



General Assembly

Substitute Bill No. 358

January Session, 2005

* _____SB00358GAE____040505_____*

AN ACT CONCERNING THE RETENTION OF JOBS IN CONNECTICUT.

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

1 Section 1. (*Effective October 1, 2005*) The Governor shall review all
2 state contracts in effect on October 1, 2005, and identify any state
3 contracts under which services are being provided outside the United
4 States. Not later than January 1, 2006, the Governor shall submit a
5 report to the joint standing committees of the General Assembly
6 having cognizance of matters relating to economic development and
7 government administration, in accordance with the provisions of
8 section 11-4a of the general statutes. Said report shall list the contracts
9 under which state funds are being paid for services performed outside
10 the United States and shall indicate whether each such contract may be
11 modified, suspended or terminated in order for such services to be
12 provided within the United States.

13 Sec. 2. (NEW) (*Effective October 1, 2005*) Each contract to which the
14 state or any quasi-public agency is a party shall include the following
15 provision: The contractor agrees and warrants that in the performance
16 of the contract, the contractor shall not enter into an agreement or
17 otherwise engage the services of any subcontractor, person or group of
18 persons at a site located outside the United States or transfer any of the
19 work or services to a location outside the United States, unless the

20 purpose of such contract is services to be performed incident to a
21 proceeding or other event that occurs outside the United States or
22 unless such service is otherwise unavailable within the United States.

23 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) As used in this section:

24 (1) "State agency" means a department, division, board, commission
25 or other office in the executive branch of the state government or a
26 quasi-public agency, as defined in section 1-120 of the general statutes;
27 and

28 (2) "Privatization contract" means an agreement between a state
29 agency and a nongovernmental person or entity, in which said person
30 or entity agrees to provide services having a cost of one hundred
31 thousand dollars or more over the term of the contract that are
32 substantially similar to and in lieu of services provided, in whole or
33 part, by employees of such state agency or by employees of another
34 state agency for such state agency. The term "privatization contract"
35 does not include an agreement to provide legal services, litigation
36 support or management consulting only.

37 (b) Notwithstanding any provision of the general statutes, each
38 privatization contract to which a state agency is a party shall contain
39 the following provisions: (1) The contractor agrees and warrants that
40 in the performance of the contract such contractor shall make
41 reasonable efforts to originate or provide such services at a location or
42 locations in the United States; and (2) failure by the contractor to
43 comply with the requirement that such contractor shall make
44 reasonable efforts to originate or provide such services at a location or
45 locations in the United States shall constitute a material breach of such
46 contract, making the contract void, and, in the case of such breach, the
47 contractor shall be liable for damages in an amount equal to the
48 amount paid by the state agency, for the percentage of work originated
49 or provided outside of the United States, plus attorney's fees and costs
50 incurred in enforcing this provision of such contract.

51 Sec. 4. Subsection (c) of section 4a-59 of the general statutes is

52 repealed and the following is substituted in lieu thereof (*Effective*
53 *October 1, 2005*):

54 (c) All open market orders or contracts shall be awarded to (1) the
55 lowest responsible qualified bidder, the qualities of the articles to be
56 supplied, their conformity with the specifications, their suitability to
57 the requirements of the state government and the delivery terms being
58 taken into consideration and, at the discretion of the Commissioner of
59 Administrative Services, life-cycle costs and trade-in or resale value of
60 the articles may be considered where it appears to be in the best
61 interest of the state, (2) the highest scoring bidder in a multiple criteria
62 bid, in accordance with the criteria set forth in the bid solicitation for
63 the contract, or (3) the proposer whose proposal is deemed by the
64 awarding authority to be the most advantageous to the state, in
65 accordance with the criteria set forth in the request for proposals,
66 including price and evaluation factors. Notwithstanding any provision
67 of the general statutes to the contrary, each state agency awarding a
68 contract through competitive negotiation shall include price as an
69 explicit factor in the criteria in the request for proposals and for the
70 contract award. In considering past performance of a bidder for the
71 purpose of determining the "lowest responsible qualified bidder" or
72 the "highest scoring bidder in a multiple criteria bid", the
73 commissioner shall evaluate the skill, ability and integrity of the
74 bidder in terms of the bidder's fulfillment of past contract obligations
75 and the bidder's experience or lack of experience in delivering
76 supplies, materials, equipment or contractual services of the size or
77 amount for which bids have been solicited. In determining the lowest
78 responsible qualified bidder for the purposes of this section, the
79 commissioner may give a price preference of up to ten per cent for (A)
80 the purchase of goods made with recycled materials or the purchase of
81 recyclable or remanufactured products if the commissioner determines
82 that such preference would promote recycling or remanufacturing. As
83 used in this subsection, "recyclable" means able to be collected,
84 separated or otherwise recovered from the solid waste stream for
85 reuse, or for use in the manufacture or assembly of another package or

86 product, by means of a recycling program which is reasonably
87 available to at least seventy-five per cent of the state's population,
88 "remanufactured" means restored to its original function and thereby
89 diverted from the solid waste stream by retaining the bulk of
90 components that have been used at least once and by replacing
91 consumable components and "remanufacturing" means any process by
92 which a product is remanufactured; (B) the purchase of motor vehicles
93 powered by a clean alternative fuel; or (C) the purchase of motor
94 vehicles powered by fuel other than a clean alternative fuel and
95 conversion equipment to convert such motor vehicles allowing the
96 vehicles to be powered by either the exclusive use of clean alternative
97 fuel or dual use of a clean alternative fuel and a fuel other than a clean
98 alternative fuel. As used in this subsection, "clean alternative fuel" shall
99 mean natural gas or electricity when used as a motor vehicle fuel. All
100 other factors being equal, (i) preference shall be given to supplies,
101 materials and equipment produced, assembled or manufactured in the
102 state and services originating and provided in the state, and (ii) if there
103 is no such in-state bidder or proposer in such case, preference shall be
104 given to supplies, materials and equipment produced, assembled or
105 manufactured in the United States and services originating and
106 provided in the United States. If any such bidder refuses to accept,
107 within ten days, a contract awarded to such bidder, such contract may
108 be awarded to the next lowest responsible qualified bidder or the next
109 highest scoring bidder in a multiple criteria bid, whichever is
110 applicable, and so on until such contract is awarded and accepted. If
111 any such proposer refuses to accept, within ten days, a contract
112 awarded to such proposer, such contract shall be awarded to the next
113 most advantageous proposer, and so on until the contract is awarded
114 and accepted. There shall be a written evaluation made of each bid.
115 This evaluation shall identify the vendors and their respective costs
116 and prices, document the reason why any vendor is deemed to be
117 nonresponsive and recommend a vendor for award. A contract valued
118 at one million dollars or more shall be awarded to a bidder other than
119 the lowest responsible qualified bidder or the highest scoring bidder in
120 a multiple criteria bid, whichever is applicable, only with written

