



House of Representatives

General Assembly

File No. 415

January Session, 2001

House Bill No. 6849

House of Representatives, April 23, 2001

The Committee on Human Services reported through REP. GERRATANA of the 23rd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT IMPROVING THE PURCHASE OF HUMAN SERVICES FROM
NONPROFIT ORGANIZATIONS.***

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

1 Section 1. (NEW) As used in this act:

2 (1) "Nonprofit organization" means an organization that is
3 incorporated under the laws of the state of Connecticut and is exempt
4 from federal income taxation pursuant to Section 501(c)(3) of the
5 Internal Revenue Code of 1986, or any corresponding internal revenue
6 code of the United States, as from time to time amended;

7 (2) "State agency" means any department or agency of the state of
8 Connecticut;

9 (3) "Contract for human services" means any agreement between a
10 state agency and a nonprofit organization by which such organization
11 agrees to provide or arrange for the provision of human services;

12 (4) "Human services" has the same meaning as "human services", as
13 defined in section 4b-31 of the general statutes;

14 (5) "Provider" means a nonprofit organization that has an existing
15 contract for human services with a state agency.

16 Sec. 2. (NEW) (a) After determining to renew an existing contract for
17 human services with a provider, a state agency shall: (1) Notify the
18 provider of its intent to renew not later than ninety days before the
19 expiration of the contract; (2) prepare detailed specifications for the
20 renewal contract, including a description of the services to be
21 purchased, the outcomes to be achieved and the methods used to
22 measure such outcomes; and (3) request from the provider a price
23 quotation for each year of the renewal contract.

24 (b) If, after completion of the process set forth in subsection (a) of
25 this section, a state agency decides to pursue a contract renewal with a
26 provider, such state agency, not later than sixty days before the
27 expiration of the existing contract, shall (1) meet with representatives
28 of such provider and negotiate in good faith the price and all other
29 terms and conditions of the renewal contract, including, but not
30 limited to, any financial penalties for noncompliance, and (2) cause
31 such renewal contract to be promptly authorized and executed. If, after
32 thirty days after the beginning of this process, the parties can not agree
33 on the price or the other terms and conditions of such renewal
34 contract, the state agency shall notify the provider, in writing, of its
35 intent to solicit proposals from other providers.

36 (c) Each state agency shall determine the length of the term of any
37 such renewal contract, provided such term shall be not less than two
38 years nor more than six years in duration.

39 Sec. 3. (NEW) (a) During the term of any contract for human
40 services renewed pursuant to section 2 of this act, the state agency
41 shall monitor the delivery of services pursuant to the terms and

42 conditions of such contract and notify the provider, in writing on a
43 timely basis, of any deficiencies or other contract compliance issues.
44 The state agency shall give the provider a reasonable period of time to
45 correct any deficiencies or otherwise address any contract compliance
46 issues.

47 (b) Whether or not a state agency intends to renew a contract for
48 human services, the state agency shall, not later than forty-five days
49 before the expiration of such contract, (1) notify, in writing, the
50 provider of any outstanding contract deficiencies or other compliance
51 issues as well as a detailed course of action and timetable to address
52 such deficiencies or compliance issues, (2) provide a detailed statement
53 of the financial consequences, if any, of failing to address such
54 deficiencies or compliance issues, provided such financial
55 consequences are detailed in the written contract between the parties,
56 and (3) complete the prompt payment of the outstanding balance of
57 the negotiated cost of such contract less the amount of any financial
58 penalties pursuant to subdivision (2) of this subsection.

59 Sec. 4. (NEW) (a) Each contract for human services between a state
60 agency and a provider shall include the following written provisions:
61 (1) A right of appeal by the provider pursuant to sections 4-177 to 4-
62 185, inclusive, of the general statutes of any decision by a state agency
63 to impose financial penalties or offsets pursuant to subsection (b) of
64 section 3 of this act, (2) except for material noncompliance with the
65 contract pursuant to provisions agreed upon by the parties, a
66 prohibition against any reduction in the amount of the agreed upon
67 contract price, and (3) an automatic transfer of the contract from one
68 provider to a successor provider in the event of a sale, merger or other
69 acquisition of such original provider unless the successor provider has
70 been formally barred or otherwise prohibited from contracting with
71 the state.

72 (b) No contract for human services between a state agency and a

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: Significant Cost, Potential Indeterminate Revenue Loss

Affected Agencies: Various Agencies

Municipal Impact: None

Explanation

State Impact:

This bill establishes various procedural requirements for all state agencies that contract with nonprofit organizations for human services.

Considering the level of funding in the various agencies and their high volume of contracts, implementation costs are anticipated to be significant. The administrative costs and workload increase to the various agencies as a result of this bill, due to the changes it will make to their existing practices, policies and regulations regarding contracting for human services, is indeterminate. There are various fiscal and programmatic responsibilities that are impacted when establishing contractual requirements. No funding has been included under the budget of any of the impacted agencies within sHB 6668 (the FY 02 - 03 Appropriations Act, as favorably reported by the Appropriations Committee) to implement provisions of this bill.

Most agency's sign contracts on an annual basis. The bill instead requires a two-year minimum and a six-year maximum term for contracts. This may lead to administrative complexities for affected agencies.

The bill also contains a provision that (except for cases of material noncompliance) a human services contract shall contain a written prohibition against any reduction in the agreed contract price. It is uncertain to what extent state agencies will be able to honor these agreements when actions are taken by the legislative or executive branch that reduce appropriated funds. Also, as a result the existing cost settlement process is eliminated for some departments, which may lead to a revenue loss, as providers would be allowed to retain funds that were not expended or for costs that were not reimbursable.

Other changes in the bill that may cause increased costs include: placing time constraints on departments contracting with human service agencies; and adhering to its provisions while maintaining compliance with provider licensure requirements.

Finally, the bill may limit the flexibility and portability of certain funds, and restrict a department in its efforts to provide customized services to clients.

A detailed fiscal impact statement for each agency that contracts for human services (including, but not limited to, the Departments of Children and Families, Mental Retardation, Mental Health and Addiction Services, Social Services, Corrections and Judicial) is not possible. However, the bill's requirements are sufficiently similar to criteria relied upon in the development of recommended contracts unit staffing guidelines promulgated under the Juan F. (DCF) Consent Decree (to date, these target guidelines have not been met), to illustrate the potential costs.

The following calculation assumes attainment of one (1)

professional staff per twenty-five (25) contracts and one (1) financial clerk per each 25 - 35 contracts in excess of the first 25 - 35.

The department utilizes both regional and central office staff to administer 591 separate contracts. Adherence to the staff to contract ratios presented above would result in FY 02 costs to the state of approximately \$2.9 million. Included in this sum is \$1.9 million to reflect the full-year salaries of twenty (20) Fiscal Administrative Officers and sixteen (16) Financial Clerks, associated equipment and other expenses, required to perform specified contract renewal activities; \$0.3 million to support the salaries of six (6) Hearings Officers, associated equipment and other expenses, needed to conduct fair hearings on appeals of decisions by the agency; and \$0.7 million in associated fringe benefits costs.

In FY 03 and subsequent fiscal years a cost of \$2.9 would be associated with continuing support for these staff (\$2.1 in costs to the department and \$0.8 for associated fringe benefits).

OLR Bill Analysis

HB 6849

AN ACT IMPROVING THE PURCHASE OF HUMAN SERVICES FROM NONPROFIT ORGANIZATION.**SUMMARY:**

This bill establishes a contract renewal process for state agencies that contract with nonprofit organizations for human services; specifies uniform contract provisions; and requires the agencies to monitor service delivery, notify the providers of any deficiencies or compliance issues, and give a detailed explanation of any financial consequences of noncompliance or deficiencies. "Human services" are services to people with disabilities or special needs or who need supportive services. They include adoption and foster care services; alcohol and drug abuse services; school readiness programs; mental retardation services; income assistance; special transportation services; adult education; and planning, management, and evaluation activities related to these services.

Lastly, the bill specifies that it does not supersede or conflict with federal law, policy, or procedure regarding human services contracts that involve federal funds.

EFFECTIVE DATE: July 1, 2001

CONTRACT RENEWAL PROCESS

Under the bill, a state agency that decides to renew an agreement with a nonprofit organization to provide or arrange for human services must (1) notify the provider of its intent to renew at least 90 days before the existing contract expires; (2) prepare detailed contract renewal specifications, including a description of the services being purchased, the outcomes to be achieved, and the methods for measuring them; and (3) ask the provider for a price quotation for each contract year.

An agency that decides to renew a contract with an existing contractor must, at least 60 days before the contract expires, (1) meet with contractor representatives and negotiate in good faith the contract price and all other terms and conditions, including financial penalties for noncompliance; and (2) have the contract promptly authorized and executed. If the parties cannot agree on the price or terms and conditions within 30 after negotiations begin, the agency must give the contractor written notice of its intent to solicit other proposals.

The bill codifies existing practice by requiring state agencies to determine the terms of renewal contracts. Unlike existing practice where the length of each contract varies depending upon the parties and the nature of the contract, the bill requires contracts to be at least two but less than six years long.

HUMAN SERVICES CONTRACT PROVISIONS

Required Provisions

The bill requires human services renewal contracts to:

1. allow service providers to appeal any state agency decision to impose financial penalties or offsets for contract deficiencies or compliance issues;
2. prohibit any reduction in the agreed-upon contract price, except for material noncompliance as agreed by the contracting parties; and
3. provide for the automatic transfer of the contract to a successor provider in the event of a sale, merger, or other acquisition, unless the successor is barred or otherwise prohibited from contracting with the state.

Banned Provisions

Human services contracts cannot contain provisions that:

1. require state agencies to pay a provider more than the agreed-upon contract price;

2. require the provider to return any portion of the contract price, except when financial penalties are imposed for contract deficiencies or a failure to comply with contractual terms; or
3. restrict or limit a provider's ability to manage its organization or make independent policy decisions, including employment, purchasing, real estate, or investment decisions, unless mandated by law.

CONTRACT NONCOMPLIANCE OR DEFICIENCIES

The bill requires the state agency to monitor service delivery in all renewed contracts and give the provider timely written notice of any deficiencies or compliance issues. The agency must give the provider a reasonable period of time to correct any deficiencies or become compliant.

At least 45 days before any contract expires, the state agency must (1) give the provider written notice of any outstanding deficiencies or issues of noncompliance and a detailed course of action and timetable for addressing them, (2) provide a detailed statement of the financial consequences for deficiencies or noncompliance agreed to by the parties, and (3) promptly pay the balance of the negotiated contract price less any financial penalties.

BACKGROUND

Human Services Contracts

Human services contracts have a standard format but no standard provisions. The current format consists of three parts: Part I contains administrative policies, such as an agency's statutory authority to contract, and attorney general recommendations; Part II consists of contract terms as determined by an agency's policy or regulations; and Part III consists of the terms specific to a particular contract.

Purchase of Service State Agencies

The agencies that presently contract for human services are the Board

of Parole and the Children and Families, Correction, Education, Mental Health and Addiction Service, Mental Retardation, Public Health, Social Services, and Veterans Affairs departments.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Change of Reference

Yea 20 Nay 0

Human Services Committee

Joint Favorable Report

Yea 17 Nay 0