

SSB 5295 - S AMD 178
By Senator Keiser

ADOPTED 03/12/2019

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

3 "NEW SECTION. **Sec. 1.** The legislature intends to prevent or
4 mitigate service disruptions caused by employee disaffection or labor
5 unrest within private sector providers contracted to provide certain
6 essential state services that, if disrupted, could harm vulnerable
7 members of the community, compromise the efficient delivery of
8 essential state services, and burden taxpayers with additional costs.

9 The legislature further intends to spend scarce taxpayer
10 resources for the efficient delivery of certain essential state
11 services by law-abiding private sector providers. Contracting with
12 providers with multiple legal violations represents wasteful
13 government spending on remedying legal wrongs. Private sector
14 providers of certain state services must certify their legal
15 compliance with state, federal, and local laws before earning a
16 contract involving government funds.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A
18 RCW to read as follows:

19 Any contract entered into by the department with a private
20 contractor for adult care, behavioral health, disability support, or
21 youth services must contain a provision that requires the private
22 contractor to certify its compliance with federal, state, and local
23 laws in the provision of such care or services.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.20A
25 RCW to read as follows:

26 (1) Any contract entered into by the department with a private
27 contractor for adult care, behavioral health, disability support, or
28 youth services must contain an assurance of the contractor's
29 commitment to ensuring the uninterrupted delivery of services subject
30 to the contract.

1 (2) The assurance required under subsection (1) of this section
2 is a condition of contracting with the state for the provision of
3 such services. The assurance may be made by offering one or more of
4 the following commitments:

5 (a) A commitment that, upon receiving an award of the contract,
6 the contractor will remain neutral in its policies, practices, and
7 activities with regard to its employees performing the services
8 required under the contract in the event such employees seek to
9 exercise rights guaranteed by the national labor relations act, 29
10 U.S.C. Sec. 151 et seq.

11 (b) Inclusion of no-strike, no-lockout, or arbitration clauses in
12 a collective bargaining agreement with a labor organization
13 representing the contractor's employees covered by this section. In
14 the event such collective bargaining agreement is due to expire
15 during the term of the contract, the contracting employer must
16 establish the parties have committed to resolving negotiation of
17 disputes as to the terms of a successor collective bargaining
18 agreement through a process that ensures neither party will engage in
19 economic action.

20 (c) A commitment not to strike or engage in workplace or service
21 disruptions on the part of the representative of the employees
22 performing the services contracted by the state through the term of
23 the contract with the state.

24 (d) Any other similar assurances or commitments that provide
25 equivalent assurances that continuity of services will be maintained
26 through the life of the contract with the state.

27 (3) A contractor's assurances under this section made to the
28 state are a binding provision of any contract awarded by the state,
29 and constitute a warranty to the state on the part of the contractor.

30 (4) In the event the contractor's assurances fail to ensure
31 uninterrupted service delivery, the contract with the department may
32 be revoked and the department may make arrangements for the provision
33 of services by other means.

34 (5) In awarding any contract subject to this section, the
35 department must require bidders to disclose past violations of the
36 national labor relations act, 29 U.S.C. Sec. 151 et seq.

37 NEW SECTION. **Sec. 4.** If any provision of this act or its
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected."

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3 On page 1, line 1 of the title, after "to" strike the remainder
4 of the title and insert "ensuring contractor compliance and
5 continuity of public services for certain contracted service
6 providers; adding new sections to chapter 43.20A RCW; and creating a
7 new section."

EFFECT: Requires certain contracts entered into by the department of social and health services to contain an assurance of the contractor's commitment to ensuring the uninterrupted delivery of services subject to the contract, rather than an assurance of a commitment to maintain harmonious labor relations. Removes a provision allowing for the assurance to take the form of a labor peace agreement. Removes the option for a contractor, as part of its assurance, to commit to recognizing a labor organization by cross-check. Removes the provision specifying that, for the purposes of goods and services contracts, the two or more violations of the national labor relations act that are grounds for debarment must occur within one or more decisions.

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