

SCR 8407 - S AMD 640

By Senators Shin and Kohl-Welles

PULLED 4/23/05

1 Strike everything after the enacting clause and insert the
2 following:

3 WHEREAS, Offshore outsourcing of public sector jobs has an impact
4 on Washington's economy; and

5 WHEREAS, Some contracts entered into by state agencies are being
6 performed, in whole or in part, outside the United States; and

7 WHEREAS, The legislature has invested public resources in business
8 development, recruitment, and retention, and wants to ensure that
9 corporations that benefit from these investments are responsive to the
10 legislature and the citizens of Washington state; and

11 WHEREAS, Reliable data are only now emerging to accurately assess
12 the impacts of outsourcing on a local and national level; and

13 WHEREAS, Balanced and impartial collection, study, and evaluation
14 of such data are necessary to ensure adequate legislative oversight of
15 state agency outsourcing data; and

16 WHEREAS, The legislature is concerned about and wants to examine
17 the impact of offshore outsourcing;

18 NOW, THEREFORE, BE IT RESOLVED, By the Senate of the state of
19 Washington, the House of Representatives concurring, That a study of
20 offshore outsourcing be conducted to evaluate the following issues:

21 A full survey of state contracts, and any subcontracts awarded
22 under such contracts, that are being performed in whole or in part at
23 locations outside the United States;

24 The degree to which awarding of such contracts where work is
25 performed offshore implicates the competitive contracting provisions of
26 the Personnel System Reform Act of 2002 and rules developed and
27 implemented thereto;

28 With regard to state agency contracts in which all or a portion of
29 the work is performed in a country other than the United States: (1)
30 The relative capacity and ability of each agency to assess its need to
31 contract for services, prepare a request for proposal, select a vendor,
32 assess the market, award a contract, supervise a vendor while

1 administering the contract, continually assess risk of exposure to the
2 state, enforce the contract and provide services if the vendor refuses
3 or fails to perform under the terms of the contract; (2) The manner in
4 which agencies screen vendors to determine if they are responsible
5 bidders; and (3) Whether or not agencies are renewing contracts with
6 vendors without making renewal subject to a competitive bidding
7 process;

8 The extent of legislative authority over state procurement and the
9 degree to which the following are adequate to protect such authority:
10 The process for making and extending the state's commitments under the
11 agreement on government procurement of the world trade organization and
12 other international trade agreements; and the exceptions in the
13 agreement on government procurement of the world trade organization and
14 other international trade agreements;

15 The applicability of international trade agreements to state
16 procurement policies;

17 The extent to which work performed under state contracts is
18 performed in countries that are not signatories to applicable
19 international trade agreements;

20 The effects of such agreements on domestic preferences adopted by
21 signatories to such agreements;

22 The full range of economic impacts of awarding personal services,
23 purchased services, civil service, and public works contracts to
24 Washington headquartered or domiciled companies including, the creation
25 or retention of jobs and any multiplier effect on state and local tax
26 or employment levels;

27 The cost and benefits to the state of retraining workers who are
28 separated from employment because their positions were outsourced to
29 locations outside the United States, and issues relative to their
30 eligibility for training benefits under RCW 50.22.150;

31 The extent to which state contracts performed at locations outside
32 the United States involve a risk of unauthorized use or disclosure of
33 personal information as well as a review of applicable state and
34 federal laws regarding the privacy of personal information and the
35 applicability of such laws to state contracts performed offshore;

36 The relationship between state labor market conditions, including
37 unemployment rate and implications for trade-dependent industries, and
38 offshore outsourcing decisions;

1 The economic costs and benefits of awarding personal services,
2 purchased services, civil service, and public works contracts to
3 Washington companies or United States companies where some or all
4 work is performed in a country other than the United States,
5 including a comparison of the availability and cost of contracts
6 using only Washington or United States labor;

7 The impact of performing work on state agency contracts in a
8 country other than the United States on the development and furthering
9 of relationships with new and existing trading partners;

10 The number of workers in Washington whose jobs are dependent on work
11 from foreign companies or governments;

12 To what extent, if any, Washington's trading partners have
13 retaliated historically in response to legislative actions that
14 limited trading opportunities;

15 The impact, if any, on Washington headquartered or domiciled companies
16 of best interest or domestic preference criteria enacted by other states;
17 and

18 The impact, if any, of state-based regulation of offshore outsourcing
19 on the ability of companies headquartered or resident in Washington to do
20 business in the global marketplace, including trade with the governments
21 of other countries and states.

22 BE IT FURTHER RESOLVED, That the study be conducted by a joint task
23 force of the Senate and the House of Representatives consisting of the
24 following: Two senators to be appointed by the majority leader of the
25 Senate, two senators to be appointed by the minority leader of the Senate;
26 two representatives to be appointed by the Speaker of the House of
27 Representatives, and two representatives to be appointed by the minority
28 leader of the House of Representatives. The task force shall be governed
29 by cochairs, one to be selected by the majority leader of the Senate, and
30 the other to be selected by the Speaker of the House of Representatives;
31 and

32 BE IT FURTHER RESOLVED, That the joint task force, in conjunction with
33 the private sector, shall consult with and be advised by an advisory
34 committee consisting of eight members: Three members representing labor,
35 appointed jointly by the President of the Senate and the Speaker of the
36 House of Representatives, from a list of names recommended by a statewide
37 organization representing a cross-section of organized labor in the state,
38 one of whom shall represent a public sector union; three members

1 representing business, one of whom shall represent small business,
2 appointed jointly by the President of the Senate and the Speaker of the
3 House of Representatives, from a list of names recommended by a statewide
4 organization of employers representing a cross-section of employers of the
5 state; one member representing the office of the Washington state trade
6 representative; and one member representing the public, who is not a member
7 of any of the above listed groups. Advisory committee members
8 are not to be reimbursed for travel expenses incurred; and

9 BE IT FURTHER RESOLVED, That the findings and recommendations of
10 the joint task force be reported to the legislature by January 1, 2006.

11 BE IT FURTHER RESOLVED, The joint task force should seek the
12 cooperation of the office of financial management, on state contracts
13 and first and second tier subcontracts in which services are performed
14 by workers or businesses outside the United States, to obtain
15 information regarding:

16 (1) The number and nature of contracts awarded to vendors that use
17 or subcontract the use of workers in other countries to perform services
18 under state contracts; and

19 (2) Estimates or other conclusions that state agencies can
20 reasonably draw regarding the costs or other benefits of state contracts
21 employing workers in the United States compared to those using workers
22 in other countries.

23 BE IT FURTHER RESOLVED, that the joint task force should seek the
24 cooperation of the office of financial management to obtain information
25 about the amount and location of all contracts awarded in which services
26 were performed by workers outside the United States.

27 BE IT FURTHER RESOLVED, that consistent with state and federal law,
28 the joint task force, in consultation with the office of financial
29 management, the Departments of General Administration, Information
30 Services, Personnel, and other affected agencies, should recommend
31 policies to the legislature regarding appropriate disclosure of offshore
32 outsourcing by all parties seeking to enter into any contract or
33 subcontract with the State of Washington or one of its agencies for the
34 provision of services, including but not limited to the following:

35 (1) Whether or not the party should disclose the country, if
36 outside the United States, where any of the services under the contract
37 will be provided;

1 (2) Whether or not the party should disclose any subcontracting of
2 services under the contract and the country; if outside the United
3 States, where any subcontracted services will be performed;

4 (3) Whether or not the party should commit that during the course
5 of the state contract the country in which services are performed will
6 not be changed, except with the written consent of the agency; and

7 (4) Whether or not the party should disclose, if applicable, why
8 the only practicable location where the services may be performed is
9 clearly and justifiably a location outside the United States. This
10 factor need not apply, by way of illustration, and not as a limitation,
11 to services related to the establishment and operation of foreign
12 offices created for the purpose of promoting overseas trade and
13 commerce, research projects conducted by faculty at state institutions
14 of higher education, and study-abroad programs offered by state
15 institutions of higher education.

16 Renumber the sections consecutively and correct any internal references
17 accordingly.

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EFFECT: An eight member joint task force of the Legislature is to study offshoring outsourcing. An eight member advisory board is to consult with and advise the task force. The board is not entitled to reimbursement for their travel costs. The findings and recommendations of the joint task force is due to the Legislature by January 1, 2006. Some of the issues the task force is to evaluate include:

1. The degree to which state contracts, and subcontracts, are being performed, in whole or in part, at locations outside the United States.
2. The applicability of international trade agreements to state procurement policies.
3. The economic impact of awarding certain state contracts to Washington companies.
4. The cost to the state of retraining workers who are separated from employment because their positions were outsourced to locations outside the United States.
5. The number of workers in Washington whose jobs are dependent on work from overseas companies of governments.
6. The extent to which state contracts performed at locations outside the United States involve risk of unauthorized use or disclosure of personal information as well as a review of applicable state and federal laws regarding the privacy of personal information and the applicability of such laws to state contracts performed offshore.

The joint task force should seek the cooperation of the office of financial management (OFM) to obtain information regarding: 1) the number and nature of state contracts that use workers outside of the

United States 2) estimates regarding the costs or other benefits of state contracts employing workers outside of the United States and 3) information about the amount and location of all contracts awarded in which services were performed by workers from outside the United States.

The joint task force, in consultation with OFM, and the Departments of General Administration, Information Services, Personnel, and other affected agencies, should recommend policies regarding the appropriate level of disclosure of offshore outsourcing by all parties seeking to enter into a contract or subcontract with the state for services including, but not limited to: 1) whether the party should disclose the country, if outside the United States, where any services under a state contract or subcontract are being performed, 2) whether or not the party should be restricted from changing the country in which the service is performed, and 3) whether or not the party should disclose why the only practicable location where the services may be performed is a location outside the United States.