



General Assembly

**Substitute Bill No. 94**

January Session, 2005

\* SB00094CE\_\_052505\_\_ \*

**AN ACT CONCERNING REFORM OF THE STATE CONTRACTING PROCESS.**

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

1 Section 1. (NEW) (*Effective July 1, 2005*) For purposes of sections 2 to  
2 10, inclusive, 14 and 15 of this act:

3 (1) "Procurement" means contracting for, buying, purchasing,  
4 renting, leasing or otherwise acquiring or disposing of, any supplies,  
5 services, including but not limited to, contracts for purchase of services  
6 and personal service agreements, interest in real property, or  
7 construction, and includes all government functions that relate to such  
8 activities, including best value selection and qualification based  
9 selection.

10 (2) "Emergency procurement" means procurement by a state agency  
11 that is made necessary by a sudden, unexpected occurrence that poses  
12 a clear and imminent danger to public safety or requires immediate  
13 action to prevent or mitigate the loss or impairment of life, health,  
14 property or essential public services.

15 (3) "Best value selection" means a contract selection process in which  
16 the award of a contract is based on a combination of quality and cost  
17 considerations.

18 (4) "Qualification based selection" means a contract selection process  
19 in which the award of a contract is primarily based on an assessment  
20 of contractor qualifications and on the negotiation of a fair and  
21 reasonable price.

22 (5) "State contracting agency" means any state agency or political  
23 subdivision of the state, other than the State Contracting Standards  
24 Board, that is authorized by law to enter into contracts, including, but  
25 not limited to, any quasi-public agency, as defined in section 1-120 of  
26 the general statutes, and any agency, as defined in section 4a-50 of the  
27 general statutes, that receives state funds.

28 (6) "Contractor" means any person or entity bidding on, submitting  
29 a proposal for, applying for or participating as a subcontractor for, a  
30 transaction, procurement or contract described in section 3 of this act,  
31 including, but not limited to, a small contractor, minority business  
32 enterprise and an individual with a disability, as defined in section 4a-  
33 60g of the general statutes.

34 (7) "Contract risk assessment" means (A) the identification and  
35 evaluation of loss exposures and risks, including, but not limited to,  
36 business and legal risks associated with the contracting process and  
37 the contracted goods and services, and (B) the identification,  
38 evaluation and implementation of measures available to minimize  
39 potential loss exposures and risks.

40 (8) "Privatization contract" means an agreement or series of  
41 agreements between a state contracting agency and a person, in which  
42 such person agrees to provide services valued at three hundred  
43 thousand dollars or more over the life of the contract that are  
44 substantially similar to and in lieu of services provided, in whole or in  
45 part, by employees of such agency or by employees of another state  
46 agency for such state agency. "Privatization contract" does not include  
47 the renewal, modification or extension of a privatization agreement in  
48 effect on or before the effective date of this section, an agreement to  
49 only provide legal services, litigation support or management or

50 financial consulting.

51 (9) "Comparative costs" means a comparison of the costs of entering  
52 into a privatization contract to the costs of the state continuing to  
53 provide the services that are the subject of the privatization contract,  
54 using a comparative costs methodology.

55 (10) "Comparative costs methodology" means (A) an examination of  
56 all direct and indirect costs to the state, including health insurance,  
57 pension costs of state employees, unemployment compensation costs  
58 of state employees terminated as a result of a privatization contract,  
59 gain or loss of income tax and sales tax revenue to the state, and (B) an  
60 examination of the effect of a proposed privatization contract on the  
61 quality of service and the public health and safety and residents of the  
62 state who may utilize such privatized service.

63 (11) "Purchase of service agreement" means any contract between a  
64 state agency and a nonprofit agency, partnership or corporation for the  
65 purchase by the state of ongoing and routine human services for  
66 clients of the Departments of Social Services, Children and Families,  
67 Mental Retardation, Mental Health and Addiction Services, Public  
68 Health and Correction which is overseen by the Office of Policy and  
69 Management.

70 Sec. 2. (NEW) (*Effective July 1, 2005*) (a) There is established a State  
71 Contracting Standards Board that shall consist of seven members  
72 appointed as follows: The Governor, the speaker of the House of  
73 Representatives, the president pro tempore of the Senate, the majority  
74 leader of the House of Representatives, the majority leader of the  
75 Senate, the minority leader of the House of Representatives and the  
76 minority leader of the Senate shall each appoint one member. Each  
77 member shall be appointed in accordance with the provisions of  
78 section 4-7 of the general statutes and have demonstrated sufficient  
79 knowledge by education, training or experience in several of the  
80 following enumerated areas: (1) Procurement; (2) contract negotiation,  
81 selection and drafting; (3) contract risk assessment; (4) requests for

82 proposals and real estate transactions; (5) business insurance and  
83 bonding; (6) the code of ethics; (7) federal and state statutes, policies  
84 and regulations; (8) outsourcing and privatization proposal analysis;  
85 (9) small and minority business enterprise development; and (10)  
86 personnel and union management. Such education, training or  
87 experience shall have been acquired over not less than a continuous  
88 five-year period and shall have been acquired within the ten-year  
89 period preceding such appointment. Nothing in this section shall be  
90 construed to prohibit an appointing authority from selecting a member  
91 of the general public who has demonstrated an interest in  
92 governmental ethics and integrity to serve on the board as such  
93 appointing authority's appointee. The chairperson of the board shall be  
94 appointed by the members of the board. The members first appointed  
95 by the Governor, the speaker of the House of Representatives and the  
96 president pro tempore of the Senate shall each serve a three-year term.  
97 The members first appointed by the majority leader of the House of  
98 Representatives, the majority leader of the Senate, the minority leader  
99 of the House of Representatives and the minority leader of the Senate  
100 shall each serve a two-year term. All appointments of members to  
101 replace those whose terms expire shall be for terms of three years and  
102 until their successors have been appointed. If any vacancy occurs on  
103 the board, the appointing authorities having the power to make the  
104 initial appointment under the provisions of this section shall appoint a  
105 person for the unexpired term in accordance with the provisions of this  
106 subsection. No member may serve more than two consecutive terms or  
107 portion thereof and no member shall serve more than six years.

108 (b) The State Contracting Standards Board shall be an independent  
109 body within the Executive Department.

110 (c) The chairperson of the board shall be compensated two hundred  
111 dollars per diem up to a maximum of thirty thousand dollars annually.  
112 Other members of the board shall be compensated two hundred  
113 dollars per diem up to a maximum of twenty-five thousand dollars  
114 annually. No person shall serve on the board who holds another state  
115 or municipal governmental position and no person on the board nor

116 any spouse, child, stepchild, parent or sibling of such person shall be  
117 directly or indirectly involved in any enterprise that does business  
118 with the state.

119 (d) The board shall appoint an executive director who shall serve as  
120 an ex-officio, nonvoting member of the board. The executive director  
121 shall be a member of the state classified service and may be removed  
122 from office for cause, in accordance with section 4-177 of the general  
123 statutes. The board shall, annually, conduct a performance evaluation  
124 of such executive director.

125 (e) The board may employ secretaries, real estate examiners,  
126 contract specialists, forensic fraud examiners, property and  
127 procurement specialists, paralegals, attorneys and such other  
128 employees as the board deems necessary.

129 (f) The reasonable expenses of the State Contracting Standards  
130 Board and its employees shall be paid from the budget of the board  
131 upon the approval of the board.

132 (g) No employee of the State Contracting Standards Board shall  
133 hold another state or municipal position, nor shall any such employee  
134 or any nonclerical employee or any spouse, child, stepchild, parent or  
135 sibling of such employee of the board be directly or indirectly involved  
136 in any enterprise that does business with the state. Each member and  
137 employee of the State Contracting Standards Board shall file, with the  
138 board and with the State Ethics Commission, a financial statement  
139 indicating all sources of business income of such person in excess of  
140 one thousand dollars, and the name of any business with which such  
141 member or employee is associated, as defined in subsection (b) of  
142 section 1-79 of the general statutes. Such statement shall be a public  
143 record. Financial statements for the preceding calendar year shall be  
144 filed with the commission on or before April fifteenth of each year if  
145 such employee or member held such a position during the preceding  
146 calendar year.

147 (h) Any violation of the provisions of subsection (g) of this section

148 shall constitute a violation of part I of chapter 10 of the general statutes  
149 and may be the subject of a complaint and investigation filed and  
150 conducted in accordance with the provisions of section 1-82 of the  
151 general statutes.

152 (i) The board shall adopt such rules as it deems necessary for the  
153 conduct of its internal affairs, in accordance with section 4-167 of the  
154 general statutes, including, but not limited to, rules of procedure for  
155 any appeal taken pursuant to section 10 of this act and any review  
156 undertaken pursuant to section 12 of this act.

157 Sec. 3. (NEW) (*Effective July 1, 2005*) (a) On or before January 1, 2007,  
158 the State Contracting Standards Board shall prepare a uniform  
159 procurement code applicable to state contracting agency expenditures,  
160 including, but not limited to, expenditures: (1) By municipalities that  
161 receive state funds, (2) involving any state contracting and  
162 procurement processes, including, but not limited to, leasing and  
163 property transfers, purchasing or leasing of supplies, materials or  
164 equipment, as defined in section 4a-50 of the general statutes,  
165 consultant or consultant services, as defined in section 4b-55 of the  
166 general statutes, personal service agreements, as defined in section 4-  
167 212 of the general statutes, purchase of service agreements or  
168 privatization contracts, and (3) relating to contracts for the  
169 construction, reconstruction, alteration, remodeling, repair or  
170 demolition of any public building. Nothing in this section shall be  
171 construed to require the application of uniform procurement code  
172 procedures when such procurement involves the expenditure of  
173 federal assistance or contract funds and federal law provides  
174 applicable procurement procedures.

175 (b) The uniform procurement code described in subsection (a) of  
176 this section shall be designed to: (1) Establish uniform contracting  
177 standards and practices among the various state contracting agencies;  
178 (2) simplify and clarify the state's laws governing contracting  
179 standards and procurement policies and practices, including, but not  
180 limited to, procedures for competitive sealed bids, competitive sealed

181 proposals, small purchases, sole source procurements, emergency  
182 procurements and special procurements; (3) ensure the fair and  
183 equitable treatment of all businesses and persons who deal with the  
184 procurement system of the state; (4) include a process to maximize the  
185 use of small contractors and minority business enterprises, as defined  
186 in section 4a-60g of the general statutes; (5) provide increased economy  
187 in state procurement activities and maximize purchasing value to the  
188 fullest extent possible; (6) ensure that the procurement of supplies,  
189 materials, equipment, services, real property and construction required  
190 by any state contracting agency is obtained in a cost-effective and  
191 responsive manner; (7) preserve and maintain the existing contracting,  
192 procurement, disqualification and termination authority and discretion  
193 of any state contracting agency when such contracting and  
194 procurement procedures represent best practices; (8) include a process  
195 to improve contractor and state contracting agency accountability; (9)  
196 include standards by which state contracting agencies must evaluate  
197 proposals to privatize state or quasi-public agency services and  
198 privatization contract bid proposals, such standards shall, at a  
199 minimum, include: (A) A requirement for a comparative cost analysis  
200 to be completed prior to any state or quasi-public agency decision to  
201 privatize services, (B) adequate notification requirements to affected  
202 employees and, where applicable, certified bargaining agents, (C) a  
203 requirement for the preparation of an employee impact statement  
204 including measures to be taken by the bidder to retain qualified state  
205 and quasi-public agency employees, (D) a provision requiring state  
206 agencies and quasi-public agencies to provide adequate information  
207 and resources to their employees for the purpose of encouraging and  
208 assisting such state or quasi-public employees to organize and submit  
209 a bid to provide the services that are the subject of such privatization  
210 contract, and (E) a requirement that bidders disclose all relevant  
211 information pertaining to past performance, pending or concluded  
212 legal or regulatory proceedings or complaints, including, but not  
213 limited to, compliance with fair employment practices and  
214 nondiscrimination standards, as described in section 46a-60 of the  
215 general statutes, and compliance with federal fair employment and

216 nondiscrimination standards; (10) establish standards for leases and  
217 lease-purchase agreements and for the purchase and sale of real estate;  
218 and (11) provide a process for competitive sealed bids, competitive  
219 sealed proposals, small purchases, sole source procurements,  
220 emergency procurements, special procurements, best value selection,  
221 qualification based selection and the conditions for their use.

222 (c) In preparing the uniform procurement code described in  
223 subsection (a) of this section, the State Contracting Standards Board  
224 shall conduct a comprehensive review of existing state contracting and  
225 procurement laws, regulations and practices and shall utilize existing  
226 procurement procedures and guidelines that the board deems  
227 appropriate.

228 (d) Upon request by the State Contracting Standards Board, each  
229 state contracting agency engaged in procurement shall provide the  
230 board, in a timely manner, with such procurement information as the  
231 board deems necessary. The board shall have access to all information,  
232 files and records related to any state contracting agency in furtherance  
233 of this purpose. Nothing in this section shall be construed to require  
234 the board's disclosure of documents that are exempt from disclosure  
235 pursuant to chapter 14 of the general statutes or that may be protected  
236 from disclosure under claim of an attorney-client privilege.

237 (e) Such uniform procurement code shall be submitted to the  
238 General Assembly for its approval. The board shall file such code with  
239 the clerks of the House of Representatives and the Senate not later than  
240 January 15, 2007, and not later than January 20, 2007, the speaker of the  
241 House of Representatives and the president pro tempore of the Senate  
242 shall submit such code to the joint standing committee of the General  
243 Assembly having cognizance of matters relating to government  
244 administration and elections. Said committee shall hold a public  
245 hearing on such code and shall report its recommendations, including  
246 any changes thereto, to the House of Representatives and the Senate  
247 concerning the approval or rejection of the code. The General  
248 Assembly shall take a vote on such code not later than the end of the



249 2007 regular session.

250 Sec. 4. (NEW) (*Effective July 1, 2007*) In addition to the preparation of  
251 the uniform procurement code described in section 3 of this act, the  
252 duties of the State Contracting Standards Board shall include:

253 (1) Recommending the repeal of repetitive, conflicting or obsolete  
254 statutes concerning state procurement;

255 (2) Developing, publishing and maintaining the uniform  
256 procurement code for all state contracting agencies;

257 (3) Assisting state contracting agencies in complying with the code  
258 by providing guidance, models, advice and practical assistance to state  
259 contracting agency staff relating to: (A) Buying the best service at the  
260 best price, (B) properly selecting contractors, and (C) drafting contracts  
261 that achieve state goals and protect taxpayers' interest;

262 (4) Reviewing and certifying that a state contracting agency's  
263 procurement processes are in compliance with the code;

264 (5) Triennially, recertifying each state contracting agency's  
265 procurement processes and providing agencies with notice of any  
266 certification deficiency and exercising authority as provided under  
267 section 6 of this act if a determination of noncompliance is made;

268 (6) Defining the training requirements for state contracting agency  
269 procurement professionals;

270 (7) Monitoring implementation of the state contracting portal and  
271 making recommendations for improvement to the Department of  
272 Administrative Services;

273 (8) Defining the contract data retention requirements for state  
274 agencies concerning retention of information on: (A) The number and  
275 type of state contracts currently in effect state-wide, (B) the dollar  
276 value of such contracts, (C) a list of client agencies, (D) a description of  
277 services purchased under such contracts, (E) contractor names, and (F)

278 an evaluation of contractor performance, and assuring such  
279 information is available on the state contracting portal;

280 (9) Providing the Governor and the joint standing committee of the  
281 General Assembly having cognizance of matters relating to  
282 government administration and elections with recommendations  
283 concerning the uniform procurement code; and

284 (10) Approving an ethics training course for state employees  
285 involved in procurement and for state contractors and substantial  
286 subcontractors who are prequalified pursuant to the provisions of  
287 section 4a-100 of the general statutes, as amended by this act. Such  
288 ethics training course may be developed and provided by the State  
289 Ethics Commission or by any person, firm or corporation provided  
290 such course is approved by the State Contracting Standards Board.

291 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) The State Contracting  
292 Standards Board shall triennially conduct audits of state contracting  
293 agencies to ensure compliance with the uniform procurement code. In  
294 conducting such audit, the State Contracting Standards Board shall  
295 have access to all contracting and procurement records, may interview  
296 personnel responsible for contracting, contract negotiation or  
297 procurement and may enter into an agreement with the State Auditors  
298 of Public Accounts to effectuate such audit.

299 (b) Upon completion of any such audit, the State Contracting  
300 Standards Board shall prepare and issue a compliance report for such  
301 state contracting agency. Such report shall identify any process or  
302 procedure that is inconsistent with the uniform procurement code and  
303 indicate those corrective measures the board deems necessary to  
304 comply with code requirements. Such report shall be issued and  
305 delivered not later than thirty days after completion of such audit and  
306 shall be a public record.

307 (c) After notice and hearing, the State Contracting Standards Board  
308 may restrict the authority of any state contracting agency to enter into  
309 any contract or procurement agreement if the board, upon a vote of

310 two-thirds of the members of the board present and voting for such  
311 purpose, determines that such state contracting agency failed to  
312 comply with statutory contracting and procurement requirements, and  
313 evidenced a reckless disregard for applicable procedures and policy  
314 and such limitation or restriction is in the state's best interest. Such  
315 limitation or restriction shall remain in effect until such time as the  
316 board determines that such state contracting agency has implemented  
317 corrective measures and demonstrated compliance with code  
318 requirements.

319       Sec. 6. (NEW) (*Effective October 1, 2007*) For cause, the State  
320 Contracting Standards Board may review or terminate any contract or  
321 procurement agreement undertaken by any state contracting agency  
322 after providing fifteen days notice to the state contracting agency and  
323 the applicable contractor, and consulting with the Attorney General.  
324 Such termination of a contract or procurement agreement by the board  
325 may occur only upon a vote of two-thirds of the members of the board  
326 present and voting for that purpose. Such action shall be accompanied  
327 by notice to the state contracting agency and any other affected party.  
328 For the purpose of this section, "for cause" means: (1) A violation of  
329 section 1-84, 1-86e or 4a-100 of the general statutes, as amended by this  
330 act, or (2) wanton or reckless disregard of any state contracting and  
331 procurement process by any person substantially involved in such  
332 contract or state contracting agency.

333       Sec. 7. (NEW) (*Effective October 1, 2007*) (a) After reasonable notice, a  
334 hearing and consultation with the relevant state contracting agency  
335 and the Attorney General, the State Contracting Standards Board may  
336 disqualify any contractor, for a period of up to five years, from bidding  
337 on, applying for, or participating as a subcontractor under, contracts  
338 with the state. Such disqualification shall be upon the vote of two-  
339 thirds of the members of the board present and voting for that  
340 purpose. Such hearing shall be conducted in accordance with chapter  
341 54 of the general statutes. The board shall issue a written decision not  
342 later than ninety days after the conclusion of such hearing and state in  
343 the decision the reasons for the action taken and, if the contractor is

344 being disqualified, the period of such disqualification. The existence of  
345 a cause for disqualification, as described in subsection (b) of this  
346 section, may not be the sole factor to be considered by the board in  
347 determining whether the contractor shall be disqualified. In  
348 determining whether to disqualify a contractor, the board shall  
349 consider the seriousness of the contractor's acts or omissions and any  
350 mitigating factors. The board shall send the decision to the contractor  
351 by certified mail, return receipt requested. The written decision shall  
352 be a final decision for purposes of sections 4-180 and 4-183 of the  
353 general statutes.

354 (b) Causes for such disqualification shall include the following:

355 (1) Conviction of, or entry of a plea of guilty or nolo contendere or  
356 admission to, the commission of a criminal offense as an incident to  
357 obtaining or attempting to obtain a public or private contract or  
358 subcontract, or in the performance of such contract or subcontract;

359 (2) Conviction of, or entry of a plea of guilty or nolo contendere or  
360 admission to, the violation of any state or federal law for  
361 embezzlement, theft, forgery, bribery, falsification or destruction of  
362 records, receiving stolen property or any other offense indicating a  
363 lack of business integrity or business honesty which affects  
364 responsibility as a state contractor;

365 (3) Conviction of, or entry of a plea of guilty or nolo contendere or  
366 admission to, a violation of any state or federal antitrust, collusion or  
367 conspiracy law arising out of the submission of bids or proposals on a  
368 public or private contract or subcontract;

369 (4) Accumulation of two or more suspensions pursuant to section 8  
370 of this act within a twenty-four-month period;

371 (5) A wilful failure to perform in accordance with the terms of one  
372 or more contracts;

373 (6) A wilful violation of a statutory or regulatory provision or

374 requirement applicable to a contract;

375 (7) A wilful or egregious violation of the ethical standards set forth  
376 in section 1-86e of the general statutes; or

377 (8) Any other cause the board determines to be so serious and  
378 compelling as to affect responsibility as a state contractor, including,  
379 but not limited to: (A) Disqualification by another state for cause, (B)  
380 the fraudulent, criminal or seriously improper conduct of any officer,  
381 director, shareholder or employee of such contractor, provided such  
382 conduct occurred in connection with the individual's performance of  
383 duties for or on behalf of such contractor and such contractor knew or  
384 had reason to know of such conduct, or (C) the existence of an  
385 informal or formal business relationship with a contractor who has  
386 been disqualified from bidding on state contracts.

387 (c) Upon written request by the affected state contractor, the State  
388 Contracting Standards Board may reduce the period or extent of  
389 disqualification for a contractor if documentation supporting any of  
390 the following reasons for modification is provided to the board by the  
391 contractor:

392 (1) Newly discovered material evidence;

393 (2) Reversal of the conviction upon which the disqualification was  
394 based;

395 (3) Bona fide change in ownership or management; or

396 (4) Elimination of other causes for which the disqualification was  
397 imposed.

398 Sec. 8. (NEW) (*Effective October 1, 2007*) (a) After reasonable notice  
399 and a hearing, conducted in accordance with the provisions of chapter  
400 54 of the general statutes, a state contracting agency may suspend any  
401 contractor for a period of not more than six months from bidding on,  
402 applying for or performing work as a subcontractor under, contracts  
403 with the agency. The commissioner of any such state contracting

404 agency shall issue a written decision not later than ninety days after  
405 the conclusion of such hearing and state in the decision the reasons for  
406 the action taken and, if the contractor is being suspended, the period of  
407 such suspension. The existence of a cause for suspension, as described  
408 in subsection (b) of this section, may not be the sole factor to be  
409 considered by the agency in determining whether the contractor shall  
410 be suspended. In determining whether to suspend a contractor, the  
411 state contracting agency shall consider the seriousness of the  
412 contractor's acts or omissions and any mitigating factors. The  
413 commissioner of the state contracting agency shall send such decision  
414 to the contractor by certified mail, return receipt requested. Such  
415 decision shall be a final decision for purposes of sections 4-180 and 4-  
416 183 of the general statutes.

417 (b) Causes for such suspension shall include the following:

418 (1) Failure without good cause to perform in accordance with  
419 specifications or within the time limits provided in the contract;

420 (2) A record of failure to perform or of unsatisfactory performance  
421 in accordance with the terms of one or more contracts, provided failure  
422 to perform or unsatisfactory performance caused by acts beyond the  
423 control of the contractor shall not be considered to be a basis for  
424 suspension;

425 (3) Any cause the state contracting agency determines to be so  
426 serious and compelling as to affect the responsibility of a state  
427 contractor, including suspension by another state contracting agency  
428 for cause; or

429 (4) A violation of the ethical standards set forth in section 1-86e of  
430 the general statutes.

431 (c) The state contracting agency may grant an exception permitting  
432 a suspended contractor to participate in a particular contract or  
433 subcontract upon a written determination by the commissioner of the  
434 state contracting agency that there is good cause for such exception

435 and that such exception is in the best interest of the state.

436 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) Any bidder on a state  
437 contract may contest the solicitation or award of a contract to the  
438 commissioner of the state agency that awarded such contract. Such  
439 contest shall be submitted, in writing, not later than fourteen days after  
440 such bidder knew or should have known of the facts giving rise to  
441 such contest and shall be limited to the procedural elements of the  
442 solicitation or award process, or claims of an exclusionary bidding  
443 process.

444 (b) The commissioner of such state contracting agency, or the  
445 commissioner's designee, shall have the authority to settle and resolve  
446 any such contest.

447 (c) In the event such contest is not resolved by mutual agreement,  
448 the commissioner of a state contracting agency, or the commissioner's  
449 designee, shall issue a decision, in writing, not later than thirty days  
450 after receipt of any such contest. Such decision shall:

451 (1) Describe the procedure used by such agency in soliciting and  
452 awarding such contract;

453 (2) Indicate such agency's finding as to the merits of such bidder's  
454 contest; and

455 (3) Inform such bidder of the right to review, as provided in section  
456 10 of this act.

457 (d) A copy of such decision shall be provided to such bidder.

458 Sec. 10. (NEW) (*Effective October 1, 2007*) (a) Any bidder may appeal  
459 a decision issued by the commissioner of a state contracting agency, or  
460 the commissioner's designee, pursuant to subsection (c) of section 9 of  
461 this act to the State Contracting Standards Board.

462 (b) Any such request for review shall be filed with the board not  
463 later than fourteen days after such bidder's receipt of a decision issued

464 pursuant to subsection (c) of section 9 of this act. Such bidder shall set  
465 forth the facts supporting its claim in sufficient detail for the State  
466 Contracting Standards Board to determine whether the procedural  
467 elements of the solicitation or award failed to comply with the code or  
468 whether an exclusionary bidding process was utilized.

469 (c) Any appeal filed pursuant to subsection (b) of this section shall  
470 not be deemed to prohibit the award or execution of any such  
471 contested contract.

472 (d) The State Contracting Standards Board shall create a three-  
473 member appeals review subcommittee, which shall review any request  
474 filed pursuant to subsection (b) of this section and decide whether such  
475 solicitation or award was in compliance with the code, and whether  
476 allegations of exclusionary bidding practices have been demonstrated.  
477 A unanimous vote of such subcommittee shall be dispositive of any  
478 such appeal. A split vote of such subcommittee shall result in a review  
479 of the appeal by the full membership of the board which, by a vote of  
480 two-thirds of its members present and voting for such purpose, shall  
481 decide whether the solicitation or award of such contract was in  
482 compliance with the code and whether allegations of exclusionary  
483 bidding practices have been demonstrated.

484 (e) Such appeals subcommittee shall issue a written decision or take  
485 other appropriate action on each appeal not later than ninety days after  
486 the filing of such appeal. A written copy of any such decision shall be  
487 provided to such bidder.

488 (f) In the event of an appeal review by the full board, the board shall  
489 issue a written decision or take other appropriate action on such  
490 appeal not later than ninety days after receipt of the appeal from the  
491 appeals subcommittee. A written copy of any such decision shall be  
492 provided to such bidder.

493 (g) In the event that the appeals subcommittee or the board  
494 determines that a procedural violation occurred, or that allegations of  
495 exclusionary bidding have been demonstrated, the board shall direct



496 the state contracting agency to take corrective action not later than  
497 thirty days after the date of the subcommittee's or board's decision, as  
498 applicable.

499 (h) In the event such appeal is found to be frivolous by the appeals  
500 review subcommittee or the full board, such frivolous appeal may  
501 serve as a basis for disqualification pursuant to section 7 of this act.

502 (i) A decision issued by the board or appeals subcommittee under  
503 this section shall be a final decision for purposes of sections 4-180 and  
504 4-183 of the general statutes.

505 Sec. 11. (NEW) (*Effective October 1, 2007*) There is established a  
506 Contracting Standards Advisory Council, which shall consist of nine  
507 state contracting agency representatives designated by the Governor,  
508 including at least one representative from each of the following: The  
509 Department of Administrative Services, the Department of  
510 Transportation and the Department of Public Works. The advisory  
511 council shall meet at least once a year to discuss problems with  
512 procurement processes and to make recommendations for  
513 improvements to the State Contracting Standards Board. The advisory  
514 council may conduct studies, research and analyses and make reports  
515 and recommendations with respect to subjects or matters within the  
516 jurisdiction of the State Contracting Standards Board.

517 Sec. 12. (NEW) (*Effective July 1, 2005*) (a) On and after October 1,  
518 2007, the powers, duties, obligations and other governmental functions  
519 of the State Properties Review Board, established under subsection (a)  
520 of section 4b-3 of the general statutes, shall transfer to the State  
521 Contracting Standards Board, established under section 2 of this act.  
522 The powers, duties, obligations and other governmental functions of  
523 the State Properties Review Board, shall thereafter vest in the State  
524 Contracting Standards Board.

525 (b) On or before October 1, 2007, the State Contracting Standards  
526 Board shall establish a subcommittee of the board to be known as the  
527 state properties review subcommittee to perform the duties described

528 under subsection (a) of this section. The subcommittee shall perform  
529 the duties established under subsection (a) of this section in accordance  
530 with the rules and procedures established by the board pursuant to  
531 subsection (i) of section 2 of this act. The State Contracting Standards  
532 Board shall constitute a successor department to the State Properties  
533 Review Board in accordance with the provisions of sections 4-38d and  
534 4-39 of the general statutes.

535 Sec. 13. Subsection (i) of section 4b-91 of the general statutes is  
536 repealed and the following is substituted in lieu thereof (*Effective from*  
537 *passage*):

538 (i) [In the event that the] The General Assembly [approves] may  
539 approve legislation authorizing an exception to the competitive  
540 bidding process for a project, provided such legislation is approved, in  
541 whole, by a two-thirds vote of the members of each house of the  
542 General Assembly. If rejected, the contract for such project shall not be  
543 valid and shall not be implemented. The contract shall be deemed  
544 rejected if the General Assembly fails to vote to approve or reject the  
545 contract (1) prior to the adjournment of the regular session of the  
546 General Assembly during which the contract is filed, (2) prior to the  
547 adjournment of the next regular session of the General Assembly  
548 following the date on which the contract is filed if the General  
549 Assembly is not in regular session on such date, or (3) prior to the  
550 adjournment of a special session convened before the next regular  
551 session of the General Assembly for the purpose of considering the  
552 contract if the General Assembly is not in regular session on the date  
553 on which the contract is filed. However, if the contract is filed less than  
554 thirty days before the end of a regular session, the General Assembly  
555 may vote to approve or reject the contract (A) within thirty days after  
556 the first day of a special session convened before the next regular  
557 session of the General Assembly for the purpose of considering the  
558 contract, or (B) within thirty days after the first day of the next regular  
559 session of the General Assembly. In the event that the General  
560 Assembly approves legislation authorizing an exception to the  
561 competitive bidding process for a project, the State Properties Review

562 Board shall complete a review of the contract for such project and  
563 approve or disapprove such contract no later than thirty days after the  
564 Commissioner of Public Works submits such contract to the board.  
565 Such review shall be conducted in accordance with the provisions of  
566 section 4b-3. On and after October 1, 2007, such review shall be  
567 conducted by the subcommittee of the State Contracting Standards  
568 Board established under subsection (b) of section 12 of this act. In the  
569 event that such review does not occur within the thirty-day period  
570 prescribed by this subsection, such contract shall be deemed to be  
571 approved.

572 Sec. 14. (NEW) (*Effective from passage*) (a) Any privatization contract  
573 entered into by a state agency shall include the following provisions:

574 (1) The contractor shall offer available employee positions pursuant  
575 to the contract to qualified regular employees of the agency whose  
576 state employment is terminated because of such privatization contract  
577 provided such employees satisfy the hiring criteria of the contractor;

578 (2) The contractor shall not engage in discriminatory employment  
579 practices, as described in section 46a-60 of the general statutes, and  
580 shall take affirmative steps to provide such equal opportunity for all  
581 such persons;

582 (3) The contractor shall submit to performance audits of such  
583 contract by the Auditors of Public Accounts on a periodic basis, as  
584 determined by the Auditors of Public Accounts;

585 (4) The contractor shall pay a minimum wage rate for which the  
586 duties are substantially similar to the duties performed by a regular  
587 agency, which rate shall be the lesser of step one of the grade or  
588 classification under which the comparable regular agency employee is  
589 paid, or the standard private sector wage rate for said position as  
590 determined by the Labor Commissioner in accordance with section 31-  
591 57f of the general statutes;

592 (5) Such contract shall not become effective until the contractor and

593 the state agency have complied with the provisions of this act and the  
594 procurement code adopted in accordance with section 3 of this act;

595 (6) The contractor shall submit quarterly payroll records to the state  
596 agency, listing the name, address, Social Security number, hours  
597 worked and the hourly wage paid for each employee in the previous  
598 quarter.

599 (b) Such state agency shall submit such contract to the Secretary of  
600 the State who shall maintain such contract as a public document. Such  
601 state agency shall simultaneously submit to the Secretary of the State  
602 the following information:

603 (1) A certification that the state agency has complied with all the  
604 requirements of the state agency contained in this act, and that the  
605 privatization contract is necessary and appropriate under the  
606 procurement code adopted in accordance with section 3 of this act;

607 (2) A state agency analysis of the quality of the services to be  
608 provided by the designated bidder and whether such services are  
609 equal to or exceed the quality of services that are provided by regular  
610 agency employees;

611 (3) A certification by the designated bidder that the bidder and its  
612 supervisory employees, while in the employ of the designated bidder,  
613 have no adjudicated record of repeated wilful noncompliance with any  
614 relevant federal or state regulatory law including, but not limited to,  
615 laws concerning labor relations, occupational safety and health,  
616 nondiscrimination and affirmative action, environmental protection  
617 and conflicts of interest; and

618 (4) A description of why the proposed privatization contract is in  
619 the public interest.

620 (c) Any employees, or collective bargaining agent of any employee  
621 adversely affected by any proposed privatization contract filed with  
622 the Secretary of the State may file a motion for an order to show cause

623 in the superior court for the judicial district of Hartford claiming that  
624 such contract fails to comply with the substantive or procedural  
625 requirements of this act. A ruling on any such motion may: (1) Deny  
626 the motion, if the court finds that all procedural and substantive  
627 provisions of this act have been complied with; (2) grant the motion if  
628 the court finds that the proposed contract would substantively violate  
629 the provisions of this act; or (3) stay the effective date of the contract  
630 until any procedural or substantive defect found by the court has been  
631 corrected.

632 (d) The Attorney General may bring a civil action for equitable relief  
633 in the superior court for the judicial district of Hartford to enforce the  
634 provisions of any privatization contract or to prevent or remedy the  
635 dismissal, demotion or other action prejudicing any employee as a  
636 result of a report of a violation of this section.

637 Sec. 15. (NEW) (*Effective from passage*) The Office of Policy and  
638 Management shall establish procedures for use by state agencies when  
639 entering purchase of service agreements that shall provide for the  
640 payment of fifty per cent of any unexpended funds allocated for such  
641 contract to the contracting nonprofit agency, partnership or  
642 corporation at the end of such contract, provided the services rendered  
643 under such contract meet the contracted requirements for number,  
644 type and quality of services and there is either an agreed upon price  
645 for such services, a set cost for such services or a flat grant for an  
646 agreed upon level of services.

647 Sec. 16. (NEW) (*Effective from passage*) (a) Notwithstanding any  
648 provision of the general statutes, any contract for legal services  
649 between a state agency and any person, firm or corporation that is  
650 entered into on or after January 1, 2006, and that will or that can  
651 reasonably be expected to result in attorney's fees, including, but not  
652 limited to, contingent fees paid to such person, firm or corporation in  
653 the amount of two hundred fifty thousand dollars or more shall be  
654 subject to requests for proposals or requests for qualifications and  
655 negotiation procedures.

656 (b) Not later than October 1, 2005, the Attorney General shall  
657 establish requests for proposals or requests for qualifications and  
658 negotiation procedures for use by any state agency to enter into a  
659 contract described in subsection (a) of this section.

660 (c) No contract described in subsection (a) of this section shall be  
661 valid without the prior approval of the substance and form of such  
662 contract by the Attorney General.

663 Sec. 17. Section 4a-100 of the general statutes is repealed and the  
664 following is substituted in lieu thereof (*Effective January 1, 2006*):

665 (a) As used in this section: (1) "Prequalification" means  
666 prequalification issued by the Commissioner of Administrative  
667 Services to bid on a contract for the construction, reconstruction,  
668 alteration, remodeling, repair or demolition of any public building for  
669 work by the state or a municipality or to perform work under such a  
670 contract as a substantial subcontractor; (2) "subcontractor" means a  
671 person who performs work with a value in excess of twenty-five  
672 thousand dollars for a contractor pursuant to a contract for work for  
673 the state or a municipality which is estimated to cost more than five  
674 hundred thousand dollars; (3) "principals and key personnel" includes  
675 officers, directors, shareholders, members, partners and managerial  
676 employees; (4) "aggregate work capacity rating" means the maximum  
677 amount of work an applicant is capable of undertaking for any and all  
678 projects; [and] (5) "single project limit" means the highest estimated  
679 cost of a single project that an applicant is capable of undertaking; ~~(6)~~  
680 from January 1, 2006, until September 30, 2006, "substantial  
681 subcontractor" means a person who performs work with a value in  
682 excess of five hundred thousand dollars for a contractor pursuant to a  
683 contract for work for the state or a municipality which is estimated to  
684 cost more than five hundred thousand dollars; and (7) on and after  
685 October 1, 2006, "substantial subcontractor" means a person who  
686 performs work with a value in excess of two hundred fifty thousand  
687 dollars for a contractor pursuant to a contract for work for the state or  
688 a municipality which is estimated to cost more than five hundred

689 thousand dollars.

690 (b) (1) Any person may apply for prequalification to the Department  
691 of Administrative Services. Such application shall be made on such  
692 form as the Commissioner of Administrative Services prescribes and  
693 shall be accompanied by a nonrefundable application fee as set forth in  
694 subdivision (2) of this subsection. The application shall be signed  
695 under penalty of false statement.

696 (2) The application fee shall be as follows:

T1	Aggregate Work Capacity Rating	Fee
T2	\$5,000,000.00 or less	\$600.00
T3	\$5,000,000.01 - \$8,000,000.00	\$750.00
T4	\$8,000,000.01 - \$10,000,000.00	\$850.00
T5	\$10,000,000.01 - \$15,000,000.00	\$1,000.00
T6	\$15,000,000.01 - \$20,000,000.00	\$1,500.00
T7	\$20,000,000.01 - \$40,000,000.00	\$2,000.00
T8	\$40,000,000.01 or more	\$2,500.00

697 (c) The application form shall, at a minimum, require the applicant  
698 to supply information concerning:

699 (1) The applicant's form of organization;

700 (2) The applicant's principals and key personnel and any names  
701 under which the applicant, principals or key personnel conducted  
702 business during the past five years;

703 (3) The applicant's experience on public and private construction  
704 projects over the past five years, or on the applicant's ten most  
705 recently-completed projects and the names of any subcontractors used  
706 on the projects;

707 (4) Any legal or administrative proceedings pending or concluded  
708 adversely against the applicant or any of the applicant's principals or  
709 key personnel within the past five years which relate to the

710 procurement or performance of any public or private construction  
711 contract and whether the applicant is aware of any investigation  
712 pending against the applicant or any principal or key personnel;

713 (5) The nature of any financial, personal or familial relationship  
714 between the applicant and any public or private construction project  
715 owner listed on the application as constituting construction experience;

716 (6) A statement of whether (A) the applicant has been disqualified  
717 pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B)  
718 the applicant is on the list distributed by the Labor Commissioner  
719 pursuant to section 31-57a, (C) the applicant is disqualified or  
720 prohibited from being awarded a contract pursuant to section 31-57b,  
721 (D) the applicant has been disqualified by another state, (E) the  
722 applicant has been disqualified by a federal agency or pursuant to  
723 federal law, (F) the applicant's registration has been suspended or  
724 revoked by the Department of Consumer Protection pursuant to  
725 section 20-341gg, (G) the applicant has been disqualified by a  
726 municipality, and (H) the matters that gave rise to any such  
727 disqualification, suspension or revocation have been eliminated or  
728 remedied; and

729 (7) Other information as the commissioner deems relevant to the  
730 determination of the applicant's qualifications and responsibilities.

731 (d) The applicant shall include a statement of financial condition  
732 prepared by a certified public accountant which includes information  
733 concerning the applicant's assets and liabilities, plant and equipment,  
734 bank and credit references, bonding company and maximum bonding  
735 capacity, and other information as the commissioner deems relevant to  
736 an evaluation of the applicant's financial capacity and responsibility.

737 (e) Information contained in the application shall be current as of  
738 the time of filing except that the statement of financial condition shall  
739 pertain to the applicant's most recently-completed fiscal year.

740 (f) The commissioner shall determine whether to prequalify an



741 applicant on the basis of the application and on relevant past  
742 performance according to procedures and criteria set forth in  
743 regulations which the commissioner shall adopt on or before October  
744 1, 2005, in accordance with chapter 54. Such criteria shall include, at a  
745 minimum, the record of the applicant's performance, including, but  
746 not limited to, written evaluations of the applicant's performance on  
747 public or private projects within the past five years, the applicant's  
748 past experience on projects of various size and type, the skill, ability  
749 and integrity of the applicant and any subcontractors used by the  
750 applicant, the experience and qualifications of supervisory personnel  
751 employed by the applicant, the maximum amount of work the  
752 applicant is capable of undertaking as demonstrated by the applicant's  
753 financial condition, bonding capacity, size of past projects and present  
754 and anticipated work commitments, and any other relevant criteria  
755 that the commissioner prescribes. Such regulations shall also (1)  
756 provide that the criteria considered shall be assigned separate  
757 designated numerical values and weights and that the applicant shall  
758 be assigned an overall numerical rating on the basis of all criteria, and  
759 (2) establish prequalification classifications, aggregate work capacity  
760 ratings and single project limits. Such prequalification classifications  
761 shall be used to establish the types of work a contractor or substantial  
762 subcontractor is qualified to perform and the aggregate work capacity  
763 ratings shall be used to establish the maximum amount of work a  
764 contractor or substantial subcontractor is capable of undertaking.

765 (g) (1) The applicant shall indicate the prequalification  
766 classifications, aggregate work capacity ratings and single project  
767 limits that are sought. The commissioner may issue a certificate of  
768 prequalification to any applicant who meets the requirements of this  
769 section. Such certificate shall be effective for one year from the date  
770 issued and shall indicate the contractor's or substantial subcontractor's  
771 prequalification classifications, aggregate work capacity ratings and  
772 single project limits. The commissioner may cause the initial certificate  
773 of prequalification to be effective for a period not to exceed two years  
774 and may require the applicant to remit payment of the application fee,

775 as set forth in subsection (b) of this section, for the first twelve months  
776 of certification as well as a prorated application fee, as described in  
777 subdivision (3) of this subsection, for any additional period of  
778 certification beyond the first twelve months.

779 (2) A prequalified contractor or substantial subcontractor may apply  
780 at any time for additional prequalification classifications, aggregate  
781 work capacity ratings or single project limits by submitting the  
782 applicable increase in fee, a completed update statement, and other  
783 information the commissioner requires.

784 (3) The commissioner may renew a prequalification certificate upon  
785 receipt of a completed update statement, any other material the  
786 commissioner requires and a nonrefundable fee in an amount equal to  
787 one-half of the application fee for the applicable aggregate work  
788 capacity rating as set forth in subsection (b) of this section, except that  
789 in no event shall such fee be less than six hundred dollars.

790 (h) Not later than sixty days after receiving a completed application,  
791 the commissioner shall mail or send by electronic mail a notice to the  
792 applicant concerning the commissioner's preliminary determination  
793 regarding the conditions of the prequalification certification, a denial  
794 of certification, a reduction in the level of certification sought or  
795 nonrenewal of certification. Any applicant aggrieved by the  
796 commissioner's preliminary determination may request copies of the  
797 information upon which the commissioner relied in making the  
798 preliminary determination, provided such request is made not later  
799 than ten days after the date the notice was mailed or sent by electronic  
800 mail to the applicant. Not later than twenty days after the date the  
801 notice was mailed or sent by electronic mail, the applicant may submit  
802 additional information to the commissioner with a request for  
803 reconsideration. The commissioner shall issue a final determination  
804 regarding the application not later than ninety days after the date the  
805 commissioner mailed or sent by electronic mail the notice of the  
806 preliminary determination, which ninety-day period may be extended  
807 for an additional period not to exceed ninety days if (1) the

808 commissioner gives written notice to the applicant that the  
809 commissioner requires additional time, and (2) such notice is mailed or  
810 sent by electronic mail during the initial ninety-day period.

811 (i) The commissioner may not issue a prequalification certificate to  
812 any contractor or substantial subcontractor (1) who is disqualified  
813 pursuant to section 31-57c or 31-57d, (2) who has a principal or key  
814 personnel who, within the past five years, has a conviction or has  
815 entered a plea of guilty or nolo contendere for or has admitted to  
816 commission of an act or omission that reasonably could have resulted  
817 in disqualification pursuant to any provision of subdivisions (1) to (3),  
818 inclusive, of subsection (d) of section 31-57c or subdivisions (1) to (3),  
819 inclusive, of subsection (d) of section 31-57d, as determined by the  
820 commissioner.

821 (j) The commissioner may revoke a contractor's or substantial  
822 subcontractor's prequalification or reduce the contractor's or  
823 substantial subcontractor's prequalification classification or aggregate  
824 work capacity ratings, after an opportunity for a hearing, if the  
825 commissioner receives additional information that supports such  
826 revocation or reduction or if such contractor is suspended from bidding  
827 on a state contract pursuant to the provisions of section 8 of this act.

828 (k) (1) Any materially false statement in the application or any  
829 update statement may, in the discretion of the awarding authority,  
830 result in termination of any contract awarded the applicant by the  
831 awarding authority. The awarding authority shall provide written  
832 notice to the commissioner of such false statement not later than thirty  
833 days after discovering such false statement. The commissioner shall  
834 provide written notice of such false statement to the Commissioner of  
835 Public Works and the Commissioner of Consumer Protection not later  
836 than thirty days after discovering such false statement or receiving  
837 such notice.

838 (2) The commissioner shall revoke the prequalification of any  
839 person, after an opportunity for hearing, if the commissioner finds that

840 the person has included any materially false statement in such  
841 application or update statement, has been convicted of a crime related  
842 to the procurement or performance of any public or private  
843 construction contract has been disqualified by the State Contracting  
844 Standards Board from bidding on state contracts pursuant to section 7  
845 of this act or, within the past five years or has otherwise engaged in  
846 fraud in obtaining or maintaining prequalification. Any person whose  
847 prequalification has been revoked pursuant to this subsection shall be  
848 disqualified for a period of two years after which the person may  
849 reapply for prequalification, except that a person whose  
850 prequalification has been revoked on the basis of conviction of a crime  
851 or engaging in fraud shall be disqualified for a period of five years  
852 after which the person may reapply for prequalification and a person  
853 whose prequalification has been revoked on the basis of  
854 disqualification by the State Contracting Standards Board shall be  
855 disqualified for the same length of time as the disqualification period  
856 imposed by the State Contracting Standards Board pursuant to section  
857 7 of this act. The commissioner shall not prequalify a person whose  
858 prequalification has been revoked pursuant to this subdivision until  
859 the expiration of said [two or] two-year, five-year, or other applicable  
860 disqualification period and the commissioner is satisfied that the  
861 matters that gave rise to the revocation have been eliminated or  
862 remedied.

863 (l) The commissioner shall provide written notice of any revocation,  
864 disqualification, reduction in classification or capacity rating or  
865 reinstated prequalification to the Commissioner of Public Works and  
866 the Commissioner of Consumer Protection not later than thirty days  
867 after any final determination.

868 (m) The provisions of this section and section 4a-101 shall not apply  
869 to subcontractors.

870 (n) The commissioner shall establish an update statement for use by  
871 bidders and substantial subcontractors for purposes of renewing or  
872 upgrading a prequalification certificate and for purposes of submitting

873 a bid pursuant to section 4b-91, as amended by this act.

874 (o) Any applicant aggrieved by the commissioner's final  
875 determination concerning a preliminary determination, a denial of  
876 certification, a reduction in prequalification classification or aggregate  
877 work capacity rating or a revocation or nonrenewal of certification  
878 may appeal to the Superior Court in accordance with section 4-183.

879 (p) Not later than one hundred twenty days after becoming  
880 prequalified, any contractor or substantial subcontractor prequalified  
881 under the provisions of this section shall participate in an ethics  
882 training course approved by the State Contracting Standards Board  
883 pursuant to section 4 of this act.

884 (q) The commissioner shall adopt regulations, in accordance with  
885 chapter 54, to establish a schedule of application fees for substantial  
886 subcontractors.

887 Sec. 18. Section 4b-91 of the general statutes is amended by adding  
888 subsection (j) as follows (*Effective January 1, 2006*):

889 (NEW) (j) On and after January 1, 2006, no person whose  
890 subcontract exceeds five hundred thousand dollars in value may  
891 perform work as a subcontractor, except for a project described in  
892 subdivision (2) of subsection (a) of this section, for the construction,  
893 reconstruction, alteration, remodeling, repair or demolition of any  
894 public building for work by the state or a municipality, which is  
895 estimated to cost more than five hundred thousand dollars and is paid  
896 for, in whole or in part, with state funds, unless the person is  
897 prequalified in accordance with section 4a-100, as amended by this act.

898 Sec. 19. Section 4b-56 of the general statutes is repealed and the  
899 following is substituted in lieu thereof (*Effective from passage*):

900 (a) There shall be established within the Department of Public  
901 Works [a] State Construction Services Selection [Panel] Panels which  
902 shall consist of five members. Four of such members shall be

903 appointed by the commissioner, shall be current or retired employees  
904 of the Department of Public Works and shall serve for [terms of one  
905 year from July first] deliberations involving the project for which such  
906 member was appointed. The remaining member shall be appointed by  
907 the head or acting head of the user agency and shall serve only for  
908 deliberations involving the project for which [he] such member was  
909 appointed. [If any vacancy occurs on the panel, the commissioner shall  
910 appoint a person for the unexpired term in accordance with the  
911 provisions of this subsection.]

912 (b) The selection panel shall not be deemed to be a board or  
913 commission within the meaning of section 4-9a.

914 (c) There shall be established within the Department of Public  
915 Works [a] Connecticut Health and Education Facilities Authority  
916 Construction Services [Panel] Panels which shall consist of five  
917 members: Three of whom shall be appointed by the Commissioner of  
918 Public Works, who shall serve only for deliberations involving the  
919 project for which such member was appointed and shall be current  
920 employees of the Department of Public Works; and the remaining  
921 members shall be appointed by the head or acting head of the user  
922 agency and shall serve only for deliberations involving the project for  
923 which such member was appointed. [The members of the selection  
924 panel appointed by the Commissioner of Public Works shall serve for  
925 terms of one year from July first. If any vacancy occurs on the panel,  
926 the Commissioner of Public Works or the head or acting head of the  
927 user agency, as appropriate, shall appoint a person for the unexpired  
928 term in accordance with the provisions of this subsection.]

929 (d) The panel established pursuant to subsection (c) of this section  
930 shall not be deemed to be a board or commission within the meaning  
931 of section 4-9a. Such panel shall be the selection panel only for  
932 Connecticut Health and Education Facilities Authority projects  
933 pursuant to section 10a-89b.

934 Sec. 20. Subsections (a) and (b) of section 4b-100a of the general

935 statutes are repealed and the following is substituted in lieu thereof  
936 (*Effective from passage*):

937 (a) The Department of Public Works shall establish construction  
938 services award panels which shall each consist of six members: Three  
939 of whom shall be appointed by the Commissioner of Public Works,  
940 [and shall] be current employees of the Department of Public Works  
941 and serve only for deliberations involving the project for which such  
942 member was appointed; two of whom shall be appointed by the  
943 department head of the user agency; and one of whom who shall be a  
944 neutral party appointed by the commissioner. [The members of each  
945 award panel appointed by the Commissioner of Public Works shall  
946 serve for terms of one year from July first. If any vacancy occurs on the  
947 panel, the Commissioner of Public Works or the head or acting head of  
948 the user agency, as appropriate, shall appoint a person for the  
949 unexpired term in accordance with the provisions of this subsection.]

950 (b) A panel established pursuant to this section shall not be deemed  
951 to be a board or commission within the meaning of section 4-9a. Such  
952 panels shall be the award panels for any contract for the construction,  
953 reconstruction, alteration, remodeling, repair or demolition of any  
954 public building for the state pursuant to [sections 4b-91 to 4b-100,  
955 inclusive, and] section 4b-24 and subsection (g) of section 4b-91.

956 Sec. 21. Subsection (b) of section 4b-91 of the general statutes is  
957 repealed and the following is substituted in lieu thereof (*Effective from*  
958 *passage*):

959 (b) The Commissioner of Public Works, the joint committee or the  
960 constituent unit, as the case may be, shall determine the manner of  
961 submission and the conditions and requirements of such bids, and the  
962 time within which the bids shall be submitted, consistent with the  
963 provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be  
964 made within [sixty] one hundred twenty days after the opening of  
965 such bids. If the general bidder selected as the general contractor fails  
966 to perform the general contractor's agreement to execute a contract in

967 accordance with the terms of the general contractor's general bid and  
968 furnish a performance bond and also a labor and materials or payment  
969 bond to the amount specified in the general bid form, an award shall  
970 be made to the next lowest responsible and qualified general bidder.  
971 No employee of the Department of Public Works, the joint committee  
972 or a constituent unit with decision-making authority concerning the  
973 award of a contract and no public official, as defined in section 1-79,  
974 may communicate with any bidder prior to the award of the contract if  
975 the communication results in the bidder receiving information about  
976 the contract that is not available to other bidders, except that if the  
977 lowest responsible and qualified bidder's price submitted is in excess  
978 of funds available to make an award, the Commissioner of Public  
979 Works, the Joint Committee on Legislative Management or the  
980 constituent unit, as the case may be, may negotiate with such bidder  
981 and award the contract on the basis of the funds available, without  
982 change in the contract specifications, plans and other requirements. If  
983 the award of a contract on said basis is refused by such bidder, the  
984 Commissioner of Public Works, the Joint Committee on Legislative  
985 Management or the constituent unit, as the case may be, may negotiate  
986 with other contractors who submitted bids in ascending order of bid  
987 prices without change in the contract, specifications, plans and other  
988 requirements. In the event of negotiation with general bidders as  
989 provided in this section, the general bidder involved may negotiate  
990 with subcontractors on the same basis, provided such general bidder  
991 shall negotiate only with subcontractors named on such general  
992 bidder's general bid form.

993       Sec. 22. (NEW) (*Effective from passage*) (a) This section shall be known  
994 as the "Anthony J. Tercyak Act".

995       (b) The Department of Administrative Services shall require any  
996 publicly traded corporation that seeks to do business with the state to  
997 certify in an affidavit that such company is not a company that: (1)  
998 Conducted business in the United States, (2) was previously  
999 incorporated within the United States' territorial limits, (3)  
1000 reincorporated outside the United States' territorial limits on or after



1001 July 1, 2005, and (4) as a result of such reincorporation outside the  
1002 United States' territorial limits, has received a reduction in federal or  
1003 Connecticut tax liability.

1004 (c) The state may not enter into any contract with any publicly  
1005 traded company that does not deny such reincorporation in a sworn  
1006 affidavit.

1007 Sec. 23. (NEW) (*Effective October 1, 2005*) (a) As used in this section:

1008 (1) "Fixture" means the assembly that holds a lamp and may include  
1009 an assembly housing, a mounting bracket or pole socket, a lamp  
1010 holder, a ballast, a reflector or mirror and a refractor or lens;

1011 (2) "Full cut-off luminaire" means a luminaire that allows no direct  
1012 light emissions above a horizontal plane through the luminaire's  
1013 lowest light-emitting part;

1014 (3) "Glare" means direct light emitting from a luminaire that causes  
1015 reduced vision or momentary blindness;

1016 (4) "Illuminance" means the level of light measured at a surface;

1017 (5) "Lamp" means the component of a luminaire that produces the  
1018 light;

1019 (6) "Light trespass" means light emitted by a luminaire that shines  
1020 beyond the boundaries of the property on which the luminaire is  
1021 located;

1022 (7) "Lumen" means a unit of measurement of luminous flux;

1023 (8) "Luminaire" means the complete lighting unit, including the  
1024 lamp and the fixture;

1025 (9) "Permanent outdoor luminaire" means any luminaire or system  
1026 of luminaires that is outdoors and intended to be used for seven days  
1027 or longer; and

1028 (10) "State funds" means any bond revenues or any money  
1029 appropriated or allocated by the General Assembly.

1030 (b) Except as provided in subsection (c) of this section, no state  
1031 funds shall be used to install or replace a permanent outdoor luminaire  
1032 for lighting on the grounds of any state building or facility unless (1)  
1033 the luminaire is designed to maximize energy conservation and to  
1034 minimize light pollution, glare and light trespass, (2) the luminaire's  
1035 illuminance is equal to the minimum illuminance adequate for the  
1036 intended purpose of the lighting, and (3) for a luminaire with a rated  
1037 output of more than one thousand eight hundred lumens, such  
1038 luminaire is a full cut-off luminaire.

1039 (c) The provisions of subdivision (3) of subsection (b) of this section  
1040 shall not apply to luminaires located on the grounds of any  
1041 correctional institution or facility administered by the Commissioner of  
1042 Correction, required by federal regulations, required for storm  
1043 operation activities performed by the Department of Transportation, or  
1044 in a lighting plan for a Department of Transportation facility where  
1045 less than twenty-five per cent of the luminaires are to be replaced. The  
1046 Commissioner of Public Works, or the commissioner's designee, may  
1047 waive the provisions of subdivision (3) of subsection (b) of this section  
1048 with respect to luminaires on the grounds of any other state building  
1049 or facility when, after a request for such a waiver has been made and  
1050 reviewed, the commissioner or the commissioner's designee  
1051 determines that such a waiver is necessary for the lighting application.  
1052 Requests for such a waiver shall be made to the commissioner or the  
1053 commissioner's designee in such form as the commissioner shall  
1054 prescribe and shall include, without limitation, a description of the  
1055 lighting plan, a description of the efforts that have been made to  
1056 comply with the provisions of subdivision (3) of subsection (b) of this  
1057 section and the reasons such a waiver is necessary. In reviewing a  
1058 request for such a waiver, the commissioner or the commissioner's  
1059 designee shall consider design safety, costs and other factors deemed  
1060 appropriate by the commissioner or the commissioner's designee.

1061 (d) The provisions of this section shall not apply to the installation  
1062 or replacement of luminaires for which the Secretary of the Office of  
1063 Policy and Management (1) conducts a life-cycle cost analysis of one or  
1064 more luminaires that meet the requirements set forth in subsection (b)  
1065 of this section and one or more luminaires that do not meet such  
1066 requirements, and (2) certifies that a luminaire which meets such  
1067 requirements is not cost effective and is not the most appropriate  
1068 alternative based on the life-cycle cost analysis.

1069 Sec. 24. (NEW) (*Effective July 1, 2005*) (a) (1) No quasi-public agency,  
1070 as defined in section 1-120 of the general statutes, except the  
1071 Connecticut Development Authority, Connecticut Innovations,  
1072 Incorporated, Connecticut Health and Educational Facilities Authority,  
1073 Connecticut Higher Education Supplemental Loan Authority,  
1074 Connecticut Housing Finance Authority, Connecticut Housing  
1075 Authority, Capital City Economic Development Authority and the  
1076 Connecticut Lottery Corporation, shall, without the written approval  
1077 of the State Comptroller, (A) make any investment or loan, in any  
1078 amount, or (B) otherwise disburse funds or assets or authorize an  
1079 agreement or series of related agreements involving obligations, which  
1080 funds, assets or obligations have a value of more than twenty-five  
1081 thousand dollars. The Comptroller may approve any such transaction  
1082 only upon determining that the transaction is in the best interest of,  
1083 and consistent with the purposes of, the quasi-public agency. A quasi-  
1084 public agency may apply for such approval by submitting an  
1085 application to the Comptroller, on a form prepared by the Comptroller,  
1086 describing the amount or value and purpose of the transaction and  
1087 including any other information required by the Comptroller. The  
1088 Comptroller shall approve or disapprove an application not later than  
1089 fifteen days after receiving the application, provided if the Comptroller  
1090 does not act within such fifteen-day period, the application shall be  
1091 deemed to have been approved.

1092 (2) The provisions of subdivision (1) of this subsection shall not  
1093 apply to (A) an investment in equities listed on the New York Stock  
1094 Exchange, the American Stock Exchange or the NASDAQ Stock

1095 Market, (B) incurring a debt having an investment grade status, as  
1096 determined by Standard & Poor's, Moody's Investor Service or Fitch  
1097 Ratings, (C) the purchase of a federally guaranteed security, as defined  
1098 in section 10a-178 of the general statutes, (D) the purchase of  
1099 participation certificates in the Short Term Investment Fund, (E) capital  
1100 expenditures otherwise authorized by applicable law, and (F)  
1101 expenditures in the amount of not more than one hundred thousand  
1102 dollars for the normal operations of the quasi-public agency. Not later  
1103 than five business days after a quasi-public agency makes a transaction  
1104 described in this subdivision, the chief executive officer or chief  
1105 financial officer of the quasi-public agency shall submit to the State  
1106 Comptroller a notarized certification, signed by such officer, which  
1107 describes the transaction and states that, to the best knowledge of such  
1108 officer, the transaction does not require the approval of said secretary  
1109 under subdivision (1) of subsection (a) of this section.

1110 (b) The State Comptroller may void any transaction subject to the  
1111 requirements of subdivision (1) of subsection (a) of this section that is  
1112 not submitted to said Comptroller for approval under said subdivision  
1113 (1). If the Comptroller voids any such transaction, the state shall have a  
1114 perfected lien on all assets of any value, from the transaction, of the  
1115 entity with whom the state made such transaction. Such lien shall be  
1116 effective from the date of the transaction.

1117 (c) The State Comptroller may adopt regulations, in accordance with  
1118 the provisions of chapter 54 of the general statutes, to carry out the  
1119 purposes of this section.

1120 Sec. 25. Subdivision (1) of section 1-92 of the general statutes is  
1121 repealed and the following is substituted in lieu thereof (*Effective from*  
1122 *passage*):

1123 (1) Adopt regulations in accordance with chapter 54 to carry out the  
1124 purposes of this part. Not later than January 1, 1992, the commission  
1125 shall adopt regulations which further clarify the meaning of the terms  
1126 "directly and personally received" and "major life event", as used in

1127 subsection (e) of section 1-79 and subsection (g) of section 1-91. The  
1128 commission shall adopt regulations that further clarify the meaning of  
1129 the term "directly or indirectly involved in any enterprise", as used in  
1130 section 2 of this act.

1131 Sec. 26. (NEW) (*Effective July 1, 2005*) (a) On or before January 1,  
1132 2007, the Judicial Branch shall prepare a procurement code applicable  
1133 to its contracting expenditures, including, but not limited to,  
1134 expenditures: (1) Involving its contracting and procurement processes,  
1135 including, but not limited to, purchasing or leasing of supplies,  
1136 materials or equipment, consultant or consultant services, personal  
1137 service agreements or purchase of service agreements, and (2) relating  
1138 to contracts for the renovation, alteration or repair of any Judicial  
1139 Branch facility in accordance with section 4b-1 of the general statutes.

1140 (b) The procurement code described in subsection (a) of this section  
1141 shall be designed to: (1) Establish uniform contracting standards and  
1142 practices; (2) simplify and clarify contracting standards and  
1143 procurement policies and practices, including, but not limited to,  
1144 procedures for competitive sealed bids, competitive sealed proposals,  
1145 small purchases, sole source procurements, emergency procurements  
1146 and special procurements; (3) ensure the fair and equitable treatment  
1147 of all businesses and persons who deal with the procurement system;  
1148 (4) include a process to maximize the use of small contractors and  
1149 minority business enterprises, as defined in section 4a-60g of the  
1150 general statutes; (5) provide increased economy in procurement  
1151 activities and maximize purchasing value to the fullest extent possible;  
1152 (6) ensure that the procurement of supplies, materials, equipment,  
1153 services, real property and construction is obtained in a cost-effective  
1154 and responsive manner; (7) include a process to ensure contractor and  
1155 state contracting agency accountability; and (8) provide a process for  
1156 competitive sealed bids, competitive sealed proposals, small  
1157 purchases, sole source procurements, emergency procurements,  
1158 special procurements, best value selection, qualification based  
1159 selection and the conditions for their use.

1160 (c) On or before February 1, 2007, the Judicial Branch shall submit  
 1161 such procurement code for review and approval to the joint standing  
 1162 committee of the General Assembly having cognizance of matters  
 1163 relating to the Judicial Branch.

1164 (d) Notwithstanding the provisions of subsections (a) and (b) of this  
 1165 section, the Judicial Branch shall be subject to the requirements of  
 1166 section 14 of this act.

1167 Sec. 27. Subdivision (19) of subsection (d) of section 2c-2b and  
 1168 section 4b-3 of the general statutes are repealed. (*Effective October 1,*  
 1169 *2007*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2005</i>	New section
Sec. 2	<i>July 1, 2005</i>	New section
Sec. 3	<i>July 1, 2005</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>October 1, 2007</i>	New section
Sec. 11	<i>October 1, 2007</i>	New section
Sec. 12	<i>July 1, 2005</i>	New section
Sec. 13	<i>from passage</i>	4b-91(i)
Sec. 14	<i>from passage</i>	New section
Sec. 15	<i>from passage</i>	New section
Sec. 16	<i>from passage</i>	New section
Sec. 17	<i>January 1, 2006</i>	4a-100
Sec. 18	<i>January 1, 2006</i>	4b-91
Sec. 19	<i>from passage</i>	4b-56
Sec. 20	<i>from passage</i>	4b-100a(a) and (b)
Sec. 21	<i>from passage</i>	4b-91(b)
Sec. 22	<i>from passage</i>	New section
Sec. 23	<i>October 1, 2005</i>	New section
Sec. 24	<i>July 1, 2005</i>	New section

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Sec. 25	<i>from passage</i>	1-92(1)
Sec. 26	<i>July 1, 2005</i>	New section
Sec. 27	<i>October 1, 2007</i>	Repealer section

**JUD**      *Joint Favorable Subst.*

**LAB**      *Joint Favorable*

**ENV**      *Joint Favorable*

**ET**        *Joint Favorable*

**LM**        *Joint Favorable*

**APP**      *Joint Favorable*

**TRA**      *Joint Favorable*

**FIN**      *Joint Favorable*

**CE**        *Joint Favorable*