



Senate

General Assembly

File No. 453

February Session, 2006

Substitute Senate Bill No. 623

Senate, April 10, 2006

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE RECOMMENDATIONS OF THE
DISABLED AND DISADVANTAGED EMPLOYMENT SECURITY
POLICY GROUP.***

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

1 Section 1. (NEW) (*Effective October 1, 2006*) For the purposes of this
2 section and sections 2 to 4, inclusive, of this act:

3 (1) "Person with a disability" means any individual with a disability,
4 excluding blindness, as such term is applied by the Department of
5 Mental Health and Addiction Services, the Department of Mental
6 Retardation, the Bureau of Rehabilitation Services within the
7 Department of Social Services or the Veterans' Administration and
8 who is certified by the Bureau of Rehabilitation Services within the
9 Department of Social Services as qualified to participate in the
10 qualified partnership, as described in section 3 of this act;

11 (2) "Vocational rehabilitation service" means any goods and services

12 necessary to render a person with a disability employable, in
13 accordance with Title I of the Rehabilitation Act of 1973, 29 USC 701 et
14 seq., as amended from time to time;

15 (3) "Community rehabilitation program" means any entity or
16 individual that provides directly for or facilitates the provision of
17 vocational rehabilitation services to, or provides services in connection
18 with the recruiting, hiring or managing of the employment of persons
19 with disabilities based on an individualized plan and budget for each
20 worker with a disability;

21 (4) "Commercial janitorial contractor" means any for-profit
22 proprietorship, partnership, joint venture, corporation, limited liability
23 company, trust, association or other privately owned entity that
24 employs persons to perform janitorial work, and that enters into
25 contracts to provide janitorial services;

26 (5) "Janitorial work" means work performed in connection with the
27 care or maintenance of buildings, including, but not limited to, work
28 customarily performed by cleaners, porters, janitors and
29 handypersons;

30 (6) "Janitorial contract" means a contract or subcontract to perform
31 janitorial work for a department or agency of the state; and

32 (7) "Person with a disadvantage" means any individual who is
33 determined by the Labor Department, or its designee, to be eligible for
34 employment services in accordance with the Workforce Investment
35 Act or whose verified individual gross annual income during the
36 previous calendar year was not greater than two hundred per cent of
37 the federal poverty level for a family of four.

38 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) The Commissioner of
39 Administrative Services shall establish a pilot program, for a term of
40 four years, to create and expand janitorial work job opportunities for
41 persons with a disability and persons with a disadvantage. Such pilot
42 program shall consist of four identified projects for janitorial work. The

43 program shall create a minimum of sixty full-time jobs or sixty full-
44 time equivalents at standard wages for persons with disabilities and
45 persons with disadvantages and have a total market value for all
46 janitorial contracts awarded under the program, of at least three
47 million dollars. In establishing such pilot program, the Commissioner
48 of Administrative Services may consult with the Commissioner of
49 Social Services and the Labor Commissioner.

50 (b) Notwithstanding any other provision of the general statutes,
51 under such pilot program, the Commissioner of Administrative
52 Services shall award four janitorial contracts, one for each identified
53 project, pursuant to the following procedures: (1) Upon receipt of a
54 request for janitorial services by an agency or department of the state,
55 the Commissioner of Administrative Services shall notify each
56 qualified partnership, as described in section 3 of this act, of such
57 request and invite each qualified partnership in good standing to
58 submit a bid proposal for such janitorial contract to the commissioner
59 in a manner and form as prescribed by the commissioner; (2) in the
60 event that only one such qualified partnership submits a bid for such
61 janitorial contract, the commissioner shall award such contract to the
62 bidding qualified partnership, provided such bid does not exceed
63 fifteen per cent of the fair market value for such contract, as
64 determined by the commissioner; (3) if more than one qualified
65 partnership submits a bid, the commissioner shall award the contract
66 to the lowest responsible qualified bidder, as defined in section 4a-59
67 of the general statutes; and (4) in the event that a qualified partnership
68 does not submit a bid or is not awarded such contract, the
69 commissioner shall award such contract in accordance with the
70 provisions of sections 4a-59 and 17b-656 of the general statutes, as
71 amended by this act.

72 (c) Notwithstanding any other provision of the general statutes, the
73 responsibilities of the Commissioner of Administrative Services, as
74 established in subsections (a) and (b) of this section, may not be
75 delegated to an outside vendor.

76 (d) The Commissioner of Administrative Services may adopt
77 regulations, in accordance with the provisions of chapter 54 of the
78 general statutes, to undertake the requirements established in this
79 section.

80 Sec. 3. (NEW) (*Effective October 1, 2006*) (a) The Connecticut
81 Community Providers Association shall designate a commercial
82 janitorial contractor and a community rehabilitation program as a
83 "qualified partnership" whenever the following criteria have been
84 established: (1) Such commercial janitorial contractor has entered into a
85 binding agreement with a qualified community rehabilitation program
86 in which such contractor agrees to fill not less than one-third of the
87 jobs from a successful bid for a janitorial contract under the pilot
88 program established in section 2 of this act with persons with
89 disabilities and not less than one-third of such jobs with persons with a
90 disadvantage; (2) such contractor employs not less than two hundred
91 persons who perform janitorial work in the state; and (3) such
92 contractor certifies, in writing, that it will pay the standard wage to
93 employees, including persons with disabilities, under such janitorial
94 contract. Any partnership between a commercial janitorial contractor
95 and a community rehabilitation program that has been denied
96 designation as a qualified partnership may appeal such denial, in
97 writing, to the Commissioner of Administrative Services and said
98 commissioner may, after review of such appeal, designate such
99 program as a qualified partnership.

100 (b) The requirement established in subsection (a) of this section to
101 fill not less than one-third of the jobs from a successful bid for a
102 janitorial contract with persons with disabilities and one-third with
103 persons with a disadvantage shall be met whenever such janitorial
104 contractor employs the requisite number of persons with disabilities
105 and persons with a disadvantage throughout the entirety of its
106 operations in the state provided any persons with disabilities
107 employed by such janitorial contractor prior to the commencement
108 date of any such contract shall not be counted for the purpose of
109 determining the number of persons with disabilities employed by such

110 janitorial contractor.

111 (c) The number of persons with disabilities and the number of
112 persons with a disadvantage that such janitorial contractor is required
113 to employ pursuant to the provisions of subsection (a) of this section
114 shall be employed not later than six months after the commencement
115 of janitorial work under the terms of any contract awarded pursuant to
116 the provisions of section 2 of this act, provided such contractor shall fill
117 any vacancy for janitorial work that arises during the first six months
118 of any such contract with persons with disabilities and persons with
119 disadvantages.

120 (d) The Connecticut Community Providers Association shall submit
121 a list of employees who have applied to participate in the partnership
122 to the Bureau of Rehabilitation Services for certification. Such
123 association shall maintain a list of certified employees who are persons
124 with disabilities and community rehabilitation programs.

125 (e) Any qualified partnership awarded a janitorial contract pursuant
126 to the provisions of section 2 of this act, shall provide to the
127 Connecticut Community Providers Association, not later than six
128 months after the commencement date of such contract, a list of the
129 persons with disabilities and persons with a disadvantage employed
130 by such contractor that includes the date of hire and employment
131 location for each such person. Such association shall certify to the
132 Department of Administrative Services, in such manner and form as
133 prescribed by the Commissioner of Administrative Services, that the
134 requisite number of persons with disabilities for such contract continue
135 to be employed by such contractor in positions equivalent to those
136 created under such janitorial contract and have been integrated into
137 the general workforce of such contractor.

138 (f) Notwithstanding any other provision of the general statutes, the
139 responsibilities of the Bureau of Rehabilitation Services, as established
140 in this section, may not be delegated to an outside vendor.

141 (g) The Commissioner of Social Services may adopt regulations, in

142 accordance with the provisions of chapter 54 of the general statutes, to
143 undertake the certification requirements established pursuant to this
144 section.

145 (h) Notwithstanding the provisions of subsection (a) of this section,
146 the Commissioner of Administrative Services shall authorize certified
147 small and minority business to participate in such pilot program.

148 Sec. 4. (NEW) (*Effective October 1, 2006*) (a) During the term of the
149 pilot program described in section 2 of this act, the joint standing
150 committee of the General Assembly having cognizance of matters
151 relating to government administration shall study the effectiveness of
152 such pilot program, including, but not limited to, the effectiveness of
153 such program to create integrated work settings for persons with
154 disabilities. Additionally, said committee shall study the need to make
155 such pilot program permanent and ways to provide incentives for
156 municipalities and private businesses to utilize such pilot program if
157 such program is determined by the committee to be effective.

158 (b) During the term of the pilot program described in section 2 of
159 this act, any contract awarded pursuant to section 17b-656 of the
160 general statutes, as amended by this act, shall remain in effect with no
161 changes in the formula for fair market value. Additionally, any new
162 janitorial contract awarded pursuant to section 17b-656 of the general
163 statutes, as amended by this act, shall be limited to not more than four
164 full-time employees per contract.

165 (c) Any person employed on or before October 1, 2006, under a
166 janitorial contract let pursuant to section 4a-57 or 10a-151b of the 2006
167 supplement to the general statutes, or by the judicial or legislative
168 departments shall have the same rights conferred upon an employee
169 by section 31-57g of the general statutes, as amended by this act, for
170 the duration of the pilot program described in section 2 of this act.

171 Sec. 5. Section 17b-656 of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective October 1, 2006*):

173 Whenever any products made or manufactured by or services
174 provided by persons with disabilities through community
175 rehabilitation programs described in subsection (b) of section 17b-655
176 or in any workshop established, operated or funded by nonprofit and
177 nonsectarian organizations for the purpose of providing persons with
178 disabilities training and employment suited to their abilities meet the
179 requirements of any department, institution or agency supported in
180 whole or in part by the state as to quantity, quality and price such
181 products shall have preference over products or services from other
182 providers, except (1) articles produced or manufactured by blind
183 persons under the direction or supervision of the Board of Education
184 and Services for the Blind as provided in section 10-298a, as amended,
185 (2) articles produced or manufactured by Department of Correction
186 industries as provided in section 18-88, [and] (3) emergency purchases
187 made under section 4-98, and (4) janitorial services provided by a
188 qualified partnership, pursuant to the provisions of section 2 of this
189 act. All departments, institutions and agencies supported in whole or
190 in part by the state shall purchase such articles made or manufactured
191 and services provided by persons with disabilities from the Bureau of
192 Rehabilitation Services of the Department of Social Services. Any
193 political subdivision of the state may purchase such articles and
194 services through the Bureau of Rehabilitation Services of the
195 Department of Social Services. A list describing styles, designs, sizes
196 and varieties of all such articles made by persons with disabilities and
197 describing all available services provided by such persons shall be
198 prepared by the Connecticut [Association of Rehabilitation Facilities]
199 Community Providers Association. The Bureau of Rehabilitation
200 Services of the Department of Social Services shall cooperate with the
201 State Board of Education and Services for the Blind by submitting
202 necessary information concerning such products and services to the
203 Board of Education and Services for the Blind at frequent intervals.

204 Sec. 6. Section 4a-57 of the general statutes is amended by adding
205 subsection (f) as follows (*Effective October 1, 2006*):

206 (NEW) (f) Nothing in this section shall be construed to apply to the

207 award of janitorial contracts pursuant to the provisions of section 2 of
208 this act.

209 Sec. 7. Section 4a-60g of the general statutes is amended by adding
210 subsection (p) as follows (*Effective October 1, 2006*):

211 (NEW) (p) Nothing in this section shall be construed to apply to the
212 four janitorial contracts awarded pursuant to section 2 of this act.

213 Sec. 8. Section 31-57g of the general statutes is repealed and the
214 following is substituted in lieu thereof (*Effective October 1, 2006*):

215 (a) (1) "Awarding authority" means any person, including a
216 contractor or subcontractor, that awards or otherwise enters into a
217 contract to perform food and beverage services at Bradley
218 International Airport, and any person, including a contractor or
219 subcontractor, that awards or otherwise enters into a contract, as
220 described in section 2 of this act, to perform janitorial work for any
221 department, institution or agency, supported in whole or in part by the
222 state, or for any political subdivision of the state.

223 (2) "Contractor" means any person that enters into a service contract
224 with the awarding authority and any subcontractors to such service
225 contract at any tier who employs ten or more persons.

226 (3) "Employee" means any person engaged to perform services
227 pursuant to a service contract, but does not include a person who is (A)
228 a managerial, supervisory or confidential employee, including any
229 person who would be so defined under the federal Fair Labor
230 Standards Act, or (B) employed for less than fifteen hours per week.

231 (4) "Person" means any individual, proprietorship, partnership, joint
232 venture, corporation, limited liability company, trust association or
233 other entity that may employ or enter into other contracts, including
234 the state and its political subdivisions.

235 (5) "Service contract" means (A) a contract for the performance of
236 food and beverage services at Bradley International Airport, let by the

237 awarding authority [(A)] (i) after July 1, 2001, and before July 1, 2002,
238 provided the successor contractor had actual knowledge of the
239 pendency in the General Assembly of proposed legislation with
240 content similar to this section, or [(B)] (ii) on or after July 1, 2002, and
241 (B) a janitorial contract, as described in section 2 of this act, awarded to
242 a qualified partnership.

243 (6) "Successor service contract" means a service contract with the
244 awarding authority under which substantially the same services to be
245 performed have previously been rendered to the awarding authority
246 as part of the same program or at the same facility under another
247 service contract or have previously been rendered by the awarding
248 authority's own employees.

249 (7) "Terminated contractor" means a contractor whose service
250 contract expires without renewal or whose contract is terminated, and
251 includes the awarding authority itself when work previously rendered
252 by the awarding authority's own employees is the subject of a
253 successor service contract.

254 (b) Each contractor and awarding authority that enters into a service
255 contract to be performed at Bradley International Airport or into a
256 janitorial contract, as described in section 2 of this act, shall be subject
257 to the following obligations:

258 (1) The awarding authority shall give advance notice to a contractor
259 and the exclusive bargaining representative of any of the contractor's
260 employees, of the termination or nonrenewal of such service contract
261 and shall provide the contractor and the exclusive bargaining
262 representative with the name, telephone number and address of the
263 successor contractor or contractors, if known. The terminated
264 contractor shall, not later than three days after receipt of such notice,
265 provide the successor contractor with the name, date of hire and
266 employment occupation classification of each person employed by the
267 terminated contractor at the site or sites covered by the service contract
268 as of the date the terminated contractor receives the notice of
269 termination or nonrenewal.

270 (2) On the date the service contract terminates, the terminated
271 contractor shall provide the successor contractor with updated
272 information concerning the name, date of hire and employment
273 occupation classification of each person employed by the terminated
274 contractor at the site or sites covered by the service contract, to ensure
275 that such information is current up to the actual date of service
276 contract termination.

277 (3) If the awarding authority fails to notify the terminated contractor
278 of the identity of the successor contractor, as required by subdivision
279 (1) of this subsection, the terminated contractor shall provide the
280 information described in subdivision (2) of this subsection to the
281 awarding authority not later than three days after receiving notice that
282 the service contract will be terminated. The awarding authority shall
283 be responsible for providing such information to the successor
284 contractor as soon as the successor contractor has been selected.

285 (4) (A) Except as provided in subparagraph (D) of this subdivision,
286 a successor contractor shall retain, for at least ninety days from the
287 date of first performance of services under the successor service
288 contract, all of the employees who were continuously employed by the
289 terminated contractor at the site or sites covered by the service contract
290 during the six-month period immediately preceding the termination or
291 nonrenewal of such service contract, including any periods of layoff or
292 leave with recall rights.

293 (B) Except as provided in subparagraph (D) of this subdivision, if
294 the successor service contract is terminated prior to the expiration of
295 such ninety-day period, then any contractor awarded a subsequent
296 successor service contract shall be bound by the requirements set forth
297 in this subsection to retain, for a new ninety-day period commencing
298 with the onset of the subsequent successor service contract, all of the
299 employees who were previously employed by any one or more of the
300 terminated contractors at the site or sites covered by the service
301 contract continuously during the six-month period immediately
302 preceding the date of the most recently terminated service contract,

303 including any periods of layoff or leave with recall rights.

304 (C) At least five days prior to the termination of a service contract,
305 or at least fifteen days prior to the commencement of the first
306 performance of service under a successor service contract, whichever is
307 later, the successor contractor shall hand-deliver a written offer of
308 employment in substantially the form set forth below to each such
309 employee in such employee's native language or any other language in
310 which such employee is fluent:

311 "IMPORTANT INFORMATION REGARDING YOUR
312 EMPLOYMENT

313 To: (Name of employee)

314 We have received information that you are employed by (name
315 of predecessor contractor) and are currently performing work at
316 (address of worksite) (name of predecessor contractor's) contract to
317 perform (describe services under contract) at (address of
318 worksite) will terminate as of (last day of predecessor contract) and
319 it will no longer be providing those services as of that date.

320 We are (name of successor contractor) and have been hired to
321 provide services similar to those of (name of predecessor contractor)
322 at (address of worksite). We are offering you a job with us for a
323 ninety-day probationary period starting (first day of successor
324 contract) to perform the same type of work that you have already been
325 doing for (name of predecessor contractor) under the following
326 terms:

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

328 Hours per shift:

329 Total hours per week:

330 Benefits:

331 You must respond to this offer within the next ten days. If you want
332 to continue working at (address of worksite) you must let us know
333 by (no later than ten days after the date of this letter). If we do not

334 receive your response by the end of business that day, we will not hire
335 you and you will lose your job. We can be reached at (successor
336 contractor telephone number).

337 Connecticut state law gives you the following rights:

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

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

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

346 From: (Name of successor contractor)
347 (Address of successor contractor)
348 (Telephone number of successor contractor)"

349 Each offer of employment shall state the time within which such
350 employee must accept such offer but in no case shall that time be less
351 than ten days from the date of the offer of employment.

352 (D) The provisions of subparagraphs (A) and (B) of this subdivision
353 shall not be construed to require a successor contractor to retain any
354 employee whose attendance and performance records, while working
355 under the terminated service contract, would lead a reasonably
356 prudent employer to terminate the employee. Nothing in this
357 subparagraph shall be construed to apply to the four janitorial
358 contracts awarded in accordance with the provisions of section 2 of
359 this act.

360 (5) If at any time a successor contractor determines that fewer
361 employees are required to perform the successor service contract than
362 were required by the terminated contractor, the successor contractor
363 shall be required to retain such employees by seniority within each job

364 classification, based upon the employees' total length of service at the
365 affected site or sites.

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

371 (7) Except as provided under subdivision (5) of this subsection,
372 during such ninety-day period, the successor contractor shall not
373 discharge without just cause an employee retained pursuant to this
374 section. For purposes of this subdivision, "just cause" shall be
375 determined solely by the performance or conduct of the particular
376 employee.

377 (8) If the performance of an employee retained pursuant to this
378 section is satisfactory during the ninety-day period, the successor
379 contractor shall offer the employee continued employment under the
380 terms and conditions established by the successor contractor, or as
381 required by law.

382 (c) (1) An employee displaced or terminated in violation of this
383 section, or such employee's collective bargaining representative, may
384 bring an action in Superior Court against the awarding authority, the
385 terminated contractor or the successor contractor, jointly or severally,
386 to recover damages for any violation of the obligations imposed under
387 this section.

388 (2) If the employee prevails in such action, the court may award the
389 employee (A) back pay, including the value of benefits, for each day
390 during which the violation continues, that shall be calculated at a rate
391 of compensation not less than the higher of (i) the average regular rate
392 of pay received by the employee during the last year of employment in
393 the same job occupation classification, or, if the employee has been
394 employed for less than one year, the average rate of pay for the
395 employee's entire employment multiplied by the average number of

396 hours worked per day over the last four months of employment
 397 preceding the date of the violation, or (ii) the final regular rate of pay
 398 received by the employee at the date of termination multiplied by the
 399 average number of hours worked per day over the last four months,
 400 and (B) reinstatement to the employee's former position at not less
 401 than the most recent rate of compensation received by the employee,
 402 including the value of any benefits.

403 (3) If the employee prevails in such action, the court shall award the
 404 employee reasonable attorney fees and costs.

405 (4) Nothing in this subsection shall be construed to limit an
 406 employee's right to bring a common law cause of action for wrongful
 407 termination against the awarding authority, the terminated contractor
 408 or the successor contractor.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	New section
Sec. 2	October 1, 2006	New section
Sec. 3	October 1, 2006	New section
Sec. 4	October 1, 2006	New section
Sec. 5	October 1, 2006	17b-656
Sec. 6	October 1, 2006	4a-57
Sec. 7	October 1, 2006	4a-60g
Sec. 8	October 1, 2006	31-57g

Statement of Legislative Commissioners:

In Subdiv. (1) of section 1, ", as described in section 3 of this act" was added for clarity. In Subpara. (D) of Subdiv. (4) of Subsec. (b) of section 8, "subsection" was changed to "subparagraph" for purposes of accuracy and the word "commercial" was deleted for purposes of consistency.

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Various State Agencies	GF - Cost	Potential Significant	Potential Significant

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill requires the Department of Administrative Services (DAS) to establish a four-year pilot program to create and expand janitorial jobs for people with certain disabilities or people with a disadvantage. The pilot program shall include four projects for janitorial work at state agencies with a minimum of 60 full-time jobs or full-time equivalents at standard wages, and must have a total market value of at least \$3 million. DAS must award the janitorial contracts in the pilot program to qualified partnerships¹ if they meet certain criteria.

Under the pilot program, when a state janitorial contract becomes available, DAS must notify qualified partnerships. If only one qualified partnership bids, DAS must award the contract to the qualified partnership provided such bid does not exceed 15% of the fair market value for such contract. If more than one qualified partnership bids, DAS must award the contract to the lowest bidder. If no qualified partnerships bid, DAS must award the contract in accordance with the state's general contracting and preference purchasing laws.

Janitorial contracts awarded under the pilot program may increase state contracting costs up to 15%. Since the janitorial pilot program

¹ A qualified partnership is a partnership between a commercial janitorial contractor and a community rehabilitation program.

must have a total market value of at least \$3 million, a 15% increase could cost up to \$450,000 (over the four-year period of the pilot program). However, the costs associated with the pilot program will depend on what bid a qualified partnership actually submits. A qualified partnership may submit a bid equal to the fair market value for such janitorial contract. If this occurs, the pilot program would not increase state contracting costs.

The bill specifies that during the term of the pilot program, any new contract that DAS awards under the state's preference purchasing law for people with disabilities must remain in effect with no change in the formula for fair market value.

This provision may preclude the state from a future cost savings. This provision prevents DAS from revising the formula for fair market value, thus DAS is prohibited from making formula changes that could reduce the future cost of contracts under the preference purchasing law.

The bill requires, for the duration of the pilot program, that contractors who took over janitorial contracts retain their predecessor's employees for at least 90 days²; this provision applies to janitorial employees in the pilot program. These employment restrictions could result in fewer successor contractors competing for janitorial contracts. It may also result in higher contract costs for janitorial services in the pilot program. A qualified partnership would have to retain all of their predecessor's employees, for at least 90 days, along with filling at least one-third of the janitorial jobs with persons with disabilities. This could increase the contractor's personnel costs, and these costs would most likely be passed on to the state in the form of higher janitorial contract costs.

Lastly, the bill requires the Government Administration and Elections Committee to study the pilot program's effectiveness and

² Under the bill, any janitor working under a state contract on or before October 1, 2006 has the same rights as displaced service contract workers at Bradley Airport for the pilot program's duration.

determine if it should be made permanent. This provision has no fiscal impact.

The Out Years

As identified above, janitorial contracts awarded under the pilot program may increase state contracting costs up to 15% over the program's four-year period.

OLR Bill Analysis**sSB 623*****AN ACT CONCERNING THE RECOMMENDATIONS OF THE DISABLED AND DISADVANTAGED EMPLOYMENT SECURITY POLICY GROUP.*****SUMMARY:**

This bill requires the commissioner of the Department of Administrative Services (DAS) to establish a four-year pilot program to create and expand janitorial jobs for people with disabilities (except blindness) or a disadvantage (defined as someone with income up to 200% of the federal poverty level for a family of four, which is \$40,000 in 2006, or who the Labor Department determines to be eligible for employment services under the federal Workforce Investment Act). Specifically, it requires DAS to award contracts to create four projects for janitorial work needed by state agencies and exempts these contracts from the state's (1) normal competitive bidding process and (2) set-aside program. However, it requires the DAS commissioner to authorize certified small and minority businesses to participate in the pilot.

The bill requires DAS to award the contracts to "qualified partnerships," which it defines as those between commercial janitorial contractors and community rehabilitation programs that meet certain criteria.

The bill requires the Government Administration and Elections (GAE) Committee to study the pilot program and determine if it should be made permanent.

Finally, the bill provides protection to individuals currently working in janitorial jobs as well as those involved in the pilot.

EFFECTIVE DATE: October 1, 2006

PILOT PROGRAM

DAS Responsibilities

The pilot program must consist of four janitorial work projects. These projects must (1) create at least 60 full-time jobs or the equivalent at standard wages for the two target groups and (2) have a total market value of at least \$3 million. The DAS commissioner may consult with the commissioners of the departments of Social Services (DSS) and Labor (DOL) in establishing the pilot.

The DAS commissioner must award each contract individually and follow the procedures the bill establishes. When a state agency or department asks DAS for janitorial services, the commissioner must notify qualified partnerships of the request and invite those in good standing to submit bid proposals to her. If only one partnership bids, the commissioner must award it the contract unless she determines that its bid is 15% higher than the contract's fair market value. If more than one partnership bids, she must award the contract to the lowest responsible qualified bidder.

If no partnership bids, or receives the contract, she must award the contract in accordance with the state's general contracting and preference purchasing laws (see BACKGROUND).

The commissioner may not delegate any of her obligations under the bill to an outside vendor. She can adopt regulations to carry out the pilot.

"Qualified Partnerships"

The bill directs Connecticut Community Providers Association (CCPA) to designate a commercial janitorial contractor and community rehabilitation program as a qualified partnership if they meet certain criteria. A community rehabilitation program is any entity or individual that provides or has others provide vocational rehabilitation services to, or provides services in connection with, recruiting, hiring, or managing people with disabilities based on an

individualized plan and budget. In order for a rehabilitation program and commercial janitorial contractor to be a designated partnership, the contractor must:

1. (a) enter into a binding agreement with a qualified rehabilitation program to fill at least one-third of the jobs resulting from a pilot contract it receives with people with disabilities and another third with people with a disadvantage or (b) employ the requisite number of people in either group, excluding employees with disabilities who predate the pilot;
2. employ at least 200 in-state janitors; and
3. certify in writing that it will pay janitors, including those with disabilities, the standard wage as determined by law.

The bill permits partnerships that CCPA does not designate as “qualified” to appeal the denial to the DAS commissioner, in writing. The commissioner can approve the designation after reviewing the appeal.

The bill requires the contractor to hire target employees within six months after the contract work starts and to fill vacancies arising during this time with individuals from the target groups.

The bill requires CCPA to submit a list of employees who have applied to participate in the partnership to the Bureau of Rehabilitation Services (BRS) (within DSS) for certification. BRS is the state’s main vocational rehabilitation program for individuals with physical and mental disabilities. DSS can adopt regulations to carry out the certification process. CCPA must maintain a list of those employees BRS certifies (although it does not direct BRS to give CCPA the list). BRS may not delegate its responsibilities under the bill to an outside vendor.

The bill does not establish what entity has the applications and how employees will learn of the pilot. Presumably, the community rehabilitation programs, that have an ongoing relationship with CCPA,

notify their clients, who ultimately become the employees.

Qualified partnerships awarded pilot contracts must provide CCPA with a list of their target employees no later than six months after the contract starts. The list must include the hire date and employment location for each target employee. CCPA must certify to DAS, in a manner and form the commissioner prescribes, that the contractor continues to employ the required number of people with disabilities in positions equivalent to those created under the contract and have integrated them into the contractor's general workforce.

Legislative Oversight

The bill requires the GAE Committee to study the pilot program's effectiveness during the four-year pilot period. It must specifically look at its success in creating integrated work settings for people with disabilities. The committee must also study the need to make the pilot permanent and ways to provide incentives to municipalities and businesses to use the pilot if it is found to be effective.

Preference Purchasing Law

The bill specifies that during the pilot's term, any new contract that DAS awards under the state's preference purchasing law for people with disabilities (CGS § 17b-656), including those for janitorial services, remain in effect with no change in the formula for fair market value (see BACKGROUND). (This apparently means that DAS would not be able to change the rate it pays CCPA (which it in turn pays its subcontractors) for any contracted goods and services under the preference purchasing program for four years.) Any new janitorial contracts DAS awards after October 1, 2006 are limited to four full-time employees per contract.

By law, agencies, departments, and institutions supported in whole or in part by the state must give preference in their purchases to items made or provided by people with disabilities through community rehabilitation programs or workshops that provide training and employment opportunities, provided they meet the purchaser's

requirements for quantity, quality, and price. These preferences rank third behind purchases for articles produced by blind people under the Board of Education and Services to the Blind's (BESB) direction or supervision and the Department of Correction. (Emergency purchases are also exempt.) The bill makes the preferred purchase program's ranking fourth by making janitorial services provided by the bill's qualified partnerships the third priority. It also makes a technical correction to reflect that CCPA keeps the list of goods and services for this program.

Protections for People Already Employed as Janitors

Under the bill, any janitor working under a state (including judicial and legislative agencies) or higher education contract on or before October 1, 2006 has the same rights as displaced service contract workers at Bradley Airport (CGS § 31-57g) (see BACKGROUND) for the pilot's duration.

The bill permits collective bargaining representatives of employees who are displaced or terminated in violation of this particular displaced worker law, as well as the employees themselves, to sue the awarding authority, the terminated contractor, or the successor contractor for damages.

Protections for People Already Employed as Janitors Under the Pilot

The bill extends the protections in the displaced service workers law to employees in the pilot program. It does this, in part, by designating people, including contractors, who enter into pilot contracts "awarding authorities." In expanding the authority's definition, the bill specifies that these contracts are for state and municipal work, but the pilot program contract provisions of the bill apply only to state work (see COMMENT).

BACKGROUND

Preferred Purchasing Law (CGS § 17b-656)

Since 1977, state law has required the preferred purchase of goods

and services as a way to ensure employment opportunities for people with disabilities. Under the program, certain contracts for state services are not subject to the bidding process. Rather, DAS sets a fair market rate for the goods or services which are considered comparable to what would be offered in a competitive environment. Historically, DAS has used a formula that estimates the price at which the state would secure the products or services.

DAS contracts with CCPA, which in turn acts as a broker for the services and maintains subcontracts with about 60 organizations that offer employment opportunities to people with disabilities. CCPA certifies these organizations and monitors their compliance with federal vocational rehabilitation requirements (e.g., certain percentage of employees must have disabilities).

Displaced Bradley Service Workers Protection Law (CGS § 31-57g)

This law provides protections to certain service workers who were affected by changes that occurred at Bradley International Airport (BIA). Specifically, it requires entities that took over contracts to provide food and beverage services at BIA to retain their predecessors' employees for at least 90 days (unless the employee had a poor attendance or performance record).

It imposes responsibilities on the authority that initially awarded the contract, the original contractor, and successor contractors who have 10 or more employees. For example, it bars the successor contractor from firing the retained employees except for good cause during the 90-day period and gives the employee the ability to sue for damages. And it requires successor contractors to offer continued employment to those employees who, in the 90-day period, perform satisfactorily. It establishes fines for violations.

The law applies to contracts entered on or after July 1, 2002 with (1) entities that agree to provide the covered services and (2) their subcontractors at any tier who employ 10 or more people.

Related Bill

sSB 653 (File 426), favorably reported by the Labor Committee, requires (1) each state agency to create supported employment positions for people with disabilities and (2) the positions to lead to competitive employment with these agencies.

COMMENT***Reference to Municipalities in State Contract Program***

The section of the bill expanding the displaced worker protection definition of “awarding authority” specifies that the pilot contracts are for both state and municipal services but the pilot is only for state contracted services.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/24/2006)