
**Early Learning & Human Services
Committee**

HB 2264

Brief Description: Concerning performance-based contracting related to child welfare services.

Sponsors: Representatives Kagi, Walsh, Hinkle, Carlyle, Darneille, Jinkins, Roberts, Dickerson and Ryu.

Brief Summary of Bill

- Repeals provisions established by Second Substitute House Bill 2106 related to performance-based contracting and the establishment of demonstration sites to contract for child welfare services, including case management.
- Requires the Department of Social and Health Services (DSHS) to not renew its current child welfare service contracts.
- Requires the DSHS to execute a new procurement for performance-based contracts.
- Clarifies that procurement for services not is subject to certain competitive bidding processes.
- Clarifies that the procurement may not include the provision of case management services.
- Modifies the definition of case management.

Hearing Date: 1/17/12

Staff: Megan Palchak (786-7120).

Background:

In 2009 the Legislature passed Second Substitute House Bill 2106 (2SHB 2106), which primarily directed the Department of Social and Health Services (DSHS) to, by January 1, 2011, convert its existing contracts for child welfare services to performance-based contracts and to contract

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

for all child welfare services, including case management functions, in selected demonstration sites, by June 30, 2012. These contracts would link the contractors' performance to the level and timing of reimbursement for services. The provisions of the bill also directed the DSHS to decrease the number of contracts for child welfare services.

In 2010 the Legislature passed Substitute Senate Bill 6832 (SSB 6832), which allowed the DSHS to consolidate and convert its existing contracts for child welfare services to performance-based contracts until July 1, 2011. The consolidation and conversion was to be accomplished without jeopardizing federal funding. The bill also extended the implementation date of demonstration sites from June 30, 2012, to December 30, 2012.

On February 18, 2011, the DSHS issued a Request for Proposal (RFP) for performance-based contracts. Under the Personnel System Reform Act of 2002, state agencies may contract for services customarily and historically performed by state employees if the agency provides 90-day notice to the affected employees, who have 60 days to offer alternatives to the purchase of services by contract and then may compete for the contract if the agency does not accept the alternatives. If, however, the contracting is expressly mandated by the Legislature, then for those contracts the agency is not subject to these requirements. Under 2SHB 2106, the Legislature mandated that the DSHS convert to performance-based contracts, and the legislation declared that conversion was not subject to the competitive bidding process.

Upon issuance of the contract, affected employees were not offered alternatives to the purchase of services by contract. On May 5, 2011, the Washington Federation of State Employees (WFSE) filed a motion for preliminary injunction in Thurston County Superior Court, asking the court to stop the DSHS from proceeding with the RFP. On May 13, 2011, the court issued an oral ruling granting the WFSE's motion for preliminary injunction, and enjoining the DSHS from proceeding with its solicitations of the February RFP. The court found that the scope of the RFP exceeded the legislative mandate, and as a result, the issuance of the RFP was not exempt from the competitive bidding process. The injunction was ordered to remain in place until the DSHS complied with the requirements of the competitive bidding process.

Summary of Bill:

By December 1, 2012, the DSHS may not renew its current contracts with providers of child welfare services, and must utilize performance based contracts as provided in this act.

By December 1, 2012, the DSHS must execute a new procurement for performance based contracting for services needed by children and families in the child protective services and child welfare systems. The procurement may not include the provision of case management services. However, the definition of case management is modified by removing terms such as "coordination and monitoring" of services. The DSHS must contract with network administrators to arrange, coordinate, monitor, and provide services needed by children and families in the child protective services and child welfare systems. When all other elements of the responses to the procurement are equal, private nonprofit entities, Tribes, and state employees will be given preference over private for-profit entities. The DSHS is exempt from provisions established under the Personnel System Reform Act of 2002, including the requirement that state agencies seeking to contract for services customarily and historically performed by state

employees must provide affected employees with 90-day notice, and 60 days to offer alternatives to the purchase of services by contract.

The DSHS is required to contract with "network administrators" who are responsible for building a "provider network" or group of child and family services providers who can meet the service needs in the geographic area that their contract covers. The DSHS contracts with network administrators must include several components, such as service provider qualifications; sufficient number/type of providers to adequately meet the needs of children and families in the network administrator's service area; use of evidence-based practices in service delivery; fiscal solvency; and requirements related to quality assurance. Network administrators must be paid based on their performance. Performance must be measured based upon successfully engaging families/children in services and resulting improvement in families' behaviors and interactions. The DSHS may develop a mechanism to share savings achieved with network administrators, who must then invest those savings in better meeting the needs of the children and families they serve. The DSHS must actively monitor network administrator compliance with the terms of the contracts.

The DSHS caseworkers and network administrators are required to collaborate to improve outcomes for children in the child welfare system, including child safety, child permanency, and child well-being as specified in the bill. The DSHS caseworkers remain responsible for conducting initial assessments and convening family meetings. The DSHS caseworkers also must develop case plans and service plans, in collaboration with the network administrator responsible for providing services to families and for the quality of the outcomes. Services must be chosen from the in the network administrator's network, but a non-network provider is authorized under certain conditions. The DSHS is required to develop a dispute resolution process to be used when the DSHS and the network administrator are unable to reach agreement on the nature, intensity, and duration of services.

The Washington State Institute for Public Policy will report to the Legislature in 2013 and 2015 on progress in using performance-based contracting and outcomes achieved through performance-based contracting.

Provisions previously adopted in Second Substitute House Bill 2106 that would have culminated in demonstration sites privatizing all child welfare services, including case management are repealed.

Appropriation: None.

Fiscal Note: Requested on January 11, 2012.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.