



General Assembly

February Session, 2004

Raised Bill No. 392

LCO No. 1428

01428 _____ GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING THE STATE CONTRACT REVIEW PROCESS.

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

1 Section 1. (NEW) (*Effective October 1, 2004*) As used in sections 2 to 7,
2 inclusive, of this act:

3 (1) "State agency" means an executive office, department, division,
4 Board, commission or other office or officer in the executive branch of
5 state government;

6 (2) "Privatization contract" means an agreement or series of
7 agreements between a state agency and a nongovernmental person or
8 entity, in which such person or entity agrees to provide services valued
9 at five hundred thousand dollars or more over the life of the contract
10 that are substantially similar to and in lieu of services provided, in
11 whole or in part, by employees of such agency or by employees of
12 another state agency for such state agency. "Privatization contract"
13 does not include an agreement to provide legal services, litigation
14 support or management consulting only;

15 (3) "State construction" and "large procurement contracts" means
16 any contract or amendment in excess of one hundred thousand dollars
17 for: (A) The remodeling, alteration, repair or enlargement of any real
18 asset; (B) the construction, alteration, reconstruction, improvement,
19 relocation, widening or changing of the grade of sections of state
20 highways or bridges; or (C) the purchase or lease of all supplies,
21 materials or equipment, as defined in subdivision (2) of section 4a-50
22 of the general statutes; and

23 (4) "Board" means the State Contract Review Board.

24 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) There is established a
25 State Contract Review Board which shall consist of seven members
26 having expertise in contract and legal matters. One member shall be
27 appointed by the Governor, one member by the speaker of the House
28 of Representatives, one member by the majority leader of the House of
29 Representatives, one member by the minority leader of the House of
30 Representatives, one member by the president pro tempore of the
31 Senate, one member by the majority leader of the Senate, and one
32 member by the minority leader of the Senate. The members first
33 appointed by the Governor, the speaker of the House of
34 Representatives and the minority leader of the Senate shall serve a
35 two-year term. The members first appointed by the president pro
36 tempore of the Senate and the minority leader of the House of
37 Representatives shall serve a three-year term. The members first
38 appointed by the majority leaders of the Senate and the House of
39 Representatives shall serve a four-year term. All appointments to
40 replace members whose terms expire shall be for a term of four years
41 or until their successors have been appointed and qualified. If any
42 vacancy occurs on the State Contract Review Board, the appointing
43 authorities having the power to make the initial appointment under
44 the provisions of this subsection shall appoint a member for the
45 unexpired portion of the term in accordance with the provisions of this
46 subsection. No member of the State Contract Review Board shall hold
47 any other state governmental position nor shall any member or any

48 business with which any member is associated, as defined in
49 subsection (b) of section 1-79 of the general statutes, be a party to a
50 contract, except an employment contract, with the state. Each member
51 of the board shall file with the State Ethics Commission a statement of
52 financial interest in accordance with section 1-83 of the general
53 statutes.

54 (b) Members of the State Contract Review Board shall be
55 compensated at the rate of one hundred fifty dollars per day for each
56 day they attend a meeting, up to a maximum of twenty-five thousand
57 dollars annually.

58 (c) The members of the State Contract Review Board shall elect a
59 chairperson who shall preside at meetings of the board and a vice-
60 chairperson to preside in the absence of the chairperson.

61 (d) The State Contract Review Board may adopt such rules as it
62 deems necessary for the conduct of its internal affairs, in accordance
63 with section 4-167 of the general statutes, and may employ, within
64 available appropriations, such employees as it shall deem necessary.
65 No employee of the State Contract Review Board or any business with
66 which such employee is associated, as defined in subsection (b) of
67 section 1-79 of the general statutes, shall be a party to a contract with
68 the state.

69 (e) The State Contract Review Board shall be within the Office of
70 Policy and Management for administrative purposes only.

71 (f) Notwithstanding any other provision of the general statutes, all
72 state agencies shall submit any proposed privatization, state
73 construction or large procurement contract to the State Contract
74 Review Board for the board's review and approval or disapproval, in
75 accordance with the provisions of this section. The State Contract
76 Review Board shall review all proposed state construction or large
77 procurement contracts to ensure that the process for the selection of
78 the vendor or construction contractor complied with state law and that

79 such contract is cost-effective and fiscally prudent. The State Contract
80 Review Board shall also review and approve or disapprove all
81 privatization contracts in accordance with the provisions of sections 3
82 to 7, inclusive, of this act. Any contract subject to review pursuant to
83 this section shall be void unless approved by the State Contract Review
84 Board.

85 (g) In conducting any review pursuant to subsection (f) of this
86 section, the State Contract Review Board shall have access to all
87 information, files and records, including, but not limited, to financial
88 records, of the applicable state agency, and shall, when necessary, be
89 entitled to the use of personnel employed by the state agency. Each
90 state agency shall keep such information, files and records in a form
91 and by a method that will reasonably enable the board to conduct its
92 review. Each state agency shall make such information, files and
93 records available to the board or any authorized agent of the board,
94 upon demand. In the event that any such information, file or record
95 sought by the board is subject to nondisclosure pursuant to any
96 provision of the general statutes, such nondisclosure requirement and
97 any accompanying penalty for disclosure shall apply to members of
98 the board and the board's authorized agents.

99 (h) Within thirty days of a state agency's submittal of a proposed
100 privatization, state construction or large procurement contract, to the
101 State Contract Review Board for review, the board shall respond in
102 writing to such agency, either approving the contract or disapproving
103 the contract without prejudice. In the event of a tie vote of the board's
104 members, the proposed contract shall be deemed disapproved. In any
105 case where the board issues a written response disapproving a
106 proposed contract, such response shall include the grounds for
107 disapproval. If, upon expiration of such thirty-day period a decision
108 has not been made by the board, such contract shall be deemed to have
109 been approved.

110 (i) The State Contract Review Board may, within available

111 appropriations, retain the services of consultants, technical assistants,
112 research and other personnel as it may deem necessary to assist in
113 conducting any review pursuant to this section.

114 (k) On or before June 30, 2005, the State Contract Reveiw Board
115 shall adopt regulations, in accordance with chapter 54 of the general
116 statutes, for the implementation of this section, including, but not
117 limited to, criteria to be used in conducting any review pursuant to
118 subsection (f) of this section.

119 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) No state agency shall
120 execute a proposed privatization contract and no such contract shall be
121 valid unless such contract is approved by the State Contract Review
122 Board and such agency has complied with the provisions of section 5
123 of this act.

124 (b) Prior to any state agency's solicitation of bids for a privatization
125 contract, such agency shall prepare an analysis of the costs and
126 benefits to the agency of (1) privatizing services, and (2) continuing to
127 provide such services using state employees of the state agency. Such
128 analysis shall include, but not be limited to: (A) An examination of all
129 direct and indirect costs to the state, including health insurance,
130 pension costs of state employees, unemployment compensation costs
131 of state employees terminated as a result of the privatization contract,
132 gain or loss of income tax and sales tax revenue to the state, and (B) an
133 examination of the effect of such proposed privatization on the quality
134 of service, the public health and safety and residents of the state who
135 may utilize such privatized service. In determining the cost of
136 privatizing services, pursuant to this subsection, the state agency shall
137 calculate labor costs for each employee position at a rate no less than
138 the middle range salary of a state employee job class substantially
139 similar to such employee position. Each state agency shall transmit
140 such analysis to the Auditors of Public Accounts who shall review
141 such submission and prepare a report to the state agency with an
142 analysis stating whether such privatization contract is cost-effective,

143 taking into consideration all direct and indirect costs to the state and
144 the impact of such privatization contract on the public health and
145 safety and the residents of Connecticut who use the services that are
146 the subject of the privatization contract.

147 Sec. 4. (NEW) (*Effective October 1, 2004*) At least sixty days prior to
148 publishing any notice soliciting bids for a privatization contract, a state
149 agency shall notify each collective bargaining organization
150 representing employees of the agency of such planned solicitation.
151 After consulting with the potentially affected bargaining units, if any,
152 the agency shall provide adequate resources for the purpose of
153 encouraging and assisting present agency employees to organize and
154 submit a bid to provide the services that are the subject of the
155 privatization contract. In determining what resources are adequate for
156 this purpose, the agency shall refer to an existing collective bargaining
157 agreement of a similar employee organization whose members
158 perform the subject services, if available, which agreement provides
159 similar resources in the same or other agencies. If no such collective
160 bargaining agreement exists, the agency shall refer to any existing
161 collective bargaining agreements providing such resources, and shall
162 provide such resources at the minimum level of assistance provided in
163 such agreements. The state agency shall also provide to the state
164 employees its analysis and the Auditors of Public Accounts' report
165 prepared in accordance with subsection (b) of section 3 of this act. The
166 agency shall consider any such employee bid on the same basis as all
167 other bids. An employee bid may be made as a joint venture with other
168 persons.

169 Sec. 5. (NEW) (*Effective October 1, 2004*) (a) The state agency
170 soliciting bids for a privatization contract shall require the bidders to
171 include the following information in their bid submission:

172 (1) The wage rate for each employee covered by the privatization
173 contract;

174 (2) An agreement by the bidder or contractor to offer available

175 employee positions pursuant to the contract to qualified regular
176 employees of the state agency whose state employment is terminated
177 because of the privatization contract and who satisfy the hiring criteria
178 of the contractor;

179 (3) An agreement by the bidder or the contractor to refrain from
180 engaging in discriminatory employment practices, as defined in
181 section 46a-51 of the general statutes, and to take affirmative steps to
182 provide such equal opportunity for all such persons;

183 (4) A report on the length of continuous employment of current
184 employees of the contractor by job classification, without providing
185 individually identifiable information on such employees and
186 information detailing the relevant prior experience of current
187 employees within each job classification. If the positions identified by
188 the bidder are newly created positions, the bid shall identify the
189 minimum requirements for prospective applicants for each such
190 position;

191 (5) The annual rate of employee turnover;

192 (6) The number of hours of training planned for each employee in
193 areas directly related to the provision of services to state residents and
194 clients;

195 (7) Any legal or administrative proceedings pending or concluded
196 adversely against the applicant or any of the applicant's principals or
197 key personnel within the past five years that relate to the procurement
198 or performance of any public or private construction contract,
199 employee safety and health, labor relations or other employment
200 requirements and whether the applicant is aware of any investigation
201 pending against the applicant or any principal or key personnel. Such
202 information shall specify the date of the complaint, citation, court
203 finding or administrative finding, the enforcement agency, rule, law or
204 regulation involved and any additional information the contractor
205 elects to submit;

206 (8) Any collective bargaining agreements or personnel policies
207 covering the employees that will provide services to the state; and

208 (9) Any political contributions made by the bidder or any employee
209 who holds a management position with the bidding company, to any
210 elected officer of the state or member of the General Assembly during
211 the four years prior to the due date of the bid.

212 Sec. 6. (NEW) (*Effective October 1, 2004*) (a) Any state agency
213 selecting a bidder for a privatization contract shall develop a contract
214 that is acceptable to the bidder and the state agency provided such
215 contract shall include the following terms:

216 (1) The contractor shall be required to submit quarterly payroll
217 records to the agency, listing the name, address, hours worked and
218 hourly wage paid for each employee who is providing work under the
219 privatization contract in the previous quarter;

220 (2) The contractor shall be required to offer available employee
221 positions pursuant to the contract to qualified regular employees of the
222 agency whose state employment is terminated because of the
223 privatization contract and who satisfy the hiring criteria of the
224 contractor; and

225 (3) The contractor shall be prohibited from engaging in
226 discriminatory employment practices, as defined in section 46a-51 of
227 the general statutes, and shall take affirmative steps to provide such
228 equal opportunity for all such persons.

229 (b) Prior to signing such contract, the state agency shall submit such
230 contract to the State Contract Review Board for its review and
231 approval or disapproval. Concomitantly, the state agency shall submit
232 to the board the following information:

233 (1) A certification that the state agency has complied with all the
234 requirements of the state agency contained in the provisions of
235 sections 2 to 5, inclusive, of this act;

236 (2) The state agency analysis and the Auditors of Public Accounts'
237 report prepared in accordance with section 3 of this act and a report by
238 the state agency explaining any changes in such analysis and report as
239 a result of the terms of the proposed privatization contract;

240 (3) A state agency analysis of the quality of the services to be
241 provided by the designated bidder and whether such services are
242 equal to or exceed the quality of services that are provided by regular
243 agency employees;

244 (4) A certification by the designated bidder that the bidder and its
245 supervisory employees, while in the employ of the designated bidder,
246 have no adjudicated record of substantial or repeated wilful
247 noncompliance with any relevant federal or state regulatory law
248 including, but not limited to, laws concerning labor relations,
249 occupational safety and health, nondiscrimination and affirmative
250 action, environmental protection and conflicts of interest; and

251 (5) A description of why the proposed privatization contract is in
252 the public interest.

253 (c) The State Contract Review Board shall have the authority
254 granted to it pursuant to section 2 of this act for purposes of reviewing
255 and evaluating the privatization contract and approving or
256 disapproving the contract. In addition to conducting its review in
257 accordance with the provisions of section 2 of this act, the board shall
258 also review the proposed privatization contract to ensure that the
259 process for the selection of the bidder complied with state law and that
260 such contract is cost-effective and fiscally prudent.

261 Sec. 7. (NEW) (*Effective October 1, 2004*) (a) If the State Contract
262 Review Board approves such privatization contract and such
263 privatization contract has a value of five million dollars or more over
264 the life of the contract, such contract shall not be valid unless approved
265 by the General Assembly in accordance with this section. The state
266 agency shall, within five days of receipt of notice of approval by the

267 State Contract Review Board, file such contract with the clerks of the
268 House of Representatives and the Senate.

269 (b) Within five days after the clerks receive such contract, the
270 speaker of the House of Representatives and the president pro tempore
271 of the Senate shall submit the contract to the joint standing committees
272 of the General Assembly having cognizance of matters relating to
273 government administration and appropriations.

274 (c) Within twenty-five days after the speaker of the House of
275 Representatives and the president pro tempore of the Senate receive
276 such contract, said committees shall hold a public hearing on the
277 contract and shall report their recommendations to the House of
278 Representatives and the Senate concerning the approval or rejection of
279 the contract.

280 (d) The General Assembly may approve the contract, in whole, by a
281 majority vote of each house or may reject the contract, in whole, by a
282 majority vote of either house. If rejected, the contract shall not be valid
283 and shall not be implemented. The contract shall be deemed rejected if
284 the General Assembly fails to vote to approve or reject the contract (1)
285 prior to the adjournment of the regular session of the General
286 Assembly during which the contract is filed, (2) prior to the
287 adjournment of the next regular session of the General Assembly
288 following the date on which the contract is filed if the General
289 Assembly is not in regular session on such date, or (3) prior to the
290 adjournment of a special session convened before the next regular
291 session of the General Assembly for the purpose of considering the
292 contract if the General Assembly is not in regular session on the date
293 on which the contract is filed. However, if the contract is filed less than
294 thirty days before the end of a regular session, the General Assembly
295 may vote to approve or reject the contract (A) within thirty days after
296 the first day of a special session convened before the next regular
297 session of the General Assembly for the purpose of considering the
298 contract, or (B) within thirty days after the first day of the next regular

299 session of the General Assembly.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>

Statement of Purpose:

To create a State Contract Review Board for the review of state privatization, construction and large procurement contracts.

[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.]