
SENATE BILL 6192

State of Washington

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By Senators Braun, Brown, Darneille, Padden, Rivers, Short, Warnick, Wilson, L., and Wilson, C.

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1 AN ACT Relating to addressing inadequate, deficient, or dangerous
2 conditions at facilities and institutions operated or overseen by
3 state agencies; amending RCW 41.06.142; adding a new section to
4 chapter 43.09 RCW; adding a new section to chapter 43.20A RCW; adding
5 a new section to chapter 43.60A RCW; adding a new section to chapter
6 43.216 RCW; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.09
9 RCW to read as follows:

10 (1) If the state auditor discovers that a facility or institution
11 operated or overseen by the department of social and health services,
12 department of veterans affairs, or department of children, youth, and
13 families is found by a federal or state agency or court to be
14 inadequate, deficient, or endanger clients, staff, or federal
15 funding, the state auditor must notify the office of financial
16 management of the finding.

17 (2) If the state auditor finds that the department of social and
18 health services, department of veterans affairs, or department of
19 children, youth, and families has failed to perform the activities
20 required under sections 2 through 4 of this act, the state auditor
21 must perform the activities on behalf of the agency. The agency must

1 reimburse the state auditor for those costs from the agency's
2 appropriations.

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

5 (1) Whenever the conditions or care at a facility or institution
6 operated or overseen by the department is found by a federal or state
7 agency or court to be inadequate, deficient, or endanger clients,
8 staff, or federal funding, the department must:

9 (a) Issue a press release to the media of the findings within
10 five days;

11 (b) Produce a plan within thirty days to the governor and the
12 state auditor detailing a timeline of actions to be taken to address
13 the findings;

14 (c) Notify all legal representatives or custodians of residents
15 at the facility or institution of the findings and the action plan
16 within forty-five days and provide quarterly updates thereafter of
17 the status of the plan until the federal or state agency or court
18 finding reaches a final resolution; and

19 (d) Identify any alternative residential placement settings that
20 may be available to residents.

21 (2) If the federal or state agency or court makes additional or
22 revised findings of inadequacy, deficiency, or endangerment, the
23 activities under subsection (1) of this section must be performed
24 initially independent from any previous findings. However, the
25 department may combine plans and quarterly updates thereafter to
26 include all findings made by that federal or state agency or court.

27 (3) The activities required in subsections (1) and (2) of this
28 section are supplemental to any other actions required by the
29 department to address the findings of the federal or state agency or
30 court and must be accomplished using existing appropriations.

31 (4) If the state auditor is required to perform the activities
32 under this section on behalf of the department, the department must
33 reimburse the state auditor for those costs.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.60A
35 RCW to read as follows:

36 (1) Whenever the conditions or care at a facility or institution
37 operated or overseen by the department is found by a federal or state

1 agency or court to be inadequate, deficient, or endanger clients,
2 staff, or federal funding, the department must:

3 (a) Issue a press release to the media of the findings within
4 five days;

5 (b) Produce a plan within thirty days to the governor and the
6 state auditor detailing a timeline of actions to be taken to address
7 the findings;

8 (c) Notify all legal representatives or custodians of residents
9 at the facility or institution of the findings and the action plan
10 within forty-five days and provide quarterly updates thereafter of
11 the status of the plan until the federal or state agency or court
12 finding reaches a final resolution; and

13 (d) Identify any alternative residential placement settings that
14 may be available to residents.

15 (2) If the federal or state agency or court makes additional or
16 revised findings of inadequacy, deficiency, or endangerment, the
17 activities under subsection (1) of this section must be performed
18 initially independent from any previous findings. However, the
19 department may combine plans and quarterly updates thereafter to
20 include all findings made by that federal or state agency or court.

21 (3) The activities required in subsections (1) and (2) of this
22 section are supplemental to any other actions required by the
23 department to address the findings of the federal or state agency or
24 court and must be accomplished using existing appropriations.

25 (4) If the state auditor is required to perform the activities
26 under this section on behalf of the department, the department must
27 reimburse the state auditor for those costs.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.216
29 RCW to read as follows:

30 (1) Whenever the conditions or care at a facility or institution
31 operated or overseen by the department is found by a federal or state
32 agency or court to be inadequate, deficient, or endanger clients,
33 staff, or federal funding, the department must:

34 (a) Issue a press release to the media of the findings within
35 five days;

36 (b) Produce a plan within thirty days to the governor and the
37 state auditor detailing a timeline of actions to be taken to address
38 the findings;

1 (c) Notify all legal representatives or custodians of residents
2 at the facility or institution of the findings and the action plan
3 within forty-five days and provide quarterly updates thereafter of
4 the status of the plan until the federal or state agency or court
5 finding reaches a final resolution; and

6 (d) Identify any alternative residential placement settings that
7 may be available to residents.

8 (2) If the federal or state agency or court makes additional or
9 revised findings of inadequacy, deficiency, or endangerment, the
10 activities under subsection (1) of this section must be performed
11 initially independent from any previous findings. However, the
12 department may combine plans and quarterly updates thereafter to
13 include all findings made by that federal or state agency or court.

14 (3) The activities required in subsections (1) and (2) of this
15 section are supplemental to any other actions required by the
16 department to address the findings of the federal or state agency or
17 court and must be accomplished using existing appropriations.

18 (4) If the state auditor is required to perform the activities
19 under this section on behalf of the department, the department must
20 reimburse the state auditor for those costs.

21 **Sec. 5.** RCW 41.06.142 and 2011 1st sp.s. c 43 s 408 are each
22 amended to read as follows:

23 (1) Any department, agency, or institution of higher education
24 may purchase services, including services that have been customarily
25 and historically provided by employees in the classified service
26 under this chapter, by contracting with individuals, nonprofit
27 organizations, businesses, employee business units, or other entities
28 if the following criteria are met:

29 (a) The invitation for bid or request for proposal contains
30 measurable standards for the performance of the contract;

31 (b) Employees in the classified service whose positions or work
32 would be displaced by the contract are provided an opportunity to
33 offer alternatives to purchasing services by contract and, if these
34 alternatives are not accepted, compete for the contract under
35 competitive contracting procedures in subsection (4) of this section;

36 (c) The contract with an entity other than an employee business
37 unit includes a provision requiring the entity to consider employment
38 of state employees who may be displaced by the contract;

1 (d) The department, agency, or institution of higher education
2 has established a contract monitoring process to measure contract
3 performance, costs, service delivery quality, and other contract
4 standards, and to cancel contracts that do not meet those standards;
5 and

6 (e) The department, agency, or institution of higher education
7 has determined that the contract results in savings or efficiency
8 improvements. The contracting agency must consider the consequences
9 and potential mitigation of improper or failed performance by the
10 contractor.

11 (2) Any provision contrary to or in conflict with this section in
12 any collective bargaining agreement in effect on July 1, 2005, is not
13 effective beyond the expiration date of the agreement.

14 (3) Contracting for services that is expressly mandated by the
15 legislature or was authorized by law prior to July 1, 2005, including
16 contracts and agreements between public entities, shall not be
17 subject to the processes set forth in subsections (1), (4), and (5)
18 of this section.

19 (4) Competitive contracting shall be implemented as follows:

20 (a) At least ninety days prior to the date the contracting agency
21 requests bids from private entities for a contract for services
22 provided by classified employees, the contracting agency shall notify
23 the classified employees whose positions or work would be displaced
24 by the contract. The employees shall have sixty days from the date of
25 notification to offer alternatives to purchasing services by
26 contract, and the agency shall consider the alternatives before
27 requesting bids.

28 (b) If the employees decide to compete for the contract, they
29 shall notify the contracting agency of their decision. Employees must
30 form one or more employee business units for the purpose of
31 submitting a bid or bids to perform the services.

32 (c) The department of enterprise services, with the advice and
33 assistance of the office of financial management, shall develop and
34 make available to employee business units training in the bidding
35 process and general bid preparation.

36 (d) The director of enterprise services, with the advice and
37 assistance of the office of financial management, shall, by rule,
38 establish procedures to ensure that bids are submitted and evaluated
39 in a fair and objective manner and that there exists a competitive
40 market for the service. Such rules shall include, but not be limited

1 to: (i) Prohibitions against participation in the bid evaluation
2 process by employees who prepared the business unit's bid or who
3 perform any of the services to be contracted; (ii) provisions to
4 ensure no bidder receives an advantage over other bidders and that
5 bid requirements are applied equitably to all parties; and (iii)
6 procedures that require the contracting agency to receive complaints
7 regarding the bidding process and to consider them before awarding
8 the contract. Appeal of an agency's actions under this subsection is
9 an adjudicative proceeding and subject to the applicable provisions
10 of chapter 34.05 RCW, the administrative procedure act, with the
11 final decision to be rendered by an administrative law judge assigned
12 under chapter 34.12 RCW.

13 (e) An employee business unit's bid must include the fully
14 allocated costs of the service, including the cost of the employees'
15 salaries and benefits, space, equipment, materials, and other costs
16 necessary to perform the function. An employee business unit's cost
17 shall not include the state's indirect overhead costs unless those
18 costs can be attributed directly to the function in question and
19 would not exist if that function were not performed in state service.

20 (f) A department, agency, or institution of higher education may
21 contract with the department of enterprise services to conduct the
22 bidding process.

23 (5) As used in this section:

24 (a) "Employee business unit" means a group of employees who
25 perform services to be contracted under this section and who submit a
26 bid for the performance of those services under subsection (4) of
27 this section.

28 (b) "Indirect overhead costs" means the pro rata share of
29 existing agency administrative salaries and benefits, and rent,
30 equipment costs, utilities, and materials associated with those
31 administrative functions.

32 (c) "Competitive contracting" means the process by which
33 classified employees of a department, agency, or institution of
34 higher education compete with businesses, individuals, nonprofit
35 organizations, or other entities for contracts authorized by
36 subsection (1) of this section.

37 (6) The processes set forth in subsections (1), (4), and (5) of
38 this section do not apply to:

39 (a) RCW 74.13.031(~~(+5)~~) (6);

40 (b) The acquisition of printing services by a state agency; and

1 (c) Contracting for services or activities by the department of
2 enterprise services under RCW 43.19.008 and the department may
3 continue to contract for such services and activities after June 30,
4 2018.

5 (7) The processes set forth in subsections (1), (4), and (5) of
6 this section do not apply to the consolidated technology services
7 agency when contracting for services or activities as follows:

8 (a) Contracting for services and activities that are necessary to
9 establish, operate, or manage the state data center, including
10 architecture, design, engineering, installation, and operation of the
11 facility that are approved by the technology services board created
12 in RCW (~~(43.41A.070)~~) 43.105.285.

13 (b) Contracting for services and activities recommended by the
14 chief information officer through a business plan and approved by the
15 technology services board created in RCW (~~(43.41A.070)~~) 43.105.285.

16 (8)(a) The processes set forth in subsections (1), (4), and (5)
17 of this section do not apply to contracting for services or
18 activities by the department of social and health services, the
19 department of veterans affairs, and the department of children,
20 youth, and families to address findings by a federal or state agency
21 or court that conditions or care at a facility or institutions
22 operated or overseen by the agency is inadequate, deficient, or
23 endangers clients, staff, or federal funding. This section applies
24 only to contracts for services and activities made after the office
25 of financial management receives notification from the state auditor
26 under section 1 of this act or after the state auditor receives a
27 plan from an agency detailing a timeline of actions to be taken to
28 address the findings.

29 (b) Except as provided in this subsection, the processes set
30 forth in subsections (1), (4), and (5) of this section do apply to
31 contracts for services or activities after the federal or state
32 agency or court determines that its findings have been resolved. Any
33 contract that used the authority under (a) of this subsection may
34 continue for the term of the contract.

35 NEW SECTION. Sec. 6. This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

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