



House of Representatives

General Assembly

File No. 487

January Session, 2001

Substitute House Bill No. 5923

House of Representatives, April 26, 2001

The Committee on Education reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING STATE PURCHASES OF GOODS AND SERVICES AND COOPERATIVE PURCHASING FOR MUNICIPALITIES AND NONPROFIT INDEPENDENT HIGHER EDUCATION INSTITUTIONS.

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

1 Section 1. Subsection (g) of section 18-88 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (g) Each state department, agency, commission or board shall
4 purchase its necessary products and services from the institution
5 industries if such products and services are produced or manufactured
6 and made available by such industries, provided such products and
7 services are of comparable price and quality and in sufficient quantity
8 as may be available for sale or offered for sale outside the institutions.
9 [Except for emergency purchases made under section 4-98, the
10 Comptroller shall not approve any purchase order or commitment for
11 the purchase, other than from such industries, of any such supplies,
12 materials or products as are listed in said catalog and available in

13 sufficient quantity from such industries.]

14 Sec. 2. Section 4a-53 of the general statutes is repealed and the
15 following is substituted in lieu thereof:

16 (a) The Commissioner of Administrative Services may join with
17 federal agencies, other state governments, political subdivisions of this
18 state or nonprofit organizations in cooperative purchasing plans under
19 which the commissioner makes purchases for the state, when the best
20 interests of the state would be served thereby.

21 (b) The Commissioner of Administrative Services, in conjunction
22 with the Department of Environmental Protection and within available
23 appropriations, shall make known to the chief executive officer of each
24 municipality the existence of cooperative plans under subsection (a) of
25 this section for the purchase of recycled paper.

26 (c) The Commissioner of Administrative Services may establish, or
27 assist in the establishment of, cooperative purchasing plans for the
28 purchase of goods and services solely by municipalities and other
29 political subdivisions of the state. The commissioner shall make known
30 to the chief executive officer of each municipality the existence of any
31 cooperative plan under this subsection.

32 (d) Any contract for the purchase of goods and services by a state
33 agency may include provisions enabling any municipality to purchase
34 such goods or services from the contractor at the unit price set forth in
35 the contract. Any such municipal purchase shall be subject to the
36 approval of the contractor for any other terms and conditions for such
37 purchase.

38 Sec. 3. Section 4a-54 of the general statutes is repealed and the
39 following is substituted in lieu thereof:

40 [Newington Children's Hospital] Connecticut Children's Medical
41 Center, The American School at Hartford for the Deaf, The Connecticut

42 Institute for the Blind, [and] any other institution or agency which
43 receives at least sixty per cent of its funding from the state or federal
44 government, or both, and, by contract, any independent college or
45 university, as defined in section 10a-37, may each purchase through
46 the Commissioner of Administrative Services such supplies, materials,
47 equipment or contractual services as such institutions require at the
48 cost thereof to the state.

49 Sec. 4. Section 4a-59 of the general statutes is repealed and the
50 following is substituted in lieu thereof:

51 (a) As used in this section, (1) "lowest responsible qualified bidder"
52 means the bidder whose bid is the lowest of those bidders possessing
53 the skill, ability and integrity necessary to faithful performance of the
54 work based on objective criteria considering past performance and
55 financial responsibility, and (2) "highest scoring bidder in a multiple
56 criteria bid" means the bidder whose bid receives the highest score for
57 a combination of attributes, including, but not limited to, price, skill,
58 ability and integrity necessary for the faithful performance of the work,
59 based on multiple criteria considering quality of product, warranty,
60 life-cycle cost, past performance, financial responsibility and other
61 objective criteria that are established in the bid solicitation for the
62 contract.

63 (b) All bids and proposals submitted as provided in section 4a-57
64 shall be based on such standard specifications as may be adopted by
65 the Commissioner of Administrative Services or [his] the
66 commissioner's designee. Bidders shall submit with their bids essential
67 information concerning their qualifications, in such form as the
68 commissioner may require by specification in the bid documents. The
69 commissioner may, after adopting the regulations required by
70 subdivision (11) of section 4a-52, waive minor irregularities in bids and
71 proposals if [he] the commissioner determines that such a waiver
72 would be in the best interest of the state. The commissioner shall state

73 the reasons for any such waiver in writing and include such statement
74 in the contract file.

75 (c) All open market orders or contracts shall be awarded to (1) the
76 lowest responsible qualified bidder, the qualities of the articles to be
77 supplied, their conformity with the specifications, their suitability to
78 the requirements of the state government and the delivery terms being
79 taken into consideration and, at the discretion of the Commissioner of
80 Administrative Services, life-cycle costs and trade-in or resale value of
81 the articles may be considered where it appears to be in the best
82 interest of the state, [or] (2) the highest scoring bidder in a multiple
83 criteria bid, in accordance with the criteria set forth in the bid
84 solicitation for the contract, or (3) the proposer whose proposal is
85 deemed by the awarding authority to be the most advantageous to the
86 state, in accordance with the criteria set forth in the request for
87 proposals, including price and evaluation factors. Notwithstanding
88 any provision of the general statutes to the contrary, each state agency
89 awarding a contract through competitive negotiation shall include
90 price as an explicit factor in the criteria in the request for proposals and
91 for the contract award. In considering past performance of a bidder for
92 the purpose of determining the "lowest responsible qualified bidder"
93 or the "highest scoring bidder in a multiple criteria bid", the
94 commissioner shall evaluate the skill, ability and integrity of the
95 bidder in terms of the bidder's fulfillment of past contract obligations
96 and the bidder's experience or lack of experience in delivering
97 supplies, materials, equipment or contractual services of the size or
98 amount for which bids have been solicited. In determining the lowest
99 responsible qualified bidder for the purposes of this section, the
100 commissioner may give a price preference of up to ten per cent for (A)
101 the purchase of goods made with recycled materials or the purchase of
102 recyclable or remanufactured products if the commissioner determines
103 that such preference would promote recycling or remanufacturing. As
104 used in this subsection, "recyclable" means able to be collected,
105 separated or otherwise recovered from the solid waste stream for

106 reuse, or for use in the manufacture or assembly of another package or
107 product, by means of a recycling program which is reasonably
108 available to at least seventy-five per cent of the state's population,
109 "remanufactured" means restored to its original function and thereby
110 diverted from the solid waste stream by retaining the bulk of
111 components that have been used at least once and by replacing
112 consumable components and "remanufacturing" means any process by
113 which a product is remanufactured; (B) the purchase of motor vehicles
114 powered by a clean alternative fuel; or (C) the purchase of motor
115 vehicles powered by fuel other than a clean alternative fuel and
116 conversion equipment to convert such motor vehicles allowing the
117 vehicles to be powered by either the exclusive use of clean alternative
118 fuel or dual use of a clean alternative fuel and a fuel other than a clean
119 alternative fuel. As used in this subsection, "clean alternative fuel" shall
120 mean natural gas or electricity when used as a motor vehicle fuel. All
121 other factors being equal, preference shall be given to supplies,
122 materials and equipment produced, assembled or manufactured in the
123 state and services originating and provided in the state. If any such
124 bidder refuses to accept, within ten days, a contract awarded to such
125 bidder, such contract may be awarded to the next lowest responsible
126 qualified bidder or the next highest scoring bidder in a multiple
127 criteria bid, whichever is applicable, and so on until such contract is
128 awarded and accepted. If any such proposer refuses to accept, within
129 ten days, a contract awarded to such [bidder] proposer, such contract
130 shall be awarded to the next most advantageous proposer, and so on
131 until the contract is awarded and accepted. There shall be a written
132 evaluation made of each bid. This evaluation shall identify the vendors
133 and their respective costs and prices, document the reason why any
134 vendor is deemed to be nonresponsive and recommend a vendor for
135 award. A contract valued at one million dollars or more shall be
136 awarded to a bidder other than the lowest responsible qualified bidder
137 or the highest scoring bidder in a multiple criteria bid, whichever is
138 applicable, only with written approval signed by the Commissioner of

139 Administrative Services and by the Comptroller. The commissioner
140 shall submit to the joint standing committee of the General Assembly
141 having cognizance of matters relating to government administration,
142 the State Auditors and the Comptroller, an annual report of all awards
143 made pursuant to the provisions of this section.

144 (d) When, in the opinion of the commissioner, the best interest of
145 the state will be served thereby, [he] the commissioner may order that
146 any or all bids or proposals may be rejected. If all bids or proposals are
147 so rejected, the commissioner shall advertise again for bids or
148 proposals and such bids or proposals shall be opened, awarded and
149 approved in like manner as provided in this section and section 4a-57.
150 If all bids or proposals received on a pending contract are for the same
151 unit price or total amount and no distinction can be made in favor of
152 supplies, materials and equipment produced, assembled or
153 manufactured in the state or services originating and provided in the
154 state, the commissioner shall have authority to order the rejection of all
155 bids or proposals and to order the purchase of the required supplies,
156 materials, equipment or contractual services in the open market,
157 provided the price paid in the open market shall not exceed the bid or
158 proposal price.

159 (e) Each bid or proposal, with the name of the bidder, or proposer,
160 shall be entered on a record, and each record, with the successful bid
161 or proposal indicated thereon, shall, after the award of the order or
162 contract, be open to public inspection. All contracts shall be approved
163 as to form by the Attorney General and a copy of each contract shall be
164 filed with the Comptroller.

165 (f) Not later than February 1, 2002, the Commissioner of
166 Administrative Services shall adopt regulations, in accordance with the
167 provisions of chapter 54, indicating the types of objective criteria that
168 the commissioner may use in determining the highest scoring bidder
169 in a multiple criteria bid under this section. Said commissioner shall

170 submit a report on said date, concerning the status of the adoption of
171 said regulations by the commissioner, to the joint standing committee
172 of the General Assembly having cognizance of matters relating to
173 government administration.

174 Sec. 5. Subsections (f) and (g) of section 2-71p of the general statutes
175 are repealed and the following is substituted in lieu thereof:

176 (f) As used in this section, (1) "lowest responsible qualified bidder"
177 means the bidder whose bid is the lowest of those bidders possessing
178 the skill, ability and integrity necessary to faithful performance of the
179 work based on objective criteria considering past performance and
180 financial responsibility, and (2) "highest scoring bidder in a multiple
181 criteria bid" means the bidder whose bid receives the highest score for
182 a combination of attributes, including, but not limited to, price, skill,
183 ability and integrity necessary for the faithful performance of the work,
184 based on multiple criteria considering quality of product, warranty,
185 life-cycle cost, past performance, financial responsibility and other
186 objective criteria that are established in the bid solicitation for the
187 contract. Bidders shall submit with their bids essential information
188 concerning their qualifications, in such form as the committee may
189 require by specification in the bid documents. The committee may
190 waive minor irregularities in bids and proposals if it determines that
191 such a waiver would be in the best interest of the state. As used in this
192 subsection, the term "minor irregularities" shall not include variations
193 in the quality, unit price or date of delivery or completion of supplies,
194 materials, equipment or contractual services, or exceptions to
195 programs required under the general statutes. The committee shall
196 state the reasons for any such waiver in writing and include such
197 statement in the contract file.

198 (g) All open market orders or contracts shall be awarded to (1) the
199 lowest responsible qualified bidder, the qualities of the articles to be
200 supplied, their conformity with the specifications, their suitability to

201 the requirements of the state government and the delivery terms being
202 taken into consideration and, at the discretion of the committee,
203 life-cycle costs and trade-in or resale value of the articles may be
204 considered where it appears to be in the best interest of the
205 department, [or] (2) the highest scoring bidder in a multiple criteria
206 bid, in accordance with the criteria set forth in the bid solicitation, or
207 (3) the proposer whose proposal is deemed by the committee to be the
208 most advantageous to the department, in accordance with the criteria
209 set forth in the request for proposals, including price and evaluation
210 factors. In considering past performance of a bidder for the purpose of
211 determining the "lowest responsible qualified bidder" or the "highest
212 scoring bidder in a multiple criteria bid", the committee shall evaluate
213 the skill, ability and integrity of the bidder in terms of the bidder's
214 fulfillment of past contract obligations and [his] the bidder's
215 experience or lack of experience in delivering supplies, materials,
216 equipment or contractual services of the size or amount for which bids
217 have been solicited. If any such bidder refuses to accept, within ten
218 days, a contract awarded to [him] such bidder, such contract may be
219 awarded to the next lowest responsible qualified bidder or the next
220 highest scoring bidder in a multiple criteria bid, whichever is
221 applicable, and so on until such contract is awarded and accepted. If
222 any such proposer refuses to accept, within ten days, a contract
223 awarded to [him] such proposer, such contract shall be awarded to the
224 next most advantageous proposer, and so on until the contract is
225 awarded and accepted. There shall be a written evaluation made of
226 each bid. This evaluation shall: Identify the vendors and their
227 respective costs and prices; document the reason why any vendor is
228 deemed to be nonresponsive; and recommend a vendor for award. The
229 committee shall submit to the Auditors of Public Accounts an annual
230 report of all awards made pursuant to the provisions of this section.

231 Sec. 6. Sections 2-71w and 4a-57c of the general statutes are
232 repealed.

233 Sec. 7. This act shall take effect July 1, 2001.

ED *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Indeterminate Savings and Minimal Costs

Affected Agencies: Department of Administrative Services,
Legislative Management, State Comptroller

Municipal Impact: Potential Significant Savings

Explanation

State Impact:

The bill eliminates the requirement that prohibits the State Comptroller from approving any purchase order or commitment for materials or products if they are available in sufficient quantity through the Department of Corrections Industries Program. This reflects current practice and will result in no additional cost to the state. The Comptroller has not had to disapprove purchase orders due to the availability of products in the Corrections Industries Program, as there is not an established system to procure and manage that information.

The bill also makes permanent the two-year pilot programs that allowed the Department of Administrative Services (DAS) and Legislative Management to award contracts through consideration of multiple criteria rather than to the lowest bidder. This would result in indeterminate savings to the state in the long run. Multiple criteria purchasing allows the agencies to consider such things as quality,

length of warrantee, life-cycle cost, past performance and other objective factors in addition to price.

DAS awarded 15 contracts to the highest scoring multiple criteria bidder rather than the low bidder during the pilot project. These ranged from products such as window shades, vertical blinds and windshields, to services such as professional testing, soil testing and moving services. While the initial cost of the contract might be somewhat higher, the consideration of other criteria could result in the purchase of goods that have longer life, higher quality and lower costs in the long run.

DAS is required to adopt regulations that specify the types of objective criteria that will be used to determine the highest scoring multiple criteria bidder, and provide a status report on the regulations to the GAE Committee by February 1, 2002. This would result in minimal, absorbable costs to DAS.

The bill also allows DAS to establish cooperative purchasing plans for municipalities and other political subdivisions of the state. DAS has already established several cooperative purchasing and bulk purchasing programs with municipalities, and they can expand their activities at minimal, absorbable cost.

Municipal Impact:

The passage of this bill would result in savings to municipalities that participate in the cooperative purchasing program that could be significant. The bill would expand the goods and services that municipalities could obtain through DAS and state contracts. Current cooperative purchasing arrangements with municipalities include the purchase of police cruisers, educational supplies, and various road-building materials. DAS has reported that savings from list price for school supplies range from a minimum of 17% up to 30%. Municipal purchases from state contracts exceeded \$15 million in FY 00, with a

savings of more than 25%.

OLR Bill Analysis

sHB 5923

AN ACT CONCERNING STATE PURCHASES OF GOODS AND SERVICES AND COOPERATIVE PURCHASING FOR MUNICIPALITIES AND NONPROFIT INDEPENDENT HIGHER EDUCATION INSTITUTIONS.

SUMMARY:

This bill makes several changes in state purchasing laws. Specifically, it:

1. makes permanent the Department of Administrative Services (DAS) commissioner's and the Legislative Management Committee's authority to award state contracts to the highest scoring bidder in a multiple-criteria bid;
2. expands the comptroller's authority to approve state agencies' purchases of products and materials from vendors other than the Connecticut prison industries;
3. allows state purchasing contracts to include a provision permitting towns to purchase goods and services at the same unit price as the state;
4. requires the towns to get the contractor's approval for purchase terms and conditions that differ from those applicable to the state;
5. allows independent colleges and universities to purchase supplies, materials, equipment, and contractual services at the cost to the state by contracting with DAS;
6. permits the DAS commissioner to establish or help towns and other political subdivisions establish cooperative purchasing plans;
7. specifies that the commissioner's authority to join a cooperative

purchasing plan that serves the state's best interests is limited to situations in which she is making purchases for the state; and

8. limits the commissioner's duty to make municipal chief executive officers aware of cooperative plans to purchase recycled paper to circumstances in which she joins a plan to make purchases for the state.

EFFECTIVE DATE: July 1, 2001

MULTIPLE CRITERIA BIDS

The bill makes permanent the two-year pilot programs that allowed DAS and the Legislative Management Committee to award state contracts to the highest-scoring bidder in a multiple-criteria bid rather than to the lowest responsible qualified bidder. The multiple-criteria approach allows the commissioner and the committee to consider more than price, skill, ability, and integrity when awarding a contract. They may also consider such things as product quality and objective criteria the contract establishes.

The bill requires the commissioner to (1) adopt regulations by February 1, 2002 specifying the types of objective criteria she will use to determine the highest-scoring bidder in a multiple-criteria bid and (2) submit a status report on the regulations to the Government Administrative and Elections Committee on February 1, 2002.

PURCHASES FROM THE PRISON INDUSTRIES

The bill permits the state comptroller to approve purchases of materials and products from regular vendors even if the items are available in sufficient quantity from the prison industries. Currently, she can approve such purchases only in an emergency.

By law, each state agency must purchase necessary products and services from prison industries if they are offered (1) at comparable price and quality and (2) in sufficient quantity as may be available from private vendors to meet the agency's need.

COOPERATIVE PURCHASING PLANS

The bill permits the DAS commissioner to either establish or help municipalities and other political subdivisions establish cooperative plans for purchasing goods and services the towns and subdivisions need. The commissioner must make municipal chief executive officers aware of the plan.

BACKGROUND

Legislative History

The House referred the bill (File 10) to the Planning and Development and Education committees on March 9 and 22, respectively. Planning and Development reported it unchanged on March 19 and Education reported it with a technical change on April 6.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 18 Nay 0

Planning and Development Committee

Joint Favorable Report

Yea 18 Nay 0

Education Committee

Joint Favorable Substitute

Yea 29 Nay 0