

---

SENATE BILL 5550

---

State of Washington

65th Legislature

2017 Regular Session

By Senators Rossi, Baumgartner, Bailey, Braun, Brown, Honeyford, Wilson, Becker, and Angel

Read first time 01/27/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to authorizing state agencies and institutions of  
2 higher education to contract for services; amending RCW 41.80.020,  
3 43.105.052, 43.105.287, 72.09.100, 74.13.362, 74.13B.050, and  
4 77.95.320; adding a new section to chapter 41.06 RCW; adding a new  
5 section to chapter 43.88 RCW; repealing RCW 41.06.142; and providing  
6 for submission of this act to a vote of the people.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.06  
9 RCW to read as follows:

10 (1) Any department, agency, or institution of higher education  
11 may purchase services, including services that have been customarily  
12 and historically provided by employees in the classified service  
13 under this chapter, by contracting with individuals, nonprofit  
14 organizations, businesses, employee business units, or other  
15 entities.

16 (2) No department, agency, or institution of higher education may  
17 enter into, renew, extend, or allow the automatic extension of any  
18 collective bargaining agreement that restricts or modifies the  
19 authority granted by this section.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 43.88  
2    RCW to read as follows:

3        (1) The office of financial management shall establish a process  
4    for identifying the savings achieved by state agencies and  
5    institutions of higher education as a result of contracting for  
6    services under the authority granted in section 1 of this act.  
7    Expenditures during the 2015-2017 fiscal biennium constitute the  
8    baseline for the purposes of calculating the savings.

9        (2) The office of financial management shall provide a report to  
10   the governor and the legislature biannually outlining the savings  
11   achieved by state agencies and institutions of higher education as a  
12   result of contracting for services under the authority granted in  
13   section 1 of this act. The first report is due December 1, 2018.

14        **Sec. 3.**    RCW 41.80.020 and 2015 3rd sp.s. c 1 s 318 are each  
15   amended to read as follows:

16        (1) Except as otherwise provided in this chapter, the matters  
17   subject to bargaining include wages, hours, and other terms and  
18   conditions of employment, and the negotiation of any question arising  
19   under a collective bargaining agreement.

20        (2) The employer is not required to bargain over matters  
21   pertaining to:

22        (a) Health care benefits or other employee insurance benefits,  
23   except as required in subsection (3) of this section;

24        (b) Any retirement system or retirement benefit; or

25        (c) Rules of the director of financial management, the director  
26   of enterprise services, or the Washington personnel resources board  
27   adopted under RCW 41.06.157.

28        (3) Matters subject to bargaining include the number of names to  
29   be certified for vacancies, promotional preferences, and the dollar  
30   amount expended on behalf of each employee for health care benefits.  
31   However, except as provided otherwise in this subsection for  
32   institutions of higher education, negotiations regarding the number  
33   of names to be certified for vacancies, promotional preferences, and  
34   the dollar amount expended on behalf of each employee for health care  
35   benefits shall be conducted between the employer and one coalition of  
36   all the exclusive bargaining representatives subject to this chapter.  
37   The exclusive bargaining representatives for employees that are  
38   subject to chapter 47.64 RCW shall bargain the dollar amount expended  
39   on behalf of each employee for health care benefits with the employer

1 as part of the coalition under this subsection. Any such provision  
2 agreed to by the employer and the coalition shall be included in all  
3 master collective bargaining agreements negotiated by the parties.  
4 For institutions of higher education, promotional preferences and the  
5 number of names to be certified for vacancies shall be bargained  
6 under the provisions of RCW 41.80.010(4). For agreements covering the  
7 2013-2015 fiscal biennium, any agreement between the employer and the  
8 coalition regarding the dollar amount expended on behalf of each  
9 employee for health care benefits is a separate agreement and shall  
10 not be included in the master collective bargaining agreements  
11 negotiated by the parties.

12 (4) The employer and the exclusive bargaining representative  
13 shall not agree to any proposal that would prevent the implementation  
14 of approved affirmative action plans or that would be inconsistent  
15 with the comparable worth agreement that provided the basis for the  
16 salary changes implemented beginning with the 1983-1985 biennium to  
17 achieve comparable worth.

18 (5) The employer and the exclusive bargaining representative  
19 shall not bargain over matters pertaining to management rights  
20 established in RCW 41.80.040.

21 (6) Except as otherwise provided in this chapter, if a conflict  
22 exists between an executive order, administrative rule, or agency  
23 policy relating to wages, hours, and terms and conditions of  
24 employment and a collective bargaining agreement negotiated under  
25 this chapter, the collective bargaining agreement shall prevail. A  
26 provision of a collective bargaining agreement that conflicts with  
27 the terms of a statute is invalid and unenforceable.

28 ~~((7) This section does not prohibit bargaining that affects~~  
29 ~~contracts authorized by RCW 41.06.142.))~~

30 **Sec. 4.** RCW 43.105.052 and 2015 3rd sp.s. c 1 s 104 are each  
31 amended to read as follows:

32 The agency shall:

33 (1) Make available information services to public agencies and  
34 public benefit nonprofit corporations;

35 (2) Establish rates and fees for services provided by the agency;

36 (3) Develop a billing rate plan for a two-year period to coincide  
37 with the budgeting process. The rate plan must be subject to review  
38 at least annually by the office of financial management. The rate  
39 plan must show the proposed rates by each cost center and show the

1 components of the rate structure as mutually determined by the agency  
2 and the office of financial management. The rate plan and any  
3 adjustments to rates must be approved by the office of financial  
4 management;

5 (4) Develop a detailed business plan for any service or activity  
6 to be contracted under (~~RCW 41.06.142(7)(b)~~) section 1 of this act;

7 (5) Develop plans for the agency's achievement of statewide goals  
8 and objectives set forth in the state strategic information  
9 technology plan required under RCW 43.105.220;

10 (6) Enable the standardization and consolidation of information  
11 technology infrastructure across all state agencies to support  
12 enterprise-based system development and improve and maintain service  
13 delivery; and

14 (7) Perform all other matters and things necessary to carry out  
15 the purposes and provisions of this chapter.

16 **Sec. 5.** RCW 43.105.287 and 2015 3rd sp.s. c 1 s 212 are each  
17 amended to read as follows:

18 The board shall have the following powers and duties related to  
19 information services:

20 (1) To review and approve standards and policies, developed by  
21 the office, governing the acquisition and disposition of equipment,  
22 proprietary software, and purchased services, licensing of the radio  
23 spectrum by or on behalf of state agencies, and confidentiality of  
24 computerized data;

25 (2) To review and approve statewide or interagency technical  
26 policies and standards developed by the office;

27 (3) To review, approve, and provide oversight of major  
28 information technology projects to ensure that no major information  
29 technology project proposed by a state agency is approved or  
30 authorized funding by the board without consideration of the  
31 technical and financial business case for the project, including a  
32 review of:

33 (a) The total cost of ownership across the life of the project;

34 (b) All major technical options and alternatives analyzed, and  
35 reviewed, if necessary, by independent technical sources; and

36 (c) Whether the project is technically and financially  
37 justifiable when compared against the state's enterprise-based  
38 strategy, long-term technology trends, and existing or potential  
39 partnerships with private providers or vendors;

1 (4) To review and approve standards and common specifications for  
2 new or expanded telecommunications networks proposed by state  
3 agencies, public postsecondary education institutions, educational  
4 service districts, or statewide or regional providers of K-12  
5 information technology services, and to assure the cost-effective  
6 development and incremental implementation of a statewide video  
7 telecommunications system to serve: Public schools; educational  
8 service districts; vocational-technical institutes; community  
9 colleges; colleges and universities; state and local government; and  
10 the general public through public affairs programming;

11 (5) To develop a policy to determine whether a proposed project,  
12 product, or service should undergo an independent technical and  
13 financial analysis prior to submitting a request to the office of  
14 financial management for the inclusion in any proposed operating,  
15 capital, or transportation budget;

16 (6) To approve contracting for services and activities under  
17 (~~RCW 41.06.142(7)~~) section 1 of this act for the agency. To approve  
18 any service or activity to be contracted under (~~RCW~~  
19 ~~41.06.142(7)(b)~~) section 1 of this act, the board must also review  
20 the proposed business plan and recommendation submitted by the  
21 office;

22 (7) To consider, on an ongoing basis, ways to promote strategic  
23 investments in enterprise-level information technology projects that  
24 will result in service improvements and cost efficiency;

25 (8) To provide a forum to solicit external expertise and  
26 perspective on developments in information technology, enterprise  
27 architecture, standards, and policy development; and

28 (9) To provide a forum where ideas and issues related to  
29 information technology plans, policies, and standards can be  
30 reviewed.

31 **Sec. 6.** RCW 72.09.100 and 2012 c 220 s 2 are each amended to  
32 read as follows:

33 It is the intent of the legislature to vest in the department the  
34 power to provide for a comprehensive inmate work program and to  
35 remove statutory and other restrictions which have limited work  
36 programs in the past. It is also the intent of the legislature to  
37 ensure that the department, in developing and selecting correctional  
38 industries work programs, does not encourage the development of, or  
39 provide for selection of or contracting for, or the significant

1 expansion of, any new or existing class I correctional industries  
2 work programs that unfairly compete with Washington businesses. The  
3 legislature intends that the requirements relating to fair  
4 competition in the correctional industries work programs be liberally  
5 construed by the department to protect Washington businesses from  
6 unfair competition. For purposes of establishing such a comprehensive  
7 program, the legislature recommends that the department consider  
8 adopting any or all, or any variation of, the following classes of  
9 work programs:

10 (1) CLASS I: FREE VENTURE INDUSTRIES.

11 (a) The employer model industries in this class shall be operated  
12 and managed in total or in part by any profit or nonprofit  
13 organization pursuant to an agreement between the organization and  
14 the department. The organization shall produce goods or services for  
15 sale to both the public and private sector.

16 (b) The customer model industries in this class shall be operated  
17 and managed by the department to provide Washington state  
18 manufacturers or businesses with products or services currently  
19 produced or provided by out-of-state or foreign suppliers.

20 (c) The department shall review these proposed industries,  
21 including any potential new class I industries work program or the  
22 significant expansion of an existing class I industries work program,  
23 before the department contracts to provide such products or services.  
24 The review shall include the analysis required under RCW 72.09.115 to  
25 determine if the proposed correctional industries work program will  
26 compete with any Washington business. An agreement for a new class I  
27 correctional industries work program, or an agreement for a  
28 significant expansion of an existing class I correctional industries  
29 work program, that unfairly competes with any Washington business is  
30 prohibited.

31 (d) The department shall supply appropriate security and custody  
32 services without charge to the participating firms.

33 (e) Inmates who work in free venture industries shall do so at  
34 their own choice. They shall be paid a wage comparable to the wage  
35 paid for work of a similar nature in the locality in which the  
36 industry is located, as determined by the director of correctional  
37 industries. If the director cannot reasonably determine the  
38 comparable wage, then the pay shall not be less than the federal  
39 minimum wage.

1 (f) An inmate who is employed in the class I program of  
2 correctional industries shall not be eligible for unemployment  
3 compensation benefits pursuant to any of the provisions of Title 50  
4 RCW until released on parole or discharged.

5 (2) CLASS II: TAX REDUCTION INDUSTRIES.

6 (a) Industries in this class shall be state-owned and operated  
7 enterprises designed primarily to reduce the costs for goods and  
8 services for tax-supported agencies and for nonprofit organizations.

9 (b)(i) The industries selected for development within this class  
10 shall, as much as possible, match the available pool of inmate work  
11 skills and aptitudes with the work opportunities in the free  
12 community. The industries shall be closely patterned after private  
13 sector industries but with the objective of reducing public support  
14 costs rather than making a profit.

15 (ii) Except as provided in RCW (~~43.19.534~~) 39.26.251(3) and  
16 this section, the products and services of this industry, including  
17 purchased products and services necessary for a complete product  
18 line, may be sold to the following:

19 (A) Public agencies;

20 (B) Nonprofit organizations;

21 (C) Private contractors when the goods purchased will be  
22 ultimately used by a public agency or a nonprofit organization;

23 (D) An employee and immediate family members of an employee of  
24 the department;

25 (E) A person under the supervision of the department and his or  
26 her immediate family members; and

27 (F) A licensed health professional for the sole purpose of  
28 providing eyeglasses to enrollees of the state medical program at no  
29 more than the health professional's cost of acquisition.

30 (iii) The department shall authorize the type and quantity of  
31 items that may be purchased and sold under (b)(ii)(D) and (E) of this  
32 subsection.

33 (iv) It is prohibited to purchase any item purchased under  
34 (b)(ii)(D) and (E) of this subsection for the purpose of resale.

35 (v) Clothing manufactured by an industry in this class may be  
36 donated to nonprofit organizations that provide clothing free of  
37 charge to low-income persons.

38 (c) Under no circumstance shall offenders under the custody of  
39 the department of corrections make or assemble uniforms to be worn by  
40 correctional officers employed with the department.

1 (d)(i) Class II correctional industries products and services  
2 shall be reviewed by the department before offering such products and  
3 services for sale to private contractors.

4 (ii) The secretary shall conduct a yearly marketing review of the  
5 products and services offered under this subsection. Such review  
6 shall include an analysis of the potential impact of the proposed  
7 products and services on the Washington state business community. To  
8 avoid waste or spoilage and consequent loss to the state, when there  
9 is no public sector market for such goods, by-products and surpluses  
10 of timber, agricultural, and animal husbandry enterprises may be sold  
11 to private persons, at private sale. Surplus by-products and  
12 surpluses of timber, agricultural and animal husbandry enterprises  
13 that cannot be sold to public agencies or to private persons may be  
14 donated to nonprofit organizations. All sales of surplus products  
15 shall be carried out in accordance with rules prescribed by the  
16 secretary.

17 (e) Security and custody services shall be provided without  
18 charge by the department.

19 (f) Inmates working in this class of industries shall do so at  
20 their own choice and shall be paid for their work on a gratuity scale  
21 which shall not exceed the wage paid for work of a similar nature in  
22 the locality in which the industry is located and which is approved  
23 by the director of correctional industries.

24 (g) Provisions of (~~RCW 41.06.142~~) section 1 of this act shall  
25 not apply to contracts with Washington state businesses entered into  
26 by the department through class II industries.

27 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

28 (a) Industries in this class shall be operated by the department.  
29 They shall be designed and managed to accomplish the following  
30 objectives:

31 (i) Whenever possible, to provide basic work training and  
32 experience so that the inmate will be able to qualify for better work  
33 both within correctional industries and the free community. It is not  
34 intended that an inmate's work within this class of industries should  
35 be his or her final and total work experience as an inmate.

36 (ii) Whenever possible, to provide forty hours of work or work  
37 training per week.

38 (iii) Whenever possible, to offset tax and other public support  
39 costs.



1 (b) Class III correctional industries shall be reviewed by the  
2 department to set policy for work crews. The department shall prepare  
3 quarterly detail statements showing where work crews worked, what  
4 correctional industry class, and the hours worked.

5 (c) Supervising, management, and custody staff shall be employees  
6 of the department.

7 (d) All able and eligible inmates who are assigned work and who  
8 are not working in other classes of industries shall work in this  
9 class.

10 (e) Except for inmates who work in work training programs,  
11 inmates in this class shall be paid for their work in accordance with  
12 an inmate gratuity scale. The scale shall be adopted by the secretary  
13 of corrections.

14 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

15 (a) Industries in this class shall be operated by the department.  
16 They shall be designed and managed to provide services in the  
17 inmate's resident community at a reduced cost. The services shall be  
18 provided to public agencies, to persons who are poor or infirm, or to  
19 nonprofit organizations.

20 (b) Class IV correctional industries shall be reviewed by the  
21 department to set policy for work crews. The department shall prepare  
22 quarterly detail statements showing where work crews worked, what  
23 correctional industry class, and the hours worked. Class IV  
24 correctional industries operated in work camps established pursuant  
25 to RCW 72.64.050 are exempt from the requirements of this subsection  
26 (4)(b).

27 (c) Inmates in this program shall reside in facilities owned by,  
28 contracted for, or licensed by the department. A unit of local  
29 government shall provide work supervision services without charge to  
30 the state and shall pay the inmate's wage.

31 (d) The department shall reimburse participating units of local  
32 government for liability and workers compensation insurance costs.

33 (e) Inmates who work in this class of industries shall do so at  
34 their own choice and shall receive a gratuity which shall not exceed  
35 the wage paid for work of a similar nature in the locality in which  
36 the industry is located.

37 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

38 (a) Programs in this class shall be subject to supervision by the  
39 department. The purpose of this class of industries is to enable an

1 inmate, placed on community supervision, to work off all or part of a  
2 community restitution order as ordered by the sentencing court.

3 (b) Employment shall be in a community restitution program  
4 operated by the state, local units of government, or a nonprofit  
5 agency.

6 (c) To the extent that funds are specifically made available for  
7 such purposes, the department shall reimburse nonprofit agencies for  
8 workers compensation insurance costs.

9 **Sec. 7.** RCW 74.13.362 and 2009 c 520 s 4 are each amended to  
10 read as follows:

11 Pursuant to (~~RCW 41.06.142(3)~~) section 1 of this act,  
12 performance-based contracting under RCW 74.13.360 is expressly  
13 mandated by the legislature and is not subject to the processes set  
14 forth in (~~RCW 41.06.142 (1), (4), and (5)~~) section 1 of this act.

15 A continuation or expansion of delivery of child welfare services  
16 under the provisions of RCW 74.13.372 shall be considered expressly  
17 mandated by the legislature and not subject to the provisions of  
18 (~~RCW 41.06.142 (1), (4), and (5)~~) section 1 of this act.

19 **Sec. 8.** RCW 74.13B.050 and 2012 c 205 s 6 are each amended to  
20 read as follows:

21 (1) To achieve the service delivery improvements and efficiencies  
22 intended in RCW 74.13B.005, 74.13B.020, 74.13B.030, and 74.13B.060  
23 and in RCW 74.13.370, and pursuant to (~~RCW 41.06.142(3)~~) section 1  
24 of this act, contracting with network administrators to provide  
25 services needed by children and families in the child welfare system,  
26 pursuant to RCW 74.13B.020 and 74.13B.030, and execution and  
27 monitoring of individual provider contracts, pursuant to RCW  
28 74.13B.020, are expressly mandated by the legislature and are not  
29 subject to the processes set forth in (~~RCW 41.06.142 (1), (4), and~~  
30 ~~(5)~~) section 1 of this act.

31 (2) The express mandate in subsection (1) of this section is  
32 limited to those services and activities provided in RCW 74.13B.020  
33 and 74.13B.030. If the department includes services customarily and  
34 historically performed by department employees in the classified  
35 service in a procurement for network administrators that exceeds the  
36 scope of services or activities provided in RCW 74.13B.020 and  
37 74.13B.030, such contracting is not specifically mandated and will be  
38 subject to all applicable contractual and legal obligations.

1       **Sec. 9.** RCW 77.95.320 and 2013 c 93 s 1 are each amended to read  
2 as follows:

3       (1) The department shall establish a program that utilizes  
4 department-partner agreements for the resumption or continued  
5 operation and management of state-owned salmonid hatcheries that are  
6 located in the Hood Canal basin. To implement the program, the  
7 department shall accept and review applications to determine the  
8 appropriateness of the partner to manage and operate selected  
9 salmonid hatcheries. The department shall accelerate the application  
10 process relating to any hatchery currently in operation to avoid  
11 cessation of ongoing salmon production.

12       (2)(a) To select a partner, the department shall develop and  
13 apply criteria identifying the appropriateness of a potential  
14 partner. The criteria must seek to ensure that the partner has a  
15 long-range business plan, which may include the sale of hatchery  
16 surplus salmon, including eggs and carcasses, to ensure the long-  
17 range future solvency of the partnership. The business plan may also  
18 allow the partner to harvest hatchery chum salmon in a designated  
19 area through persons under contract with the partner as provided  
20 under a permit from the department or by rule of the commission. All  
21 chum salmon harvested must be sold at prices commensurate with the  
22 current market and all funds must be utilized by the partner to  
23 operate the hatchery.

24       (b) Partners under this section must be:

25       (i) Qualified under section 501(c)(3) of the internal revenue  
26 code;

27       (ii) A for-profit private entity; or

28       (iii) A federally recognized tribe.

29       (3) The department shall place a higher priority on applications  
30 from partners that provide for the maximum resumption or continuation  
31 of existing hatchery production in a manner consistent with the  
32 mandate contained in RCW 77.04.012 to maintain the economic well-  
33 being and stability of the fishing industry.

34       (4)(a) Agreements entered into with partners under this section  
35 must be consistent with existing federally recognized tribal rights,  
36 state laws, agency rules, collective bargaining agreements, hatchery  
37 management policy involving species listed under the federal  
38 endangered species act, or, in the case of a tribal partner, any  
39 applicable tribal hatchery management policy or recreational and  
40 commercial harvest policy.

1 (b) Agreements under this section must also require that partners  
2 give preference to retaining classified employees whenever possible.  
3 In circumstances where it is not possible, partners conducting  
4 hatchery operations must maintain staff with comparable  
5 qualifications to those identified in the class specifications for  
6 the department's fish hatchery personnel.

7 (5) All partnership agreements entered into under this section  
8 must contain a provision that requires the partner to hold harmless  
9 the department and the state for any civil liability arising from the  
10 partner's participation in the agreement or activities at the subject  
11 hatchery or hatcheries.

12 (6) All partnership agreements entered into under this section  
13 must identify any maintenance or improvements to be made to the  
14 hatchery facility, and the source of funding for such maintenance or  
15 improvements. If funding for the maintenance or improvements is to  
16 come from state funds or revenue sources previously received by the  
17 department, the work must be performed either by employees in the  
18 classified service or in compliance with the contracting procedures  
19 set forth in ((~~RCW 41.06.142~~)) section 1 of this act.

20 NEW SECTION. **Sec. 10.** RCW 41.06.142 (Purchasing services by  
21 contract—Effect on employees in the classified service—Criteria to  
22 be met—Bidding—Definitions) and 2011 1st sp.s. c 43 s 408, 2008 c  
23 267 s 9, & 2002 c 354 s 208 are each repealed.

24 NEW SECTION. **Sec. 11.** The secretary of state shall submit this  
25 act to the people for their adoption and ratification, or rejection,  
26 at the next general election to be held in this state, in accordance  
27 with Article II, section 1 of the state Constitution and the laws  
28 adopted to facilitate its operation.

--- END ---