
SUBSTITUTE HOUSE BILL 2892

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Mitchell, Fisher, K. Schmidt, Radcliff, Hankins, Zellinsky, Backlund, Skinner, Chandler, Mielke, Sherstad, Thompson and D. Sommers)

Read first time 02/09/98. Referred to Committee on .

1 AN ACT Relating to the contracting of department of transportation
2 services; amending RCW 41.06.150 and 41.06.380; adding a new section to
3 chapter 47.04 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.04 RCW
6 to read as follows:

7 (1) For purposes of this section, the following definitions apply:

8 (a) "Repair" means any activity that restores or mends to a sound
9 or good condition by replacing or fixing after decay, injury,
10 dilapidation, or partial destruction has occurred.

11 (b) "Maintenance" means to preserve or retain in a condition of
12 good repair or efficiency.

13 (c) "Traffic services" means maintenance activities such as, but
14 not limited to, pavement striping; pavement marking; raised pavement
15 markers; repairing and replacing highway signage, guideposts, and
16 guardrails; traffic signal maintenance; and highway lighting.

17 (2) The department of transportation may purchase maintenance
18 services by contract with individuals or business entities.
19 Maintenance services that may be contracted out include, but are not

1 limited to, roadway maintenance and repair, drainage maintenance and
2 slope repair, roadside and landscape maintenance, bridge and urban
3 tunnel maintenance, snow and ice control, traffic services, and rest
4 area maintenance. As prescribed in RCW 41.06.150(13), a discretionary
5 decision by the department to purchase maintenance services by contract
6 is not a bargainable issue.

7 (3) If the department intends to purchase maintenance services, the
8 secretary shall notify the director of the maintenance program, and any
9 exclusive bargaining representative who represents any employee whose
10 employment status will be directly affected by the contract. Together,
11 the director of the maintenance program and the exclusive bargaining
12 representative may offer an alternative competitive bid to the proposed
13 contract. The alternative competitive bid proposal must be based upon
14 the inclusion of the following minimum bid items: (a) The current
15 certified prevailing wages established by the department of labor and
16 industries for the classification of work to be performed under the
17 proposed contract; (b) an overhead factor of not less than sixty-six
18 percent of the base prevailing wage rate; (c) equipment charges that
19 reflect the current fair market value for equipment rental rates; (d)
20 sales tax; (e) and business and occupation tax. Alternative
21 competitive bids must be submitted as a sealed bid to the secretary,
22 who will consider these alternatives in making the final decision to
23 contract out.

24 (4) The department shall submit an annual report to the legislative
25 transportation committee at the end of each fiscal year, disclosing all
26 the maintenance service contracts awarded during the prior fiscal year.

27 NEW SECTION. **Sec. 2.** The department shall conduct a three-year
28 maintenance contracting-out pilot project to commence on July 1, 1998,
29 and conclude on June 30, 2001. The pilot project may include any of
30 the following maintenance services: Drainage maintenance and slope
31 repair, roadside and landscape maintenance, bridge and urban tunnel
32 maintenance, rest area maintenance, and third-party damages and
33 disaster maintenance. The department shall submit the results of the
34 study to the legislative transportation committee for review by August
35 1, 2001.

36 **Sec. 3.** RCW 41.06.150 and 1996 c 319 s 2 are each amended to read
37 as follows:

1 The board shall adopt rules, consistent with the purposes and
2 provisions of this chapter, as now or hereafter amended, and with the
3 best standards of personnel administration, regarding the basis and
4 procedures to be followed for:

5 (1) The reduction, dismissal, suspension, or demotion of an
6 employee;

7 (2) Certification of names for vacancies, including departmental
8 promotions, with the number of names equal to six more names than there
9 are vacancies to be filled, such names representing applicants rated
10 highest on eligibility lists: PROVIDED, That when other applicants
11 have scores equal to the lowest score among the names certified, their
12 names shall also be certified;

13 (3) Examinations for all positions in the competitive and
14 noncompetitive service;

15 (4) Appointments;

16 (5) Training and career development;

17 (6) Probationary periods of six to twelve months and rejections of
18 probationary employees, depending on the job requirements of the class,
19 except that entry level state park rangers shall serve a probationary
20 period of twelve months;

21 (7) Transfers;

22 (8) Sick leaves and vacations;

23 (9) Hours of work;

24 (10) Layoffs when necessary and subsequent reemployment, both
25 according to seniority;

26 (11) Determination of appropriate bargaining units within any
27 agency: PROVIDED, That in making such determination the board shall
28 consider the duties, skills, and working conditions of the employees,
29 the history of collective bargaining by the employees and their
30 bargaining representatives, the extent of organization among the
31 employees, and the desires of the employees;

32 (12) Certification and decertification of exclusive bargaining
33 representatives: PROVIDED, That after certification of an exclusive
34 bargaining representative and upon the representative's request, the
35 director shall hold an election among employees in a bargaining unit to
36 determine by a majority whether to require as a condition of employment
37 membership in the certified exclusive bargaining representative on or
38 after the thirtieth day following the beginning of employment or the
39 date of such election, whichever is the later, and the failure of an

1 employee to comply with such a condition of employment constitutes
2 cause for dismissal: PROVIDED FURTHER, That no more often than once in
3 each twelve-month period after expiration of twelve months following
4 the date of the original election in a bargaining unit and upon
5 petition of thirty percent of the members of a bargaining unit the
6 director shall hold an election to determine whether a majority wish to
7 rescind such condition of employment: PROVIDED FURTHER, That for
8 purposes of this clause, membership in the certified exclusive
9 bargaining representative is satisfied by the payment of monthly or
10 other periodic dues and does not require payment of initiation,
11 reinstatement, or any other fees or fines and includes full and
12 complete membership rights: AND PROVIDED FURTHER, That in order to
13 safeguard the right of nonassociation of public employees, based on
14 bona fide religious tenets or teachings of a church or religious body
15 of which such public employee is a member, such public employee shall
16 pay to the union, for purposes within the program of the union as
17 designated by such employee that would be in harmony with his or her
18 individual conscience, an amount of money equivalent to regular union
19 dues minus any included monthly premiums for union-sponsored insurance
20 programs, and such employee shall not be a member of the union but is
21 entitled to all the representation rights of a union member;

22 (13) Agreements between agencies and certified exclusive bargaining
23 representatives providing for grievance procedures and collective
24 negotiations on all personnel matters over which the appointing
25 authority of the appropriate bargaining unit of such agency may
26 lawfully exercise discretion. Discretionary decisions to purchase
27 maintenance services by contract by the department of transportation is
28 not subject to this subsection;

29 (14) Written agreements may contain provisions for payroll
30 deductions of employee organization dues upon authorization by the
31 employee member and for the cancellation of such payroll deduction by
32 the filing of a proper prior notice by the employee with the appointing
33 authority and the employee organization: PROVIDED, That nothing
34 contained herein permits or grants to any employee the right to strike
35 or refuse to perform his or her official duties;

36 (15) Adoption and revision of a comprehensive classification plan
37 for all positions in the classified service, based on investigation and
38 analysis of the duties and responsibilities of each such position.

1 (a) The board shall not adopt job classification revisions or class
2 studies unless implementation of the proposed revision or study will
3 result in net cost savings, increased efficiencies, or improved
4 management of personnel or services, and the proposed revision or study
5 has been approved by the director of financial management in accordance
6 with chapter 43.88 RCW.

7 ~~((Beginning July 1, 1995, through June 30, 1997, in addition to
8 the requirements of (a) of this subsection:~~

9 ~~(i) The board may approve the implementation of salary increases
10 resulting from adjustments to the classification plan during the 1995-
11 97 fiscal biennium only if:~~

12 ~~(A) The implementation will not result in additional net costs and
13 the proposed implementation has been approved by the director of
14 financial management in accordance with chapter 43.88 RCW;~~

15 ~~(B) The implementation will take effect on July 1, 1996, and the
16 total net cost of all such actions approved by the board for
17 implementation during the 1995-97 fiscal biennium does not exceed the
18 amounts specified by the legislature specifically for this purpose; or~~

19 ~~(C) The implementation is a result of emergent conditions.
20 Emergent conditions are defined as emergency situations requiring the
21 establishment of positions necessary for the preservation of the public
22 health, safety, or general welfare, which do not exceed \$250,000 of the
23 moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp.
24 sess.~~

25 ~~(ii) The board shall approve only those salary increases resulting
26 from adjustments to the classification plan if they are due to
27 documented recruitment and retention difficulties, salary compression
28 or inversion, increased duties and responsibilities, or inequities.
29 For these purposes, inequities are defined as similar work assigned to
30 different job classes with a salary disparity greater than 7.5 percent.~~

31 ~~(iii) Adjustments made to the higher education hospital special pay
32 plan are exempt from (b)(i) through (ii) of this subsection.~~

33 ~~(e)) Reclassifications, class studies, and salary adjustments to
34 be implemented during the 1997-99 and subsequent fiscal biennia are
35 governed by (a) of this subsection and RCW 41.06.152;~~

36 (16) Allocation and reallocation of positions within the
37 classification plan;

38 (17) Adoption and revision of a state salary schedule to reflect
39 the prevailing rates in Washington state private industries and other

1 governmental units but the rates in the salary schedules or plans shall
2 be increased if necessary to attain comparable worth under an
3 implementation plan under RCW 41.06.155 and that, for institutions of
4 higher education and related boards, shall be competitive for positions
5 of a similar nature in the state or the locality in which an
6 institution of higher education or related board is located, such
7 adoption and revision subject to approval by the director of financial
8 management in accordance with the provisions of chapter 43.88 RCW;

9 (18) Increment increases within the series of steps for each pay
10 grade based on length of service for all employees whose standards of
11 performance are such as to permit them to retain job status in the
12 classified service;

13 (19) Providing for veteran's preference as required by existing
14 statutes, with recognition of preference in regard to layoffs and
15 subsequent reemployment for veterans and their surviving spouses by
16 giving such eligible veterans and their surviving spouses additional
17 credit in computing their seniority by adding to their unbroken state
18 service, as defined by the board, the veteran's service in the military
19 not to exceed five years. For the purposes of this section, "veteran"
20 means any person who has one or more years of active military service
21 in any branch of the armed forces of the United States or who has less
22 than one year's service and is discharged with a disability incurred in
23 the line of duty or is discharged at the convenience of the government
24 and who, upon termination of such service has received an honorable
25 discharge, a discharge for physical reasons with an honorable record,
26 or a release from active military service with evidence of service
27 other than that for which an undesirable, bad conduct, or dishonorable
28 discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse
29 of a veteran is entitled to the benefits of this section regardless of
30 the veteran's length of active military service: PROVIDED FURTHER,
31 That for the purposes of this section "veteran" does not include any
32 person who has voluntarily retired with twenty or more years of active
33 military service and whose military retirement pay is in excess of five
34 hundred dollars per month;

35 (20) Permitting agency heads to delegate the authority to appoint,
36 reduce, dismiss, suspend, or demote employees within their agencies if
37 such agency heads do not have specific statutory authority to so
38 delegate: PROVIDED, That the board may not authorize such delegation

1 to any position lower than the head of a major subdivision of the
2 agency;

3 (21) Assuring persons who are or have been employed in classified
4 positions before July 1, 1993, will be eligible for employment,
5 reemployment, transfer, and promotion in respect to classified
6 positions covered by this chapter;

7 (22) Affirmative action in appointment, promotion, transfer,
8 recruitment, training, and career development; development and
9 implementation of affirmative action goals and timetables; and
10 monitoring of progress against those goals and timetables.

11 The board shall consult with the human rights commission in the
12 development of rules pertaining to affirmative action. The department
13 of personnel shall transmit a report annually to the human rights
14 commission which states the progress each state agency has made in
15 meeting affirmative action goals and timetables.

16 **Sec. 4.** RCW 41.06.380 and 1979 ex.s. c 46 s 2 are each amended to
17 read as follows:

18 Nothing contained in this chapter shall prohibit any department, as
19 defined in RCW 41.06.020, from purchasing services by contract with
20 individuals or business entities if such services were regularly
21 purchased by valid contract by such department prior to April 23, 1979:
22 PROVIDED, That no such contract may be executed or renewed if it would
23 have the effect of terminating classified employees or classified
24 employee positions existing at the time of the execution or renewal of
25 the contract. This section does not apply to maintenance activities of
26 the department of transportation as defined by section 1 of this act.

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