

FINAL BILL REPORT

ESSB 5186

C 468 L 23
Synopsis as Enacted

Brief Description: Requiring antidiscrimination clauses in public contracting.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Liias, Billig, Dhingra, Hunt, Keiser, Lovick, Nguyen, Nobles, Stanford, Valdez, Wellman and Wilson, C.).

Senate Committee on Labor & Commerce

Senate Committee on Ways & Means

House Committee on State Government & Tribal Relations

Background: The Washington Law Against Discrimination. The Washington Law Against Discrimination (WLAD) establishes a right to be free from discrimination based on race, color, creed, national origin, sexual orientation, sex, veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal. This right applies to employment; places of public resort, accommodation, or amusement; commerce; and real estate, credit, and insurance transactions. The Human Rights Commission (Commission) administers WLAD and investigates complaints made by persons alleging unfair practices in violation of the law.

State Goods and Services Contracts. The Department of Enterprise Services (DES) manages procurement of goods and services for state agencies. State agencies covered by DES's procurement policies include all executive and judicial branches of state government including offices, divisions, boards, commissions, higher education institutions, and correctional and other institutions. DES may enter into agreements with other state agencies that delegate certain authority to those agencies to purchase their own goods and services.

Public Works. Public works projects include construction, building, renovation, remodeling, alteration, repair, or improvement of real property. Most public agencies are required to award public works contracts to the lowest responsible bidder or the responsible bidder who submits the lowest responsive bid. Alternative public works contracting procedures that award contracts on factors other than low bid exist on certain types of public works.

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

Summary: After January 1, 2024, any contractor, including subcontractors, with the state for public works or for goods or services is subject to the non-discrimination provisions of the bill.

Every state contract and subcontract for public works or for goods or services must contain a nondiscrimination clause prohibiting discrimination. The nondiscrimination clause must contain a provision requiring contractors and subcontractors to give written notice of their obligations under the clause to labor organizations with which they have a collective bargaining agreement.

The anti-discrimination clauses required by the bill must prohibit any covered contractor or subcontractor from:

- refusing to hire any person because of age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, unless based upon a bona fide occupational qualification (protected classes);
- discharging or barring any person from employment because of membership in a protected class;
- discriminating against any person in compensation or in other terms or conditions of employment because of membership in a protected class; and
- printing or circulating, or causing to be printed or circulated, any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to the protected classes.

DES, in collaboration with the Office of Minority and Women's Business Enterprises, Office of Equity, and the Commission must develop a standard template contract provisions for public works and goods and services contracts to meet the requirements of the bill.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 23, 2023