



An Act Setting Procedures, Performance Standards And Workplace Quality Standards For Any Contracting Out Of State Programs And Services.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) The Connecticut General Assembly finds that
2 using private contractors to provide public services formerly provided
3 by state employees does not always promote the public interest. To
4 ensure that citizens of the state receive high quality public services at
5 low cost, with due regard for the taxpayers of this state and the needs
6 of public and private workers, the General Assembly finds it necessary
7 to regulate such privatization contracts in accordance with the
8 provisions of sections 1 to 9, inclusive, of this act.

9 Sec. 2. (NEW) As used in sections 2 to 9, inclusive, of this act:

10 (1) "Agency" means an executive office, department, division, board,
11 commission or other office or officer in the executive branch of the
12 state government.

13 (2) "Privatization contract" means an agreement or combination or
14 series of agreements between an agency and a nongovernmental
15 person or entity, in which such person or entity agrees to provide
16 services valued at seven hundred fifty thousand dollars or more that
17 are substantially similar to and in lieu of services provided, in whole or
18 part, by regular employees of an agency. The term "privatization

19 contract" does not include (A) an agreement to provide legal or
20 management consulting only, or (B) a contract for information system
21 or telecommunication system facilities, equipment or services that is
22 entered into by an agency pursuant to section 4d-45 of the general
23 statutes or an amendment to such a contract.

24 Sec. 3. (NEW) (a) No agency shall execute a privatization contract
25 and no such contract shall be valid unless such agency, in consultation
26 with the Department of Administrative Services, complies with the
27 provisions of subsections (b) and (c) of this section.

28 (b) The agency shall prepare an analysis of the costs and benefits to
29 the agency of (1) privatizing services, and (2) continuing to provide
30 such services through employees of the agency. Such analysis shall
31 include, but not be limited to, an examination of the cost and quality of
32 service under each such option. The executive head of the agency shall
33 transmit such analysis to the State Comptroller.

34 (c) If the agency determines in such analysis that it is cost-effective
35 to privatize such services, the agency shall prepare a specific written
36 statement of the services, including the specific quantity and standard
37 of quality of the services. The agency shall solicit competitive sealed
38 bids for the privatization contracts based upon such statement. The
39 day designated by the agency upon which it shall accept sealed bids
40 shall be the same for all bidders. Such statement shall be a public
41 record, filed in the agency and with the Department of Administrative
42 Services and transmitted to the State Comptroller. The term of any
43 privatization contract shall not exceed five years. No amendment to a
44 privatization contract shall be valid if it has the purpose or effect of
45 avoiding any requirement of this section.

46 Sec. 4. (NEW) (a) If an agency plans to solicit bids for a privatization
47 contract, the agency shall prepare a comprehensive written estimate of
48 the costs of regular agency employees providing the subject services in
49 the most cost-efficient manner and the quality of such services
50 provided by such agency employees. The estimate shall include all

51 direct costs of regular agency employees providing the subject
52 services, including, but not limited to, pensions, insurance and other
53 employee benefit costs. Any costs allocable to unemployment
54 compensation and retirement benefits shall be reported separately
55 from the value of any contract costs. The value of any state-owned
56 property or assets shall be reported separately.

57 (b) At least sixty days prior to soliciting bids for a privatization
58 contract, an agency shall notify each collective bargaining organization
59 representing employees of the agency of such planned solicitation.
60 After consulting the potentially affected bargaining units, if any, the
61 agency shall provide adequate resources for the purpose of
62 encouraging and assisting present agency employees to organize and
63 submit a bid to provide the subject services. In determining what
64 resources are adequate for this purpose, the agency shall refer to an
65 existing collective bargaining agreement of a similar employee
66 organization whose members perform the subject services, if available,
67 which agreement provides similar resources in the same or other
68 agencies. If no such collective bargaining agreement exists, the agency
69 shall refer to any existing collective bargaining agreements providing
70 such resources, and shall provide such resources at the minimum level
71 of assistance provided in such agreements. The agency shall consider
72 any such employee bid on the same basis as all other bids. An
73 employee bid may be made as a joint venture with other persons.

74 Sec. 5. (NEW) (a) Each bid for a privatization contract and each
75 privatization contract shall include provisions specifically establishing
76 the wage rate for each employee covered by the contract. Each
77 contractor shall submit quarterly payroll records to the agency, listing
78 the name, address, Social Security number, hours worked and hourly
79 wage paid for each employee in the previous quarter. The Attorney
80 General may bring a civil action for equitable relief in Superior Court
81 to enforce the provisions of this section and to prevent or remedy the
82 dismissal, demotion or other action prejudicing any employee as a
83 result of a violation of this section.

84 (b) Each bid for a privatization contract and each privatization
85 contract shall contain provisions requiring the contractor to offer
86 available employee positions pursuant to the contract to qualified
87 regular employees of the agency whose state employment is
88 terminated because of the privatization contract and who satisfy the
89 hiring criteria of the contractor. Each such contract shall also contain
90 provisions prohibiting the contractor from engaging in discriminatory
91 employment practices, as defined in section 46a-51 of the general
92 statutes, and requiring the contractor to take affirmative steps to
93 provide such equal opportunity for all such persons.

94 Sec. 6. (NEW) (a) The executive head of an agency soliciting bids for
95 a privatization contract and the Commissioner of Administrative
96 Services shall each certify, in writing, to the State Comptroller that:

97 (1) They have complied with all provisions of sections 1 to 5,
98 inclusive, of this act, and all other applicable laws;

99 (2) A cost-benefit analysis of the proposed privatization has been
100 conducted pursuant to subsection (b) of section 3 of this act and the
101 agency has determined in such analysis that it is cost-effective to
102 privatize services;

103 (3) The quality of the services to be provided by the designated
104 bidder is likely to satisfy the quality requirements of the statement
105 prepared pursuant to subsection (c) of section 3 of this act and to equal
106 or exceed the quality of services that are provided by regular agency
107 employees pursuant to subsection (a) of section 4 of this act;

108 (4) The designated bidder and its supervisory employees, while in
109 the employ of the designated bidder, have no adjudicated record of
110 substantial or repeated wilful noncompliance with any relevant federal
111 or state regulatory law including, but not limited to, laws concerning
112 labor relations, occupational safety and health, nondiscrimination and
113 affirmative action, environmental protection and conflicts of interest;

114 (5) The proposed privatization contract is otherwise in the public

115 interest; and

116 (6) The projected cost savings of the proposed privatization contract
117 will exceed ten per cent of the cost of delivering the services with state
118 employees.

119 (b) A copy of the proposed privatization contract shall accompany
120 the certificate transmitted to the State Comptroller.

121 Sec. 7. (NEW) (a) The State Comptroller shall review the certificate
122 and proposed privatization contract and notify the agency of the
123 Comptroller's approval or objection not less than thirty days after
124 receiving the certificate required by section 6 of this act. No agency
125 shall implement a privatization contract and no such contract shall be
126 valid if the State Comptroller notifies the agency of the State
127 Comptroller's objection. Such objection shall be in writing and shall
128 state specifically the requirements under sections 3 to 5, inclusive, of
129 this act that the agency has failed to comply with, including any facts
130 that the State Comptroller finds incorrect, based on an independent
131 review of all relevant facts.

132 (b) For the purpose of reviewing the agency's compliance and
133 certificate pursuant to section 6 of this act, the State Comptroller, or a
134 designee, may issue a summons to any person to appear and testify
135 under oath and to produce books, papers and other records relating to
136 such review. All provisions of the general statutes relative to
137 summonses in civil cases, including the manner of service, the scope
138 and relevance to such review and the compensation of witnesses who
139 are not state employees shall apply to such summonses.

140 (c) The State Comptroller may adopt regulations, in accordance with
141 chapter 54 of the general statutes, to carry out the purposes of this
142 section.

143 (d) The objection of the State Comptroller pursuant to subsection (a)
144 of this section shall be final and binding on the agency, unless the State
145 Comptroller thereafter, in writing, withdraws the objection, stating the

146 specific reasons, based upon a revised certificate by the agency and the
147 Commissioner of Administrative Services.

148 Sec. 8. (NEW) (a) The Commissioner of Administrative Services
149 shall adopt regulations pursuant to chapter 54 of the general statutes
150 governing contracts between governmental units and social services
151 program providers that shall include, but not be limited to:

152 (1) A provision requiring that all transactions between said
153 providers and related parties shall be disclosed in writing in advance
154 to the Department of Administrative Services and to the agency
155 affected by the privatization contract, either of which may prohibit the
156 transaction by written notice to the provider;

157 (2) A provision requiring that any reductions by said providers in a
158 rate of reimbursement, or other payment method or total expenditure,
159 shall be applied, first against expenditures on managerial personnel,
160 including, but not limited to, management fees, salaries, benefits and
161 other compensation paid to managers and shall be applied in the last
162 instance against expenditures on direct service workers;

163 (3) A provision requiring that any contracts for funds expended by
164 the state, that does not require the state to be reimbursed or
165 compensated by the provider who amortizes the mortgages for the
166 ownership of property, whether owned directly or indirectly by said
167 provider, shall contain provisions for the recoupment of said
168 reimbursement or compensation by the state in the event said property
169 is sold and may, if necessary, allow for the execution of liens to ensure
170 such recoupment;

171 (4) A provision requiring a complete inventory of equipment
172 purchased by said providers on behalf of the state and the return of
173 such equipment to the proper governmental unit upon the completion
174 or termination of the contract;

175 (5) A provision requiring that the uniform financial report include a
176 subsidiary schedule for each component cost and a related party

177 disclosure statement from each officer, director and trustee of said
178 providers;

179 (6) Provisions prohibiting any subcontract or consultant contract for
180 services from a parent organization or parent agency at the national,
181 state or local level;

182 (7) A provision prohibiting the refusal to service any case or type of
183 case, or place any restrictions or limitation on services, the provisions
184 of which were mutually agreed upon in the conditions specified in the
185 contract, subsequent to the finalization of such contract either primary
186 or secondary; and

187 (8) A provision prohibiting the use of state funding for investment
188 counseling, fund-raising, management consultants and other services
189 that are not directly related to the servicing of clients, patients and
190 other persons served by the provider agency.

191 (b) If, after a hearing, the Department of Administrative Services
192 finds any violation of any regulations adopted pursuant to subsection
193 (a) of this section, the Department of Administrative Services may
194 order that the contract be terminated, or the Attorney General may
195 assess a civil penalty of not more than two thousand dollars or ten per
196 cent of the amount payable under the contract, whichever is greater,
197 that the agency shall withhold from payments otherwise due under
198 the contract. Notwithstanding any provision of the general statutes,
199 any provider aggrieved under this section may exercise any legal
200 remedy or cause of action available to such provider under the
201 provisions of the general statutes. If, after a hearing, the Commissioner
202 of Administrative Services determines that a provider has committed
203 any wilful violation of subsection (a) of this section, such said
204 commissioner may disqualify the provider from bidding on further
205 state contracts.

206 Sec. 9. (NEW) (a) Within five days after the State Comptroller
207 notifies an agency of the State Comptroller's approval under section 7
208 of this act of a proposed privatization contract between such agency

209 and a nongovernmental person or entity, that has a value of five
210 million dollars or more, the agency shall file such contract with the
211 clerks of the House of Representatives and the Senate.

212 (b) Within five days after the clerks receive such contract, the
213 speaker of the House of Representatives and the president pro tempore
214 of the Senate shall submit the contract to the joint standing committees
215 of the General Assembly having cognizance of matters relating to (1)
216 government administration, and (2) appropriations and the budgets of
217 state agencies.

218 (c) Within twenty-five days after the speaker of the House of
219 Representatives and the president pro tempore of the Senate receive
220 such contract, such committees shall hold a public hearing on the
221 contract and shall report their recommendations to the House of
222 Representatives and the Senate concerning the approval or rejection of
223 the contract.

224 (d) The General Assembly may approve the contract, in whole, by a
225 majority vote of each house or may reject the contract, in whole, by a
226 majority vote of either house. If rejected, the contract shall not be valid
227 and shall not be implemented. The contract shall be deemed rejected if
228 the General Assembly fails to vote to approve or reject the contract (1)
229 prior to the adjournment of the regular session of the General
230 Assembly during which the contract is filed, (2) prior to the
231 adjournment of the next regular session of the General Assembly
232 following the date on which the contract is filed if the General
233 Assembly is not in regular session on such date, or (3) prior to the
234 adjournment of a special session convened before the next regular
235 session of the General Assembly for the purpose of considering the
236 contract if the General Assembly is not in regular session on the date
237 on which the contract is filed. However, if the contract is filed less than
238 thirty days before the end of a regular session, the General Assembly
239 may vote to approve or reject the contract (A) within thirty days after
240 the first day of a special session convened before the next regular
241 session of the General Assembly for the purpose of considering the

242 contract, or (B) within thirty days after the first day of the next regular
243 session of the General Assembly.

LAB Committee Vote: Yea 8 Nay 4 JFS C/R GAE
GAE Committee Vote: Yea 17 Nay 4 JF C/R APP