony Against: None.

Testified: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Select Committee on Vendor Contracting & Services. Signed by 29 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney; Kessler; Lambert; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Joe Hauth (786-7271).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Select Committee on Vendor Contracting & Services: The task force review is limited to social services contracts. A null and void clause is added, making the bill null and void unless funded in the budget.

Appropriation: The sum of \$207,825 is appropriated to the Office of Financial Management for the fiscal year ending June 30, 1999.

Fiscal Note: Available

Effective Date: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: This task force will be comprised of people with tenacity. Some of the largest not-for-profit organizations have had some problems. The bill is intended to ensure that state money goes into the hands of the people for whom it is intended. The Washington State Catholic Conference is probably one of the largest social-service providers and it supports these measures. This is a legitimate effort, not a witch hunt. The State Auditor's Office supports the bill. We have found a need to strengthen the expectations for not-for-profit organizations. Most of the problems found by the auditor are unintentional. The Select Committee on Vendor Contracting and Services has done

an excellent job. The task force puts appropriate people around the table and has the support of agency contractors. The State Auditor has indirect authority to audit not-for-profits but it lacks the necessary resources and mandate to do so effectively.

Testimony Against: None.

Testified: Representative Clements, prime sponsor; Margaret Casey, Washington State Catholic Conference; and Linda Long, State Auditor's Office.