

When Contracting Out Isn't: Governor's Bill is Flawed by Fatal Weaknesses

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Introduction

Washington is saddled with the strongest legal ban against the contracting out of government work of any state in the nation. The burden of this restrictive policy is felt every day by ordinary taxpayers who must bear the full cost of maintaining the government's monopoly position. Without the benefits of competition, the government spends more than it needs to for routine work, often paying well above what private companies do to get the same job done.

A Good Idea in a Bad Bill

Legislation has been introduced, at the request of Governor Gary Locke, to ease the ban and allow state agencies to begin seeking competitive contracts for some of their work. At first this looks all well and good. Dozens of states and cities across the country have cut costs and improved service by opening government work to the creative power of the free market.

But there's a problem. Contracting out authority is linked in the same bill, SB 6402, that would impose full-scope collective bargaining for state employees, and would thus require the state to negotiate with unions in setting personnel policy.

Imposing collective bargaining makes this bill self-defeating. Any savings taxpayers realize from contracting out would

be quickly consumed as government unions press for higher wages and benefits.

Fatal Weaknesses

The arrangement is made worse by the fatal weaknesses of the bill's contracting out provisions. Comprising just two-and-a-half pages in an eighty-six page bill, the contracting out section lacks many of the structural and comprehensive elements needed to make it a success.

1. Lack of Policy Detail. The section on contracting out is so short that it doesn't give state agencies the policy guidance they need to make the new policy work.
2. Lack of Goals. In studying states and cities across the country, one lesson is clear: Contracting out only works when there is strong leadership behind it. This bill has no legislative or executive mandates and as a result fails to commit Washington to a real contracting out policy.
3. Contracting Out Can Be Bargained Away. The bill makes contracting out itself subject to union negotiations. It's obvious that at the first bargaining meeting unions would demand that state agencies give up their ability to open up government work to the private sector.
4. Effective Dates Undermine True Competition. The bill doesn't allow an agency to put contract work up for bid until a year after labor agreements are complete.

This gives unions bosses plenty to time to make sure insure any new contracting out initiatives are stopped well before they start.

5. Three-Year Delay Not Necessary. A further problem with the bill's effective date is that, even if its tried, contracting out would be delayed until 2003. A strong message from Initiative 695 is that voters want the government to change the way it does business now. If the state can save money and provide better service by using competition and private suppliers, why postpone these benefits for three years?

6. The Crystal Ball Requirement. The bill says that no decision can be made to contract out work until an agency "has demonstrated" that the contract "results in savings or efficiency improvements." That means state managers have to prove contracting out would save money before they've even tried it. That's an impossible standard for anyone to meet.

7. Poor Cost Accounting Requirements. The bill calls for full cost accounting in the bidding process, but it is not clear what that would mean in practice. Government unions are allowed to compete for work, but they might get an unfair advantage if all their costs are not included in the bid.

Moving in the Right Direction

Even though the bill contains deep flaws that make it unworkable, it does take an important step in the right direction. In backing this bill the governor at least recognizes that vigorous competition would bring tremendous dollar savings and service improvements to the operation of our state government.

Contracting out is a powerful planning tool that gives program managers greater flexibility in working with scarce public resources. Contracting out achieves higher efficiency by allowing managers to choose the best-cost option while delivering improved services to the public. Even when contracting out is not selected as the ideal way to provide a given public service, its very existence tends to drive down the cost of the government's own in-house operations. Contracting out should be considered on its own merits, not as some legislative "sweetener" to push through a restrictive collective bargaining system.

Conclusion

Embarking on an incomplete contracting out system, as envisioned by SB 6402, may actually be worse than doing nothing at all. Setting up a flawed contracting out system will cause the policy to fail within a short time, leaving the false impression that the idea can't be made to work in this state.

To be given a fair chance of success, a true contracting out policy must be implemented in a comprehensive and meaningful way, without setting it at odds with another part of the state's personnel management system.

As the legislature concludes this years' business, it appears unlikely SB 6403 will become law. The legislature should take the opportunity to consider an improved bill, one that avoids the pitfalls described here, in a future session. Properly implemented, contracting out can lead to a smaller, more cohesive state government that focuses on core management tasks, while assigning many public services to be performed more cheaply and under better control by private contractors.