
SUBSTITUTE HOUSE BILL 1735

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Government Administration (originally sponsored by Representatives Reams, Quall, Doumit, Radcliff, Cairnes, D. Sommers, Hankins, Zellinsky, Sheldon, Costa, Sehlin, Dyer, Pennington, Ogden, Carlson, Scott, Mitchell, Morris, Gardner, Kenney, Cooke, Kessler, Mielke, Hatfield, Romero, Dickerson, Poulsen, Linville, Johnson, Blalock, Tokuda, Cooper, Murray, Dunshee, Wood, Mason, Clements, Keiser, Mulliken, Chopp and Thompson)

Read first time 02/24/97.

1 AN ACT Relating to expanding employment opportunities for people
2 with disabilities; amending RCW 43.19.530 and 43.19.1906; adding new
3 sections to chapter 43.19 RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** (1) It is the intent of the legislature to
6 expand employment opportunities for people with disabilities. The
7 legislature recognizes the necessity of strengthening the state's
8 policy of creating employment opportunities for persons with
9 disabilities and enabling achievement of maximum personal independence
10 through expanded employment opportunities. Chapter . . ., Laws of 1997
11 (this act) shall accomplish this intent by encouraging supported
12 employment positions for people with disabilities within state
13 government offices and providing state agencies with a more effective
14 process for purchasing products and services from community
15 rehabilitation programs that operate programs serving people with
16 disabilities.

17 (2) The legislature shall review and make findings with respect to
18 programs operating under chapter . . ., Laws of 1997 (this act) by
19 December 15, 2002, which shall consider whether: (a) The number of

1 people with disabilities who are employed has increased; (b) the number
2 of people with disabilities who are employed in positions of inclusion
3 has increased; (c) average wages paid to people with disabilities have
4 increased; and (d) the number of people with disabilities who work in
5 integrated community settings has increased.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Agency" means all offices, departments, agencies,
9 institutions, boards, and commissions of state government including
10 those headed by an elected official but not including institutions of
11 higher education.

12 (2) "Central nonprofit agency" means a private not-for-profit
13 organization with a network of established connections with community
14 rehabilitation programs in Washington and a current working
15 understanding of the contracting and negotiated bid processes.

16 (3) "Certification" means the process by which the commission
17 approves community rehabilitation programs so that they may participate
18 in the negotiated bid process with state agencies.

19 (4) "Commission" means the commission for purchases from community
20 rehabilitation programs.

21 (5) "Community rehabilitation program" means a program that is
22 operated under criteria established by the commission and which
23 directly provides or facilitates the provision of vocational services
24 to people with disabilities to enable them to maximize opportunities
25 for employment, including career advancement.

26 (6) "Disabilities" means physical, mental, or sensory impairments
27 that would impede a person from obtaining and maintaining permanent
28 employment and promotional opportunities. The impairments must be
29 material rather than slight and must be static and permanent in that
30 they are seldom fully corrected by medical replacement, therapy, or
31 surgical means.

32 (7) "Equitable market value" means the price agreed upon by state
33 agencies and community rehabilitation programs in the negotiated bid
34 process. In terms of price per unit or job, the equitable market price
35 determined through the negotiated bid process is based upon current
36 market pricing for goods or services of equal value, including any or
37 all of the following factors: Last price bid, established pricing as
38 derived through averaging of current comparable contracts, the effect

1 of changes in specifications, market fluctuation, supply costs, and
2 other applicable factors.

3 (8) "Negotiated bidding" is the process by which the community
4 rehabilitation programs negotiate directly with state agencies to
5 establish prices for products and services and negotiate contracts for
6 purchases of products and services.

7 (9) "Supported employment" means employment for people with
8 disabilities who need long-term ongoing support in order to succeed on
9 the job. The job should provide opportunities for interaction with
10 coworkers without disabilities and should be individually tailored to
11 the skills of the person with a disability. Supported employment
12 positions pay people with disabilities the same rate as employees
13 without disabilities who do the same kind of work.

14 NEW SECTION. **Sec. 3.** (1) State agencies shall encourage and
15 establish supported employment positions in state government offices.
16 The governor shall submit a report of progress to the appropriate
17 legislative committees by December 15th of each odd-numbered year.

18 (2) The department of social and health services or its successor
19 agency shall develop and disseminate supported employment information
20 to educate managers, supervisors, and other staff in all areas of state
21 government.

22 (3) The department of personnel shall provide assistance with
23 respect to developing and disseminating supported employment
24 information as needed or requested by the department of social and
25 health services or its successor agency.

26 (4) Supported employment is not intended to displace current
27 employees or abrogate any reduction in force rights.

28 NEW SECTION. **Sec. 4.** (1) A commission for purchases from
29 community rehabilitation programs is created. The commission is
30 composed of four members who are appointed by the governor, consisting
31 of one representative from:

32 (a) The health and rehabilitation services division of the
33 department of social and health services or the agency's successor;

34 (b) The governor's committee on disability issues and employment;

35 (c) An advocacy organization for people with disabilities; and

36 (d) A community rehabilitation program.

1 (2) Members of the commission serve four-year terms. Members may
2 not receive compensation for their service on the commission, but they
3 are entitled to reimbursement for actual and necessary expenses
4 incurred in performing their duties as members as set forth in RCW
5 43.03.050 and 43.03.060.

6 (3) The community rehabilitation program representative serves as
7 the chair.

8 (4) The commission members shall appoint five additional at-large
9 members.

10 NEW SECTION. **Sec. 5.** The commission shall:

11 (1) Develop and administer policies and procedures that expand the
12 market for products and services provided by community rehabilitation
13 programs, consistent with sections 4 through 11 of this act;

14 (2) Develop criteria for certification and certify community
15 rehabilitation programs;

16 (3) Monitor the negotiated bid process;

17 (4) Identify potential contracts between state agencies and
18 community rehabilitation programs;

19 (5) Establish and collect the certification fee from community
20 rehabilitation programs which shall be placed into the general fund;

21 (6) Adopt rules necessary to facilitate the purchase of products
22 from community rehabilitation programs;

23 (7) Consult with the department of general administration on
24 subsections (4) and (6) of this section; and

25 (8) Develop criteria for measuring goals in relation to the
26 legislative review process, be responsible for collecting data, and
27 report findings to the legislature.

28 NEW SECTION. **Sec. 6.** The commission shall be funded through a
29 certification fee imposed upon community rehabilitation programs as
30 part of the certification process.

31 NEW SECTION. **Sec. 7.** The commission may:

32 (1) Contract with a central nonprofit agency for assistance in
33 carrying out its duties; and

34 (2) Solicit grants to offset expenses associated with carrying out
35 the provisions of this chapter.

1 NEW SECTION. **Sec. 8.** (1) State agencies are required to purchase
2 products or services from certified community rehabilitation programs
3 that meet all of the following criteria:

4 (a) The community rehabilitation program can provide products or
5 services requested by the agency;

6 (b) The products or services meet the agency's expectation of
7 quality; and

8 (c) The agencies and the community rehabilitation program
9 successfully negotiate an equitable market value through a good faith
10 negotiated bid process.

11 (2) A community rehabilitation program seeking to bid on a contract
12 shall notify the agency in writing in the time and manner required by
13 the commission.

14 (3) A representative from a state agency seeking to purchase
15 products or services shall meet with representatives from the community
16 rehabilitation program and the central nonprofit agency. All
17 representatives shall make a good faith effort to negotiate a contract
18 containing an equitable market value price for its corresponding
19 specifications.

20 NEW SECTION. **Sec. 9.** To be eligible to negotiate contracts under
21 chapter . . . , Laws of 1997 (this act), a community rehabilitation
22 program must be certified by the commission. The commission may
23 certify community rehabilitation programs that do all of the following:

24 (1) Meet standards established by the commission, which may include
25 standards established by a recognized authority on rehabilitation
26 standard of practice;

27 (2) Meet all applicable business and employment guidelines from the
28 state and federal government; and

29 (3) Complete an application created and approved by the commission
30 and provide proof of completion of the application.

31 **Sec. 10.** RCW 43.19.530 and 1977 ex.s. c 10 s 2 are each amended to
32 read as follows:

33 (~~The state agencies and departments are hereby~~) Institutions of
34 higher education, as defined in RCW 28B.10.016, are authorized to
35 purchase products and/or services manufactured or provided by sheltered
36 workshops and programs of the department of social and health services.
37 Such purchases shall be at the fair market price of such products and

1 services as determined by the division of purchasing of the department
2 of general administration. To determine the fair market price the
3 division shall use the last comparable bid on the products and/or
4 services or in the alternative the last price paid for the products
5 and/or services. The increased cost of labor, materials, and other
6 documented costs since the last comparable bid or the last price paid
7 are additional cost factors which shall be considered in determining
8 fair market price. Upon the establishment of the fair market price as
9 provided for in this section the division is hereby empowered to
10 negotiate directly with sheltered workshops or officials in charge of
11 the programs of the department of social and health services for the
12 purchase of the products or services.

13 **Sec. 11.** RCW 43.19.1906 and 1995 c 269 s 1404 are each amended to
14 read as follows:

15 Insofar as practicable, all purchases and sales shall be based on
16 competitive bids, and a formal sealed bid procedure shall be used as
17 standard procedure for all purchases and contracts for purchases and
18 sales executed by the state purchasing and material control director
19 and under the powers granted by RCW 43.19.190 through 43.19.1939. This
20 requirement also applies to purchases and contracts for purchases and
21 sales executed by agencies, including educational institutions, under
22 delegated authority granted in accordance with provisions of RCW
23 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is
24 not necessary for:

25 (1) Emergency purchases made pursuant to RCW 43.19.200 if the
26 sealed bidding procedure would prevent or hinder the emergency from
27 being met appropriately;

28 (2) Purchases not exceeding thirty-five thousand dollars, or
29 subsequent limits as calculated by the office of financial management:
30 PROVIDED, That the state director of general administration shall
31 establish procedures to assure that purchases made by or on behalf of
32 the various state agencies shall not be made so as to avoid the thirty-
33 five thousand dollar bid limitation, or subsequent bid limitations as
34 calculated by the office of financial management: PROVIDED FURTHER,
35 That the state purchasing and material control director is authorized
36 to reduce the formal sealed bid limits of thirty-five thousand dollars,
37 or subsequent limits as calculated by the office of financial
38 management, to a lower dollar amount for purchases by individual state

1 agencies if considered necessary to maintain full disclosure of
2 competitive procurement or otherwise to achieve overall state
3 efficiency and economy in purchasing and material control. Quotations
4 from four hundred dollars to thirty-five thousand dollars, or
5 subsequent limits as calculated by the office of financial management,
6 shall be secured from at least three vendors to assure establishment of
7 a competitive price and may be obtained by telephone or written
8 quotations, or both. The agency shall invite at least one quotation
9 each from a certified minority and a certified women-owned vendor who
10 shall otherwise qualify to perform such work. Immediately after the
11 award is made, the bid quotations obtained shall be recorded and open
12 to public inspection and shall be available by telephone inquiry. A
13 record of competition for all such purchases from four hundred dollars
14 to thirty-five thousand dollars, or subsequent limits as calculated by
15 the office of financial management, shall be documented for audit
16 purposes. Purchases up to four hundred dollars may be made without
17 competitive bids based on buyer experience and knowledge of the market
18 in achieving maximum quality at minimum cost: PROVIDED, That this four
19 hundred dollar direct buy limit without competitive bids may be
20 increased incrementally as required to a maximum of eight hundred
21 dollars, if warranted by increases in purchasing costs due to
22 inflationary trends;

23 (3) Purchases which are clearly and legitimately limited to a
24 single source of supply and purchases involving special facilities,
25 services, or market conditions, in which instances the purchase price
26 may be best established by direct negotiation;

27 (4) Purchases of insurance and bonds by the risk management office
28 under RCW 43.19.1935;

29 (5) Purchases and contracts for vocational rehabilitation clients
30 of the department of social and health services: PROVIDED, That this
31 exemption is effective only when the state purchasing and material
32 control director, after consultation with the director of the division
33 of vocational rehabilitation and appropriate department of social and
34 health services procurement personnel, declares that such purchases may
35 be best executed through direct negotiation with one or more suppliers
36 in order to expeditiously meet the special needs of the state's
37 vocational rehabilitation clients;

38 (6) Purchases by universities for hospital operation or biomedical
39 teaching or research purposes and by the state purchasing and material

1 control director, as the agent for state hospitals as defined in RCW
2 72.23.010, and for health care programs provided in state correctional
3 institutions as defined in RCW 72.65.010(3) and veterans' institutions
4 as defined in RCW 72.36.010 and 72.36.070, made by participating in
5 contracts for materials, supplies, and equipment entered into by
6 nonprofit cooperative hospital group purchasing organizations;

7 (7) Purchases by institutions of higher education not exceeding
8 thirty-five thousand dollars: PROVIDED, That for purchases between two
9 thousand five hundred dollars and thirty-five thousand dollars
10 quotations shall be secured from at least three vendors to assure
11 establishment of a competitive price and may be obtained by telephone
12 or written quotations, or both. For purchases between two thousand
13 five hundred dollars and thirty-five thousand dollars, each institution
14 of higher education shall invite at least one quotation each from a
15 certified minority and a certified women-owned vendor who shall
16 otherwise qualify to perform such work. A record of competition for
17 all such purchases made from two thousand five hundred to thirty-five
18 thousand dollars shall be documented for audit purposes; ((and))

19 (8) Beginning on July 1, 1995, and on July 1 of each succeeding
20 odd-numbered year, the dollar limits specified in this section shall be
21 adjusted as follows: The office of financial management shall
22 calculate such limits by adjusting the previous biennium's limits by
23 the appropriate federal inflationary index reflecting the rate of
24 inflation for the previous biennium. Such amounts shall be rounded to
25 the nearest one hundred dollars; and

26 (9) Purchases of products and services from a community
27 rehabilitation program as set forth in sections 1 through 9 of this
28 act.

29 NEW SECTION. Sec. 12. Sections 1 through 9 of this act are each
30 added to chapter 43.19 RCW.

31 NEW SECTION. Sec. 13. If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 14.** Sections 1 through 3 and 5 through 11 of
2 this act take effect January 1, 1998.

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