
SENATE BILL 5409

State of Washington 61st Legislature 2009 Regular Session

By Senators Zarelli and Parlette

Read first time 01/21/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to establishing the Washington competition council;
2 and adding a new chapter to Title 43 RCW.

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

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Commercial activity" means an activity performed by or for
7 state government that is not an inherently governmental activity and
8 that may feasibly be obtained from a commercial source at a lower cost
9 than the activity being performed by state employees.

10 (2) "Competitive contracting" has the same meaning as in RCW
11 41.06.142.

12 (3) "Competitive process" means the process approved by the council
13 to determine the most cost-effective privatization technique.

14 (4) "Council" means the Washington competition council.

15 (5) "Privatization" means a variety of techniques and activities
16 that promote more involvement of the private sector in providing
17 services that have traditionally been provided by government. It also
18 includes methods of providing a portion or all of select government-

1 provided or government-produced programs and services through the
2 private sector.

3 (6) "State agency" means any board, council, authority, department,
4 agency, or institution of the state.

5 NEW SECTION. **Sec. 2.** (1) The Washington competition council is
6 established as an advisory council within the office of financial
7 management. The council must be composed of fifteen members to be
8 appointed as follows: Four employees of executive branch agencies to
9 be appointed by the governor; one member from each of the two largest
10 caucuses in the house of representatives to be appointed by the leaders
11 of the respective caucuses; one member from each of the two largest
12 caucuses in the senate to be appointed by the leaders of the respective
13 caucuses; three members of the private sector to be appointed by the
14 governor; two members of the private sector to be appointed by the
15 speaker of the house of representatives; and two members of the private
16 sector to be appointed by the president of the senate.

17 (2) Legislative members shall serve on the council until the
18 expiration of their terms of office or until their successors qualify.
19 Executive branch agency members shall serve only as long as they retain
20 their positions. After the initial staggering of terms, all
21 nonlegislative members of the council must be appointed for terms of
22 three years.

23 (3) Appointments to fill vacancies must be for the unexpired terms.
24 No nonlegislative citizen member is eligible to serve more than two
25 successive three-year terms. The remainder of any term to which a
26 member is appointed to fill a vacancy may not constitute a term in
27 determining the member's eligibility for reappointment.

28 (4) The council shall annually elect its chair and vice-chair from
29 among its members. A majority of the members of the council
30 constitutes a quorum.

31 (5) Legislative members of the committee are entitled to be
32 reimbursed for travel expenses in accordance with RCW 44.04.120.
33 Nonlegislative members are entitled to be reimbursed for travel
34 expenses in accordance with RCW 43.03.050 and 43.03.060.

35 (6) The office of financial management shall provide staffing as
36 necessary to enable the council to perform its duties.

1 NEW SECTION. **Sec. 3.** The council shall:

2 (1) Examine and promote methods of providing a portion or all of
3 select government-provided or government-produced programs and services
4 through the private sector by a competitive contracting program, and
5 advise the governor, the legislature, and executive branch agencies of
6 the council's findings and recommendations;

7 (2) Develop an institutional framework for a statewide competitive
8 program to encourage innovation and competition within state
9 government;

10 (3) Establish a system to encourage the use of feasibility studies
11 and innovation to determine where competition could reduce government
12 costs without harming the public;

13 (4) Monitor the products and services of state agencies to bring an
14 element of competition and to ensure a spirit of innovation and
15 entrepreneurship to compete with the private sector;

16 (5) Explore methods to encourage state employees to compete for
17 contracts;

18 (6) Establish approval, planning, and reporting processes required
19 to carry out the functions of the council;

20 (7) Determine the privatization potential of a program or activity,
21 perform cost-benefit analyses, and conduct public and private
22 performance analyses;

23 (8) Devise evaluation criteria to be used in conducting performance
24 reviews of any program or activity that is subject to a privatization
25 recommendation; and

26 (9) Annually, by December 1st report its findings and
27 recommendations to the governor and the legislature.

28 NEW SECTION. **Sec. 4.** (1) The council, in consultation with the
29 office of financial management, shall conduct an examination of the
30 commercial activities that are being performed by state employees at
31 state agencies to ensure such activities are being accomplished in the
32 most cost-efficient and effective manner. The commercial activities
33 examination must be completed and updated in each even-numbered year
34 and may be accomplished by contract with a private entity.

35 (2) The council shall review the practices of state agencies that
36 may constitute inappropriate competition with private enterprise. The

1 council shall develop proposals for (a) preserving the traditional role
2 of private enterprise; and (b) encouraging the expansion of existing,
3 and the creation of new, private enterprise.

4 NEW SECTION. **Sec. 5.** (1) Upon determination by the council that
5 outsourcing a commercial activity may result in reduced costs or
6 otherwise provide a measurable benefit to the state and to assure the
7 activity is being accomplished in the most cost-efficient and effective
8 manner, the governor shall direct the appropriate agency to pursue a
9 contract using the competitive contracting process available in RCW
10 41.06.142.

11 (2) The director of the office of financial management shall
12 determine the amount of the existing appropriation no longer needed by
13 a state agency where all or a portion of the agency's function has been
14 privatized in accordance with the recommendations of the council, and
15 shall reduce allotments accordingly. The director shall also ensure
16 that all appropriate reporting requirements to the governor and the
17 legislature are met. Nothing in this section may preclude the governor
18 from recommending in future budget submissions the restoration of a
19 portion of the original appropriation to the state agency.

20 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
21 a new chapter in Title 43 RCW.

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