



General Assembly

February Session, 2004

Raised Bill No. 391

LCO No. 1430

01430_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING THE RETENTION OF SERVICE CONTRACT WORKERS.

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

- 1 Section 1. (NEW) (*Effective July 1, 2004*) (a) As used in this section:
- 2 (1) "Awarding authority" means any person, including a contractor
3 or subcontractor, who awards or otherwise enters into a contract to
4 perform any of the following services within the state: Security,
5 janitorial, building maintenance, food and beverage, hotel, including
6 hotel physical plant engineering, hotel electrician and hotel and
7 convention center stagehand, hotel and convention center exhibition
8 and convention setup and teardown, carpenter, painting, audiovisual
9 and lighting technician, healthcare and any service performed by
10 nonelected and nonappointed state employees, but does not include
11 services performed by any restaurant owned and operated by one or
12 more individuals or an organization other than a publicly-traded
13 corporation.
- 14 (2) "Contractor" means any person who enters into a service contract

15 with the awarding authority and any subcontractors to such service
16 contract at any tier who employs ten or more persons.

17 (3) "Employee" means any person engaged to perform services
18 pursuant to a service contract, including registered nurses, but does
19 not include a person who is (A) a managerial, supervisory or
20 confidential employee, including any person who would be so defined
21 under the federal Fair Labor Standards Act, or (B) employed for less
22 than ten hours per week.

23 (4) "Person" means any individual, proprietorship, partnership, joint
24 venture, corporation, limited liability company, trust association or
25 other entity that may employ or enter into other contracts.

26 (5) "Service contract" means a contract let to a contractor by the
27 awarding authority for the furnishing of security, janitorial, building
28 maintenance, food and beverage, hotel service or nonprofessional
29 health care services, including any services to be performed by
30 registered nurses.

31 (6) "Successor service contract" means a service contract with the
32 awarding authority under which substantially the same services to be
33 performed have previously been rendered to the awarding authority
34 as part of the same program or at the same facility under another
35 service contract or have previously been rendered by the awarding
36 authority's own employees.

37 (7) "Terminated contractor" means a contractor whose service
38 contract expires without renewal or whose contract is terminated, and
39 includes the awarding authority itself when work previously rendered
40 by the awarding authority's own employees is the subject of a
41 successor service contract.

42 (b) Each contractor and awarding authority that enters into a service
43 contract to be performed within this state shall be subject to the
44 following obligations:

45 (1) The awarding authority shall give advance notice to a contractor
46 and the exclusive bargaining representative of any of the contractor's
47 employees, of the termination of such service contract and shall
48 provide the contractor and the exclusive bargaining representative
49 with the name, telephone number and address of the successor
50 contractor or contractors, if known. The terminated contractor shall,
51 not later than three days after receipt of such notice, provide the
52 successor contractor with the name, date of hire and employment
53 occupation classification of each person employed by the terminated
54 contractor at the site or sites covered by the service contract as of the
55 date the terminated contractor receives the notice of termination.

56 (2) On the date the service contract terminates, the terminated
57 contractor shall provide the successor contractor with updated
58 information concerning the name, date of hire and employment
59 occupation classification of each person employed by the terminated
60 contractor at the site or sites covered by the service contract, to ensure
61 that such information is current up to the actual date of service
62 contract termination.

63 (3) If the awarding authority fails to notify the terminated contractor
64 of the identity of the successor contractor, as required by subdivision
65 (1) of this subsection, the terminated contractor shall provide the
66 information described in subdivision (2) of this subsection to the
67 awarding authority not later than three days after receiving notice that
68 the service contract will be terminated. The awarding authority shall
69 be responsible for providing such information to the successor
70 contractor as soon as the successor contractor has been selected.

71 (4) (A) A successor contractor or subcontractor shall retain, for at
72 least ninety days from the date of first performance of services under
73 the successor service contract, all of the employees who were
74 employed by the terminated contractor at the site or sites covered by
75 the service contract during the eight-month period immediately
76 preceding the termination date of such service contract.

77 (B) In the event the successor service contract is terminated prior to
78 the expiration of such ninety-day period, then any contractor awarded
79 a subsequent successor service contract shall be bound by the
80 requirements set forth in this subsection to retain, for a new ninety-day
81 period commencing with the onset of the subsequent successor service
82 contract, all of the employees who were previously employed by any
83 one or more of the terminated contractors at the site or sites covered by
84 the service contract during the eight-month period immediately
85 preceding the date of the most recently terminated service contract.

86 (C) At least five days prior to the termination of a service contract,
87 or at least fifteen days prior to the commencement of the first
88 performance of service under a successor service contract, whichever is
89 later, the successor contractor shall hand-deliver a written offer of
90 employment in substantially the form set forth below to each such
91 employee in such employee's native language or any other language in
92 which such employee is fluent:

93 **IMPORTANT INFORMATION REGARDING YOUR**
94 **EMPLOYMENT**

95 To: (Name of employee)

96 We have received information that you are employed by (name of
97 predecessor contractor) and are currently performing work at
98 (address of worksite). (Name of predecessor contractor)'s contract
99 to perform (describe services under contract) at (address of
100 worksite) will terminate as of (last day of predecessor contract) and
101 it will no longer be providing those services as of that date.

102 We are (name of successor contractor) and have been hired to
103 provide services similar to those of (name of predecessor
104 contractor) at (address of worksite). We are offering you a job with
105 us for a ninety days probationary period starting (first day of
106 successor contract) to perform the same type of work that you have
107 already been doing for (name of predecessor contractor) under the

108 following terms:

109 Payrate (per hour): \$....

110 Hours per shift:

111 Total hours per week:

112 Benefits:

113 You must respond to this offer within the next ten days. If you want to
114 continue working at (address of worksite) you must let us know by
115 (no later than five days prior to the expiration of the predecessor
116 contract or ten days after the date of this letter if the predecessor
117 contract has already expired). If we do not receive your response by
118 the end of business that day, we will not hire you and you will lose
119 your job. We can be reached at (successor contractor phone
120 number).

121 Connecticut state law gives you the following rights:

122 1. You have the right with certain exceptions, to be hired by our
123 company for the first ninety days that we begin to provide services at
124 (address of worksite).

125 2. During this ninety-day period, you cannot be fired without just
126 cause.

127 3. If you believe that you have been fired or laid off in violation of this
128 law, you have the right to sue us and be awarded back pay, attorneys
129 fees and court costs.

130 FROM: (Name of successor contractor)

131 (Address of successor contractor)

132 (Telephone number of successor contractor)

133 Each offer of employment shall state the time within which such

134 employee must accept such offer but in no case shall that time be less
135 than ten days from the date of the offer of employment.

136 (5) If at any time a successor contractor determines that fewer
137 employees are required to perform the successor service contract than
138 were required by the terminated contractor, the successor contractor
139 shall be required to retain such employees by seniority within each job
140 classification, based upon the employees' total length of service at the
141 affected site or sites.

142 (6) During such ninety-day period, the successor contractor shall
143 maintain a preferential hiring list of employees eligible for retention
144 pursuant to subdivision (4) of this subsection, who were not initially
145 retained by the successor contractor, from which the successor
146 contractor shall hire additional employees, if necessary.

147 (7) Except as provided under subdivision (6) of this subsection,
148 during such ninety-day period, the successor contractor shall not
149 discharge without just cause an employee retained pursuant to this
150 section. For purposes of this subdivision, "just cause" shall be
151 determined solely by the performance or conduct of the particular
152 employee.

153 (c) Any awarding authority or contractor who knowingly violates
154 the provisions of this section shall pay a penalty not to exceed one
155 hundred dollars per employee for each day the violation continues.

156 (d) The Labor Commissioner shall have the responsibility for the
157 enforcement of the provisions of this section and in connection with
158 such responsibility shall:

159 (1) Cause a notice containing the provisions of this section to be sent
160 to all persons currently engaged in performing any of the following
161 services within the state and to all persons who shall in the future
162 indicate on such application an intention to engage in such businesses,
163 including any subcontracts for such services: Security, janitorial,

164 building maintenance, food and beverage, hotel, including hotel
165 physical plant engineering, hotel electrician and hotel and convention
166 center stagehand, hotel and convention center exhibition and
167 convention setup and teardown, carpenter, painting, audiovisual and
168 lighting technician, health care and any service performed by
169 nonelected and nonappointed state employees.

170 (2) Maintain a current list of all business privilege license holders for
171 performing services listed in subdivision (1) of this subsection.

172 (3) Investigate all complaints against any contractor or awarding
173 authority and in connection with such complaint or with respect to any
174 investigation shall have full power and authority to subpoena any
175 witness, books, records or other data of any person for the purposes of
176 obtaining information pertinent to such investigation. The Labor
177 Commissioner shall make a finding, in writing, with respect to each
178 complaint filed, and shall send a copy of the complaint to the
179 complainant and the contractor and shall maintain it on file.

180 (4) Refer all complaints determined to have merit to the appropriate
181 state department for revocation of the offending contractor's business
182 privilege license.

183 (5) Monitor the operations of contractors and awarding authorities
184 to ensure compliance with the provisions of this section.

This act shall take effect as follows:	
Section 1	July 1, 2004

Statement of Purpose:

To offer greater protection to workers who are displaced or terminated when service contracts are terminated.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]