

# HOUSE BILL REPORT

## HB 1640

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### As Reported by House Committee On:

State Government

**Title:** An act relating to employment opportunities for people with disabilities.

**Brief Description:** Providing for expanded employment opportunities for people with disabilities.

**Sponsors:** Representatives Miloscia (co-prime sponsor), Dunn (co-prime sponsor), Casada, Conway and Santos.

### Brief History:

#### Committee Activity:

State Government: 2/5/02, 2/8/02 [DPS].

#### Brief Summary of Substitute Bill

- Requires state agencies, where possible, to purchase products and services from certified community rehabilitation programs when they are of standard price and quality. Creates a commission to facilitate and supervise the purchase of products and services produced by persons with disabilities who are employed by certified community rehabilitation programs.

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### HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Romero, Chair; Miloscia, Vice Chair; McDermott, Schindler, Schmidt and Upthegrove.

**Staff:** Bree Ramage (786-7617).

### Background:

The director of the Department of General Administration (GA), through the state purchasing and material control director, purchases materials, supplies, services and equipment needed for use in state institutions, colleges and departments. Alternatively, an agency may purchase materials, supplies, services, and equipment directly from a vendor if the agency notifies the purchasing and material control director that it is more

cost-effective. The purchasing and material control director may also delegate to state agencies authorization to purchase or sell materials, supplies, services, and equipment within a specified dollar amount.

Generally, and to the extent feasible, all purchases and sales must be based on competitive bids following a formal sealed bid procedure. There are some exceptions to the rule requiring formal sealed bidding. For example, purchases and contracts to meet the needs of vocational rehabilitation clients of the Department of Social and Health Services (DSHS) may be purchased through direct negotiation if appropriate. With some exceptions, purchases of \$35,000 and under do not require formal sealed bidding.

State agencies and departments may purchase products and services manufactured or provided by sheltered workshops and programs of the DSHS. Sheltered workshops are defined as nonprofit organizations whose primary purpose is to provide gainful employment or rehabilitation services to disabled persons who cannot readily be absorbed in the competitive labor market or during a time when employment opportunities in the competitive labor market do not exist. The purchases must be at fair market price, which is defined as the last comparable bid on a product or the last price paid for a product.

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### **Summary of Substitute Bill:**

#### Purchasing

Where possible, state agencies must purchase products and services produced by persons with disabilities who are employed by certified community rehabilitation programs, provided that the services and products:

- are of standard price and quality;
- have been certified by the commission; and
- have been placed on the commission's list of certified products and services.

#### Commission

A commission is created to purchase products and services from persons with disabilities who are employed by certified community rehabilitation programs in the Division of Vocational Rehabilitation of the DSHS. A certified community rehabilitation program is defined as a program approved by the DSHS that provides vocational rehabilitation and employment services to people with disabilities to enable them to maximize employment opportunities.

The commission will have eight members, appointed by the Governor, representing: the DSHS, the GA, the Governor's Committee on Disability Issues and Employment, an advocacy organization for people with disabilities, and a certified community rehabilitation program.

The commission will develop and administer policies and procedures for the certified

community rehabilitation programs, and:

- certify the community rehabilitation programs;
- review products, services, and bids;
- establish an equitable market value for all products and services;
- publish a list of all products and services available and provide the list to purchasing officers of state agencies; and
- issue an annual report to the Governor and the Legislature.

Equitable market value is the price determined by the commission through consideration of current market pricing for goods or services of equal quality and value. The price must recover all reasonable costs associated with the production and delivery of products and services to the state.

#### Nonprofit Agency

The commission will immediately designate a central nonprofit agency to provide support to the commission. A central nonprofit agency is a private tax-exempt organization with relationships to a statewide network of community rehabilitation programs. The agency will represent the interests of the certified community rehabilitation programs and the disabled individuals employed by such programs. The agency will assist the commission in determining the eligibility of community rehabilitation programs for certification, and supervise the compliance with contract and quality standards required by the purchasing authority. The agency will be financed by a fee generated through contracts between certified community rehabilitation programs and the state.

This act will not apply to products and services available by prior agreement between two state agencies.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill changes the effective date by one year and makes other technical changes, such as correcting the name of the Governor's committee.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on January 1, 2003.

**Testimony For:** This bill makes it possible for the state's current purchasing dollars to employ individuals with disabilities. Persons with disabilities traditionally have a higher unemployment rate than the rest of society. This bill provides an avenue for people with disabilities to secure meaningful work in Washington. There are currently between nine and 10,000 people with disabilities who would like to work, but are unable to because of

diminished funding. Funding that does or does not go to the agency restricts the number of people who can be employed by the agency. More than 30 other states have effective legislation that uses the state's current spending to create jobs for people with disabilities. This legislation will save Washingtonians money. A study of Oregon's state use system concludes that Oregon's law lowers the state's public supports by \$0.35 for every contract dollar spent. Additionally, the State concluded that many times the contract costs were lowered by negotiated contracts and people with disabilities were able to get jobs and move out of poverty. Therefore, this bill is sound and prudent social and fiscal policy. There are requirements for the state to staff the commission. In other states, the fee more than covers the cost of doing business. The fee is generated by the bid price which must include the cost of the fee. The people who work for the community rehabilitation programs generally work in an integrated environment. This bill does not bind the state to only give these contracts out to community rehabilitation programs that employ people with disabilities. This is permissive state-use legislation. This bill does not take jobs away from non-disabled employees.

**Testimony Against:** In principle it is good to buy products from providers that work with people with disabilities, however, it should not become an exclusive practice. The preferred setting for employing people with disabilities is a competitive and integrated setting. The community rehabilitation programs that use sheltered workshops to produce these products are typically not integrated settings. This bill creates an additional layering of certification. Many of these programs already have to go through a certification. This additional layer of certification creates new burdens both on the provider and on the Division of Vocational Rehabilitation. There are nearly 200 community rehabilitation programs in Washington. Management of this task would exceed the staffing capacity of both the voluntary commission and the Division of Vocational Rehabilitation. The Division of Vocational Rehabilitation is mandated by federal regulation to ensure that its customers are entitled to an informed choice. If this bill were to pass and the Division of Vocational Rehabilitation was required to purchase products from community rehabilitation programs, it would prevent choice for those products that might be used by the Division of Vocational Rehabilitation's consumers.

**Testified:** (In support) Representative Miloscia, prime sponsor; Jim Eddy, Timberland Opportunities Association; Tom Stepanek, Orion Industries; Michael Bainbridge, ATWORK!; and Ray Coleman, SKCAC Industries.

(Opposed) Dr. Michael O'Brien, the Department of Social and Health Services.