
SENATE BILL 5295

State of Washington

66th Legislature

2019 Regular Session

By Senators Keiser, Hasegawa, and Saldaña

Read first time 01/17/19. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to ensuring labor neutrality and contractor
2 compliance for certain contracted service providers; amending RCW
3 39.26.200; adding a new section to chapter 43.20A RCW; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature intends to prevent or
7 mitigate service disruptions caused by labor unrest within private
8 sector providers of certain state services that could harm vulnerable
9 members of the community or compromise the efficient delivery of
10 state services.

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

13 (1) Any contract entered into by the department with a private
14 contractor for adult care, behavioral health, disability support, or
15 youth services must contain a provision that requires the private
16 contractor to have a labor neutrality agreement between it and any
17 labor organization representing or seeking to represent the employees
18 of the private contractor who perform or will perform work under the
19 contract.

1 (2) The labor neutrality agreements required in subsection (1) of
2 this section must, at a minimum, contain provisions that:

3 (a) Require the contractor remain neutral in its policies,
4 practices, and activities with regard to its employees seeking to
5 exercise rights guaranteed by the national labor relations act, 29
6 U.S.C. Sec. 151 et seq.;

7 (b) Provide for an election by card check as a means to certify
8 representation;

9 (c) Require the contractor to provide a list of current workers
10 upon request of the labor organization; and

11 (d) Prohibit the contractor from expending income from state
12 contracts or other sources to obstruct, delay, or in any way
13 compromise the labor neutrality agreement.

14 (3) In awarding contracts listed in subsection (1) of this
15 section, the department must require bidders to disclose past
16 violations of the national labor relations act, 29 U.S.C. Sec. 151 et
17 seq., as determined by the national labor relations board. The
18 department must take into consideration such violations in awarding
19 the contract.

20 **Sec. 3.** RCW 39.26.200 and 2017 3rd sp.s. c 1 s 996 are each
21 amended to read as follows:

22 (1)(a) The director shall provide notice to the contractor of the
23 director's intent to either fine or debar with the specific reason
24 for either the fine or debarment. The department must establish the
25 debarment and fining processes by rule.

26 (b) After reasonable notice to the contractor and reasonable
27 opportunity for that contractor to be heard, the director has the
28 authority to debar a contractor for cause from consideration for
29 award of contracts. The debarment must be for a period of not more
30 than three years.

31 (2) The director may either fine or debar a contractor based on a
32 finding of one or more of the following causes:

33 (a) Conviction for commission of a criminal offense as an
34 incident to obtaining or attempting to obtain a public or private
35 contract or subcontract, or in the performance of such contract or
36 subcontract;

37 (b) Conviction or a final determination in a civil action under
38 state or federal statutes of fraud, embezzlement, theft, forgery,
39 bribery, falsification or destruction of records, receiving stolen

1 property, violation of the federal false claims act, 31 U.S.C. Sec.
2 3729 et seq., or the state medicaid fraud false claims act, chapter
3 74.66 RCW, or any other offense indicating a lack of business
4 integrity or business honesty that currently, seriously, and directly
5 affects responsibility as a state contractor;

6 (c) Conviction under state or federal antitrust statutes arising
7 out of the submission of bids or proposals;

8 (d) Two or more violations within the previous five years of the
9 (~~federal~~) national labor relations act as determined by the
10 national labor relations board or court of competent jurisdiction.
11 Significant findings by an administrative law judge of the national
12 labor relations board of unfair labor practices by a contractor are
13 grounds for termination of a contract with the contractor;

14 (e) Violation of contract provisions, as set forth in this
15 subsection, of a character that is regarded by the director to be so
16 serious as to justify debarment action:

17 (i) Deliberate failure without good cause to perform in
18 accordance with the specifications or within the time limit provided
19 in the contract; or

20 (ii) A recent record of failure to perform or of unsatisfactory
21 performance in accordance with the terms of one or more contracts,
22 however the failure to perform or unsatisfactory performance caused
23 by acts beyond the control of the contractor may not be considered to
24 be a basis for debarment;

25 (f) Violation of ethical standards set forth in RCW 39.26.020;

26 (g) Any other cause the director determines to be so serious and
27 compelling as to affect responsibility as a state contractor,
28 including debarment by another governmental entity for any cause
29 listed in regulations; and

30 (h) During the 2017-2019 fiscal biennium, the failure to comply
31 with a provision in a state master contract or other agreement with a
32 state agency that requires equality among its workers by ensuring
33 similarly employed individuals are compensated as equals.

34 (3) The director must issue a written decision to debar. The
35 decision must:

36 (a) State the reasons for the action taken; and

37 (b) Inform the debarred contractor of the contractor's rights to
38 judicial or administrative review.

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