



General Assembly

February Session, 2006

Bill No. 5684

LCO No. 2636

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Referred to Committee on No Committee

Introduced by:

REP. AMANN, 118th Dist.

SEN. WILLIAMS, 29th Dist.

**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 from passage*) For purposes of sections 2 to
2 10, inclusive, and section 14 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 or in response to a court order,
15 settlement agreement or other similar legal judgment.

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

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

23 (5) "State contracting agency" means any state agency or political
24 subdivision of the state, other than the State Contracting Standards
25 Board, as established pursuant to section 2 of this act, that is
26 authorized by law to enter into contracts, including, but not limited to,
27 any quasi-public agency, as defined in section 1-120 of the general
28 statutes, and any state agency, as defined in section 4a-50 of the
29 general statutes, that receives state funds. State contracting agency
30 does not include the Judicial Department or the Joint Committee on
31 Legislative Management.

32 (6) "Contractor" means any person or entity bidding on, submitting
33 a proposal for, applying for or participating as a subcontractor for, a
34 transaction, procurement or contract described in section 3 of this act,
35 including, but not limited to, a small contractor, minority business
36 enterprise, organization providing products and services by persons
37 with disabilities, as described in section 17b-656 of the general statutes,
38 and an individual with a disability, as defined in section 4a-60g of the
39 general statutes.

40 (7) "Contract risk assessment" means (A) the identification and
41 evaluation of loss exposures and risks, including, but not limited to,
42 business and legal risks associated with the contracting process and
43 the contracted goods and services, and (B) the identification,
44 evaluation and implementation of measures available to minimize

45 potential loss exposures and risks.

46 (8) "Privatization contract" means an agreement or series of
47 agreements between a state contracting agency and a person, other
48 than a nonprofit agency, in which such person agrees to provide
49 services valued at five hundred thousand dollars or more over the life
50 of the contract that are substantially similar to and in lieu of services
51 provided, in whole or in part, by employees of such agency or by
52 employees of another state agency for such state agency. "Privatization
53 contract" does not include: (1) An agreement to only provide legal
54 services, litigation support or management or financial consulting, or
55 (2) a consultant services agreement with the Department of Public
56 Works to provide professional architectural or design services on a
57 project-by-project basis for only a period of time.

58 (9) "Comparative costs" means a comparison of the costs of entering
59 into a privatization contract to the costs of the state providing the
60 services that are the subject of the privatization contract, using a
61 comparative costs methodology.

62 (10) "Comparative costs analysis" means an examination of all direct
63 and indirect costs to the state and an examination of the effect of a
64 proposed privatization contract on the public health and safety of
65 residents of the state who may utilize such privatized service.

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

73 (12) "Rebidding" means a state contracting agency's requesting of
74 proposals or qualifications for a contract to provide goods or services
75 that are specific to an existing facility or program provided such goods

76 or services are being provided under a contract in effect as of the
77 effective date of this section.

78 (13) "Established wage rate" means a minimum wage rate for
79 employee positions with duties that are substantially similar to the
80 duties performed by a regular agency, which rate shall be the lesser of
81 step one of the grade or classification under which the comparable
82 state agency employee is paid, or the standard private sector wage rate
83 for said position, as determined by the Labor Commissioner in
84 accordance with section 31-57f of the general statutes and shall include
85 a percentage representing the normal costs of health care and pension
86 benefits for comparable state employees hired at the time of the
87 contract.

88 (14) "Nonprofit agency" means any organization that is not a for-
89 profit business and provides services contracted for by (A) the state, or
90 (B) a nonstate entity. It also means private institutions of higher
91 learning which receive state financial assistance.

92 Sec. 2. (NEW) (*Effective from passage*) (a) There is established a State
93 Contracting Standards Board that shall consist of thirteen members
94 appointed as follows: Seven members shall be appointed by the
95 Governor, two members shall be appointed by the speaker of the
96 House of Representatives, two members shall be appointed by the
97 president pro tempore of the Senate, one member shall be appointed
98 by the majority leader of the Senate and one member by the majority
99 leader of the House of Representatives whenever the Governor is of a
100 different political party than that which controls both houses of the
101 General Assembly; seven members shall be appointed by the
102 Governor, one member shall be appointed by the majority leader of the
103 Senate, one member by the majority leader of the House of
104 Representatives and four members appointed by the highest ranking
105 leader of the opposing party of the applicable house of the General
106 Assembly whenever the political party of the Governor also controls
107 only one of the houses of the General Assembly; seven members shall

108 be appointed by the Governor, one member shall be appointed by the
109 majority leader of the Senate, one member by the majority leader of the
110 House of Representatives and two members by the minority leader of
111 the House of Representatives and two members by the minority leader
112 of the Senate whenever the political party of the Governor controls
113 both houses of the General Assembly; and seven members by the
114 Governor, two members by the speaker of the House of
115 Representatives, two members by the president pro tempore of the
116 Senate, one member by the majority leader of the Senate and one
117 member by the majority leader of the House of Representatives
118 whenever the Governor is an independent. Each member shall be
119 appointed in accordance with the provisions of section 4-7 of the 2006
120 supplement to the general statutes and have demonstrated sufficient
121 knowledge by education, training or experience in several of the
122 following enumerated areas: (1) Procurement; (2) contract negotiation,
123 selection and drafting; (3) contract risk assessment; (4) requests for
124 proposals and real estate transactions; (5) business insurance and
125 bonding; (6) the code of ethics; (7) federal and state statutes, policies
126 and regulations; (8) outsourcing and privatization proposal analysis;
127 (9) small and minority business enterprise development; (10)
128 engineering and information technologies; and (11) personnel and
129 labor relations. Such education, training or experience shall have been
130 acquired over not less than a continuous five-year period and shall
131 have been acquired within the ten-year period preceding such
132 appointment. Nothing in this section shall be construed to prohibit an
133 appointing authority from selecting a member of the general public
134 who has demonstrated an interest in governmental ethics and integrity
135 to serve on the board as such appointing authority's appointee. The
136 chairperson of the board shall be appointed by the members of the
137 board. The terms of the members shall be coterminous with the terms
138 of the appointing authority for each member. If any vacancy occurs on
139 the board, the appointing authorities having the power to make the
140 appointment under the provisions of this subsection shall appoint a
141 person in accordance with the provisions of this subsection.

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

144 (c) The chairperson of the board shall be compensated two hundred
145 dollars per diem up to a maximum of thirty thousand dollars annually.
146 Other members of the board shall be compensated two hundred
147 dollars per diem up to a maximum of twenty-five thousand dollars
148 annually. No person shall serve on the board who holds another state
149 or municipal governmental position and no person on the board nor
150 any spouse, child, stepchild, parent or sibling of such person shall be
151 directly or indirectly involved in any enterprise that does business
152 with the state.

153 (d) The Governor shall appoint an executive director who shall
154 serve as an ex-officio, nonvoting member of the board. The executive
155 director shall be appointed in accordance with the provisions of
156 section 4-7 of the 2006 supplement to the general statutes and may be
157 removed from office for reasonable cause, in accordance with chapter
158 67 of the general statutes. The board shall, annually, conduct a
159 performance evaluation of such executive director.

160 (e) The board may employ secretaries, real estate examiners,
161 contract specialists, forensic fraud examiners, property and
162 procurement specialists, paralegals, attorneys and such other
163 employees as the board deems necessary, all of whom shall be in the
164 state classified service.

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

168 (g) No employee of the State Contracting Standards Board shall
169 hold another state or municipal position, nor shall any such employee
170 or any nonclerical employee or any spouse, child, stepchild, parent or
171 sibling of such employee of the board be directly or indirectly involved
172 in any enterprise that does business with the state. Each member and

173 employee of the State Contracting Standards Board shall file, with the
174 board and with the Office of State Ethics, a financial statement
175 indicating all sources of business income of such person in excess of
176 one thousand dollars, and the name of any business with which such
177 member or employee is associated, as defined in subsection (b) of
178 section 1-79 of the 2006 supplement to the general statutes. Such
179 statement shall be a public record. Financial statements for the
180 preceding calendar year shall be filed with the commission on or
181 before April fifteenth of each year if such employee or member held
182 such a position during the preceding calendar year.

183 (h) Any violation of the provisions of subsection (c) or (g) of this
184 section shall constitute a violation of part I of chapter 10 of the general
185 statutes and may be the subject of a complaint and investigation filed
186 and conducted in accordance with the provisions of section 1-82 of the
187 2006 supplement to the general statutes.

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

193 (j) Six members of the board shall constitute a quorum which shall
194 be required for the transaction of business by the board.

195 Sec. 3. (NEW) (*Effective January 1, 2007*) (a) On or before January 1,
196 2008, the State Contracting Standards Board shall prepare a uniform
197 procurement code applicable to state contracting agency expenditures,
198 including, but not limited to, expenditures: (1) By municipalities that
199 receive state funds, (2) involving any state contracting and
200 procurement processes, including, but not limited to, leasing and
201 property transfers, purchasing or leasing of supplies, materials or
202 equipment, as defined in section 4a-50 of the general statutes,
203 consultant or consultant services, as defined in section 4b-55 of the
204 2006 supplement to the general statutes, personal service agreements,

205 as defined in section 4-212 of the general statutes, purchase of service
206 agreements or privatization contracts, and (3) relating to contracts for
207 the construction, reconstruction, alteration, remodeling, repair or
208 demolition of any public building. Nothing in this section shall be
209 construed to require the application of uniform procurement code
210 procedures when such procurement involves the expenditure of
211 federal assistance or contract funds and federal law provides
212 applicable procurement procedures to the extent such procedures are
213 inconsistent with the uniform procurement code.

214 (b) The uniform procurement code described in subsection (a) of
215 this section shall be designed to: (1) Establish uniform contracting
216 standards and practices among the various state contracting agencies;
217 (2) simplify and clarify the state's laws governing contracting
218 standards and procurement policies and practices, including, but not
219 limited to, procedures for competitive sealed bids, competitive sealed
220 proposals, small purchases, sole source procurements, emergency
221 procurements and special procurements; (3) ensure the fair and
222 equitable treatment of all businesses and persons who deal with the
223 procurement system of the state; (4) include a process to maximize the
224 use of small contractors and minority business enterprises, as defined
225 in section 4a-60g of the general statutes; (5) provide increased economy
226 in state procurement activities and maximize purchasing value to the
227 fullest extent possible; (6) ensure that the procurement of supplies,
228 materials, equipment, services, real property and construction required
229 by any state contracting agency is obtained in a cost-effective and
230 responsive manner; (7) preserve and maintain the existing contracting,
231 procurement, disqualification and termination authority and discretion
232 of any state contracting agency when such contracting and
233 procurement procedures represent best practices; (8) include a process
234 to improve contractor and state contracting agency accountability; (9)
235 include standards by which state contracting agencies must evaluate
236 proposals to privatize state or quasi-public agency services and
237 privatization contract bid proposals. Such standards shall, at a
238 minimum, include: (A) A requirement for a comparative costs analysis

239 to be completed prior to any state or quasi-public agency decision to
240 privatize services, (B) adequate notification requirements to affected
241 employees and, where applicable, certified bargaining agents, (C) a
242 requirement for the preparation of an employee impact statement
243 including measures to be taken by the bidder to retain qualified state
244 and quasi-public agency employees, (D) a provision requiring state
245 agencies and quasi-public agencies to provide adequate information
246 and resources to their employees for the purpose of encouraging and
247 assisting such state or quasi-public employees to organize and submit
248 a bid to provide the services that are the subject of such privatization
249 contract, (E) a requirement that bidders disclose all relevant
250 information pertaining to past performance, pending or concluded
251 legal or regulatory proceedings or complaints, including, but not
252 limited to, compliance with fair employment practices and
253 nondiscrimination standards, as described in section 46a-60 of the
254 general statutes, and compliance with federal fair employment and
255 nondiscrimination standards, (F) a requirement that where any
256 applicable collective bargaining agreement allows layoffs resulting
257 from privatization, the contract offer available employee positions
258 pursuant to the contract to qualified regular employees of the agency
259 whose state employment is terminated because of such privatization
260 contract provided such employees satisfy the hiring criteria of the
261 contractor, and (G) provisions for a fair wage according to objective
262 standards, such as the established wage rate defined in section 1 of this
263 act; (10) provide that the renewal, modification, extension or rebidding
264 of a privatization agreement in effect on or before the effective date of
265 this section, or reentered into after the effective date of this section,
266 shall be subject to the procurement code on and after January 1, 2009;
267 (11) establish standards for leases and lease-purchase agreements and
268 for the purchase and sale of real estate; and (12) provide a process for
269 competitive sealed bids, competitive sealed proposals, small
270 purchases, sole source procurements, emergency procurements,
271 special procurements, best value selection, qualification based
272 selection and the conditions for their use.

273 (c) In preparing the uniform procurement code described in
274 subsection (a) of this section, the State Contracting Standards Board
275 shall conduct a comprehensive review of existing state contracting and
276 procurement laws, regulations and practices and shall utilize existing
277 procurement procedures and guidelines that the board deems
278 appropriate.

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

288 (e) Such uniform procurement code shall be submitted to the
289 General Assembly for its approval. The board shall file such code with
290 the clerks of the House of Representatives and the Senate not later than
291 January 15, 2008, and not later than January 20, 2008, the speaker of the
292 House of Representatives and the president pro tempore of the Senate
293 shall submit such code to the joint standing committee of the General
294 Assembly having cognizance of matters relating to government
295 administration and elections. Said committee shall hold a public
296 hearing on such code and shall report its recommendations, including
297 any changes thereto, to the House of Representatives and the Senate
298 concerning the approval or rejection of the code. The General
299 Assembly shall take a vote on such code not later than the end of the
300 2008 regular session.

301 Sec. 4. (NEW) (*Effective July 1, 2008*) In addition to the preparation of
302 the uniform procurement code described in section 3 of this act, the
303 duties of the State Contracting Standards Board shall include:

304 (1) Recommending the repeal of repetitive, conflicting or obsolete

305 statutes concerning state procurement;

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

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

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

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

319 (6) Defining the training requirements for state contracting agency
320 procurement professionals;

321 (7) Monitoring implementation of the state contracting portal and
322 making recommendations for improvement to the Department of
323 Administrative Services;

324 (8) Defining the contract data retention requirements for state
325 agencies concerning retention of information on: (A) The number and
326 type of state contracts currently in effect state-wide, (B) the dollar
327 value of such contracts, (C) a list of client agencies, (D) a description of
328 services purchased under such contracts, (E) contractor names, and (F)
329 an evaluation of contractor performance, and assuring such
330 information is available on the state contracting portal;

331 (9) Providing the Governor and the joint standing committee of the
332 General Assembly having cognizance of matters relating to
333 government administration and elections with recommendations

334 concerning the uniform procurement code; and

335 (10) Approving an ethics training course for state employees
336 involved in procurement and for state contractors and substantial
337 subcontractors who are prequalified pursuant to the provisions of
338 section 4a-100 of the general statutes, as amended by this act. Such
339 ethics training course may be developed and provided by the Office of
340 State Ethics or by any person, firm or corporation provided such
341 course is approved by the State Contracting Standards Board.

342 Sec. 5. (NEW) (*Effective October 1, 2008*) (a) The State Contracting
343 Standards Board shall triennially conduct audits of state contracting
344 agencies to ensure compliance with the uniform procurement code. In
345 conducting such audit, the State Contracting Standards Board shall
346 have access to all contracting and procurement records, may interview
347 personnel responsible for contracting, contract negotiation or
348 procurement and may enter into an agreement with the State Auditors
349 of Public Accounts to effectuate such audit.

350 (b) Upon completion of any such audit, the State Contracting
351 Standards Board shall prepare and issue a compliance report for such
352 state contracting agency. Such report shall identify any process or
353 procedure that is inconsistent with the uniform procurement code and
354 indicate those corrective measures the board deems necessary to
355 comply with code requirements. Such report shall be issued and
356 delivered not later than thirty days after completion of such audit and
357 shall be a public record.

358 (c) After notice and hearing, the State Contracting Standards Board
359 may restrict the authority of any state contracting agency to enter into
360 any contract or procurement agreement if the board, upon a vote of
361 two-thirds of the members of the board present and voting for such
362 purpose, determines that such state contracting agency failed to
363 comply with statutory contracting and procurement requirements, and
364 evidenced a reckless disregard for applicable procedures and policy
365 and such limitation or restriction is in the state's best interest. Such

366 limitation or restriction shall remain in effect until such time as the
367 board determines that such state contracting agency has implemented
368 corrective measures and demonstrated compliance with code
369 requirements.

370 Sec. 6. (NEW) (*Effective October 1, 2008*) For cause, the State
371 Contracting Standards Board may review or terminate any contract or
372 procurement agreement undertaken by any state contracting agency
373 after providing fifteen days notice to the state contracting agency and
374 the applicable contractor, and consulting with the Attorney General.
375 Such termination of a contract or procurement agreement by the board
376 may occur only upon a vote of two-thirds of the members of the board
377 present and voting for that purpose. Such action shall be accompanied
378 by notice to the state contracting agency and any other affected party.
379 For the purpose of this section, "for cause" means: (1) A violation of
380 section 1-84, 1-86e or 4a-100 of the general statutes, as amended by this
381 act, (2) wanton or reckless disregard of any state contracting and
382 procurement process by any person substantially involved in such
383 contract or state contracting agency, or (3) notification from the
384 Attorney General to the state contracting agency that an investigation
385 pursuant to section 4-61dd of the 2006 supplement to the general
386 statutes indicates that the process by which such contract was awarded
387 was compromised by fraud, collusion or other serious ethical
388 improprieties.

389 Sec. 7. (NEW) (*Effective October 1, 2008*) (a) After reasonable notice, a
390 hearing and consultation with the relevant state contracting agency
391 and the Attorney General, the State Contracting Standards Board may
392 disqualify any contractor, for a period of up to five years, from bidding
393 on, applying for, or participating as a subcontractor under, contracts
394 with the state. Such disqualification shall be upon the vote of two-
395 thirds of the members of the board present and voting for that
396 purpose. Such hearing shall be conducted in accordance with chapter
397 54 of the general statutes. The board shall issue a written decision not
398 later than ninety days after the conclusion of such hearing and state in

399 the decision the reasons for the action taken and, if the contractor is
400 being disqualified, the period of such disqualification. The existence of
401 a cause for disqualification, as described in subsection (b) of this
402 section, may not be the sole factor to be considered by the board in
403 determining whether the contractor shall be disqualified. In
404 determining whether to disqualify a contractor, the board shall
405 consider the seriousness of the contractor's acts or omissions and any
406 mitigating factors. The board shall send the decision to the contractor
407 by certified mail, return receipt requested. The written decision shall
408 be a final decision for purposes of sections 4-180 and 4-183 of the
409 general statutes.

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

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

415 (2) Conviction of, or entry of a plea of guilty or nolo contendere or
416 admission to, the violation of any state or federal law for
417 embezzlement, theft, forgery, bribery, falsification or destruction of
418 records, receiving stolen property or any other offense indicating a
419 lack of business integrity or business honesty which affects
420 responsibility as a state contractor;

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

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

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

429 (6) A wilful violation of a statutory or regulatory provision or
430 requirement applicable to a contract;

431 (7) A wilful or egregious violation of the ethical standards set forth
432 in sections 1-84, 1-86e or 4a-100 of the general statutes, as amended by
433 this act; or

434 (8) Any other cause the board determines to be so serious and
435 compelling as to affect responsibility as a state contractor, including,
436 but not limited to: (A) Disqualification by another state for cause, (B)
437 the fraudulent, criminal or seriously improper conduct of any officer,
438 director, shareholder or employee of such contractor, provided such
439 conduct occurred in connection with the individual's performance of
440 duties for or on behalf of such contractor and such contractor knew or
441 had reason to know of such conduct, or (C) the existence of an
442 informal or formal business relationship with a contractor who has
443 been disqualified from bidding on state contracts.

444 (c) Upon written request by the affected state contractor, the State
445 Contracting Standards Board may reduce the period or extent of
446 disqualification for a contractor if documentation supporting any of
447 the following reasons for modification is provided to the board by the
448 contractor:

449 (1) Newly discovered material evidence;

450 (2) Reversal of the conviction upon which the disqualification was
451 based;

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

453 (4) Elimination of other causes for which the disqualification was
454 imposed.

455 Sec. 8. (NEW) (*Effective October 1, 2008*) (a) After reasonable notice
456 and a hearing, conducted in accordance with the provisions of chapter
457 54 of the general statutes, a state contracting agency may suspend any

458 contractor for a period of not more than six months from bidding on,
459 applying for or performing work as a subcontractor under, contracts
460 with the agency. The commissioner or director of any such state
461 contracting agency shall issue a written decision not later than ninety
462 days after the conclusion of such hearing and state in the decision the
463 reasons for the action taken and, if the contractor is being suspended,
464 the period of such suspension. The existence of a cause for suspension,
465 as described in subsection (b) of this section, may not be the sole factor
466 to be considered by the agency in determining whether the contractor
467 shall be suspended. In determining whether to suspend a contractor,
468 the state contracting agency shall consider the seriousness of the
469 contractor's acts or omissions and any mitigating factors. The
470 commissioner or director of the state contracting agency shall send
471 such decision to the contractor by certified mail, return receipt
472 requested. Such decision shall be a final decision for purposes of
473 sections 4-180 and 4-183 of the general statutes.

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

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

477 (2) A record of failure to perform or of unsatisfactory performance
478 in accordance with the terms of one or more contracts, provided failure
479 to perform or unsatisfactory performance caused by acts beyond the
480 control of the contractor shall not be considered to be a basis for
481 suspension;

482 (3) Any cause the state contracting agency determines to be so
483 serious and compelling as to affect the responsibility of a state
484 contractor, including suspension by another state contracting agency
485 for cause; or

486 (4) A violation of the ethical standards set forth in sections 1-84, 1-
487 86e and 4a-100 of the general statutes, as amended by this act.

488 (c) The state contracting agency may grant an exception permitting
489 a suspended contractor to participate in a particular contract or
490 subcontract upon a written determination by the commissioner or
491 director of the state contracting agency that there is good cause for
492 such exception and that such exception is in the best interest of the
493 state.

494 Sec. 9. (NEW) (*Effective October 1, 2008*) (a) Any bidder on a state
495 contract may contest the solicitation or award of a contract to the
496 commissioner of the state agency that awarded such contract. Such
497 contest shall be submitted, in writing, not later than fourteen days after
498 such bidder knew or should have known of the facts giving rise to
499 such contest and shall be limited to the procedural elements of the
500 solicitation or award process, or claims of an unauthorized or
501 unwarranted, noncompetitive selection process.

502 (b) The commissioner or director of such state contracting agency, or
503 the commissioner's or director's designee, shall have the authority to
504 settle and resolve any such contest.

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

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

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

514 (3) Inform such bidder of the right to review, as provided in section
515 10 of this act.

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

517 Sec. 10. (NEW) (*Effective October 1, 2008*) (a) Any bidder may appeal
518 a decision issued by the commissioner or director of a state contracting
519 agency, or the commissioner's or director's designee, pursuant to
520 subsection (c) of section 9 of this act to the State Contracting Standards
521 Board.

522 (b) Any such request for review shall be filed with the board not
523 later than fourteen days after such bidder's receipt of a decision issued
524 pursuant to subsection (c) of section 9 of this act. Such bidder shall set
525 forth the facts supporting its claim in sufficient detail for the State
526 Contracting Standards Board to determine whether the procedural
527 elements of the solicitation or award failed to comply with the code or
528 whether an unauthorized or unwarranted, noncompetitive selection
529 process was utilized.

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

533 (d) The State Contracting Standards Board shall create a three-
534 member appeals review subcommittee, which shall review any request
535 filed pursuant to subsection (b) of this section and decide whether such
536 solicitation or award was in compliance with the code, and whether
537 allegations of an unauthorized or unwarranted, noncompetitive
538 selection process have been demonstrated. A unanimous vote of such
539 subcommittee shall be dispositive of any such appeal. A split vote of
540 such subcommittee shall result in a review of the appeal by the full
541 membership of the board which, by a vote of two-thirds of its
542 members present and voting for such purpose, shall decide whether
543 the solicitation or award of such contract was in compliance with the
544 code and whether allegations of an unauthorized or unwarranted,
545 noncompetitive selection process have been demonstrated.

546 (e) Such appeals review subcommittee shall issue a written decision
547 or take other appropriate action on each appeal not later than ninety
548 days after the filing of such appeal. A written copy of any such

549 decision shall be provided to such bidder.

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

555 (g) In the event that the appeals review subcommittee or the board
556 determines that a procedural violation occurred, or that allegations of
557 an unauthorized or unwarranted, noncompetitive selection process
558 have been demonstrated, the board shall direct the state contracting
559 agency to take corrective action not later than thirty days after the date
560 of the subcommittee's or board's decision, as applicable.

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

564 (i) Any three members of the board may request a full board review
565 of any contract deliberation or award process of a state contracting
566 agency.

567 (j) A decision issued by the board or appeals review subcommittee
568 under this section shall be final and not subject to appeal under
569 sections 4-180 and 4-183 of the general statutes.

570 Sec. 11. (NEW) (*Effective October 1, 2008*) There is established a
571 Contracting Standards Advisory Council, which shall consist of nine
572 state contracting agency representatives designated by the Governor,
573 including at least one representative from each of the following: The
574 Department of Administrative Services, the Department of
575 Transportation and the Department of Public Works. The advisory
576 council shall meet at least once a year to discuss problems with
577 procurement processes and to make recommendations for
578 improvements to the State Contracting Standards Board. The advisory

579 council may conduct studies, research and analyses and make reports
580 and recommendations with respect to subjects or matters within the
581 jurisdiction of the State Contracting Standards Board.

582 Sec. 12. (NEW) (*Effective January 1, 2007*) (a) On and after October 1,
583 2008, the powers, duties, obligations and other governmental functions
584 of the State Properties Review Board, established under subsection (a)
585 of section 4b-3 of the general statutes, shall transfer to the State
586 Contracting Standards Board, established under section 2 of this act.
587 The powers, duties, obligations and other governmental functions of
588 the State Properties Review Board, shall thereafter vest in the State
589 Contracting Standards Board, in accordance with the provisions of
590 sections 4-38d and 4-39 of the general statutes.

591 (b) On or before October 1, 2008, the State Contracting Standards
592 Board shall establish a three-member subcommittee of the board to be
593 known as the state properties review subcommittee to perform the
594 duties described under subsection (a) of this section. The
595 subcommittee shall perform the duties established under subsection
596 (a) of this section in accordance with the rules and procedures
597 established by the board pursuant to subsection (i) of section 2 of this
598 act. The State Contracting Standards Board shall constitute a successor
599 department to the State Properties Review Board in accordance with
600 the provisions of sections 4-38d and 4-39 of the general statutes.

601 Sec. 13. Subsection (i) of section 4b-91 of the 2006 supplement to the
602 general statutes is repealed and the following is substituted in lieu
603 thereof (*Effective from passage*):

604 (i) [In the event that the] The General Assembly [approves] may
605 approve legislation authorizing an exception to the competitive
606 bidding process for a project, provided such legislation is approved, in
607 whole, by a two-thirds vote of the members of each house of the
608 General Assembly. If rejected, the legislation proposing an exception
609 for such project shall not be valid and shall not be implemented. The
610 legislation shall be deemed rejected if the General Assembly fails to

611 vote to approve or reject the legislation (1) prior to the adjournment of
612 the regular session of the General Assembly during which the
613 legislation is filed, (2) prior to the adjournment of the next regular
614 session of the General Assembly following the date on which the
615 legislation is filed if the General Assembly is not in regular session on
616 such date, or (3) prior to the adjournment of a special session convened
617 before the next regular session of the General Assembly for the
618 purpose of considering the legislation if the General Assembly is not in
619 regular session on the date on which the legislation is filed. However,
620 if the legislation is filed less than thirty days before the end of a regular
621 session, the General Assembly may vote to approve or reject the
622 legislation (A) not later than thirty days after the first day of a special
623 session convened before the next regular session of the General
624 Assembly for the purpose of considering the legislation, or (B) not later
625 than thirty days after the first day of the next regular session of the
626 General Assembly. In the event that the General Assembly approves
627 legislation authorizing an exception to the competitive bidding process
628 for a project, the State Properties Review Board shall complete a
629 review of the contract for such project and approve or disapprove such
630 contract no later than thirty days after the Commissioner of Public
631 Works submits such contract to the board. Such review shall be
632 conducted in accordance with the provisions of section 4b-3. On and
633 after October 1, 2008, such review shall be conducted by the
634 subcommittee of the State Contracting Standards Board established
635 under subsection (b) of section 12 of this act. In the event that such
636 review does not occur within the thirty-day period prescribed by this
637 subsection, such contract shall be deemed to be approved.

638 Sec. 14. (NEW) (*Effective from passage*) (a) From the effective date of
639 this section, until the passage and signing into law of a procurement
640 code as described in section 3 of this act, no state agency, as defined in
641 section 4a-50 of the general statutes, quasi-public agency, as defined in
642 section 1-120 of the general statutes, or constituent unit of higher
643 education, may enter into a privatization contract other than an
644 emergency procurement as defined in section 1 of this act, unless each

645 of the following conditions have been met:

646 (1) Such contract is cost effective and fiscally prudent taking into
647 consideration comparative costs including all direct and indirect costs
648 to the state and the impact of such privatization contract on the public
649 health and safety and the residents of Connecticut who use the services
650 that are the subject of the privatization contract.

651 (2) Such agency has complied with the provisions of subsection (b)
652 of this section.

653 (3) Prior to any state agency's solicitation of bids for a privatization
654 contract, such agency shall prepare an analysis of the costs and
655 benefits to the agency of (A) privatizing services, and (B) continuing to
656 provide such services using state employees of the state agency. Such
657 analysis shall include, but not be limited to: (i) An examination of all
658 direct and indirect costs to the state, including health insurance,
659 pension costs of state employees, unemployment compensation costs
660 of state employees terminated as a result of the privatization contract,
661 gain or loss of income tax and sales tax revenue to the state, and (ii) an
662 examination of the effect of such proposed privatization on the quality
663 of service, the public health and safety and residents of the state who
664 may utilize such privatized service. In determining the cost of
665 privatizing services, pursuant to this subsection, the state agency shall
666 calculate labor costs for each employee position at a rate no less than
667 the middle range salary of a state employee job class substantially
668 similar to such employee position, or the average salary of employees
669 who would be displaced by the proposed privatization, whichever is
670 higher and shall assume comparable benefit costs. Additionally, the
671 state agency shall include in such cost analysis any costs or penalties
672 the state may incur if such contract is terminated by the state prior to
673 the termination date contained in such contract. Each state agency
674 shall transmit such analysis to the Secretary of the State who shall
675 maintain copies of each such proposed contract and analysis as public
676 records and to the Auditors of Public Accounts who may review and

677 comment on such analysis.

678 (4) At least sixty days prior to publishing any notice soliciting bids
679 for a privatization contract, a state agency shall notify each collective
680 bargaining organization representing employees of the agency of such
681 planned solicitation. After consulting with the potentially affected
682 bargaining units, if any, the agency shall provide adequate resources
683 for the purpose of encouraging and assisting present agency
684 employees to organize and submit a bid to provide the services that
685 are the subject of the privatization contract. In determining what
686 resources are adequate for this purpose, the agency shall refer to an
687 existing collective bargaining agreement of a similar employee
688 organization whose members perform the subject services, if available,
689 which agreement provides similar resources in the same or other
690 agencies. If no such collective bargaining agreement exists, the agency
691 shall refer to any existing collective bargaining agreements providing
692 such resources, and shall provide such resources at the minimum level
693 of assistance provided in such agreements. The state agency shall also
694 provide to the state employees its analysis and any report of the
695 Auditors of Public Accounts prepared in accordance with this act. The
696 agency shall consider any such employee bid on the same basis as all
697 other bids. An employee bid may be made as a joint venture with other
698 persons.

699 (b) The state agency soliciting bids for a privatization contract shall
700 require the bidders to include the following information in their bid
701 submission:

702 (1) The wage rate or annual salary for each employee or, if not
703 known, each position covered by the privatization contract;

704 (2) An agreement by the bidder or contractor to offer available
705 employee positions pursuant to the contract to qualified regular
706 employees of the state agency whose state employment is terminated
707 because of the privatization contract and who satisfy the hiring criteria
708 of the contractor;

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

713 (4) A report on the length of continuous employment of current
714 employees of the contractor by job classification, without providing
715 individually identifiable information on such employees and
716 information detailing the relevant prior experience of current
717 employees within each job classification. If the positions identified by
718 the bidder are newly created positions, the bid shall identify the
719 minimum requirements for prospective applicants for each such
720 position;

721 (5) The annual rate of employee turnover;

722 (6) Any legal or administrative proceedings pending or concluded
723 adversely against the applicant or any of the applicant's principals or
724 key personnel within the past five years that relate to the procurement
725 or performance of any public or private construction contract,
726 employee safety and health, labor relations or other employment
727 requirements and whether the applicant is aware of any investigation
728 pending against the applicant or any principal or key personnel. Such
729 information shall specify the date of the complaint, citation, court
730 finding or administrative finding, the enforcement agency, rule, law or
731 regulation involved and any additional information the contractor
732 elects to submit;

733 (7) Any collective bargaining agreements or personnel policies
734 covering the employees that will provide services to the state; and

735 (8) Any political contributions made by the bidder or any employee
736 of the bidder who participated substantially in the preparation of the
737 bid, to any elected officer of the state or member of the General
738 Assembly during the four years prior to the due date of the bid. For
739 purposes of this section, "participated substantially" means

740 participation that was direct, extensive and substantive, not peripheral,
741 clerical or ministerial.

742 (c) Any state agency selecting a bidder for a privatization contract
743 shall develop a contract that is acceptable to the bidder and the state
744 agency provided such contract shall include the following terms:

745 (1) Where any applicable collective bargaining agreement allows
746 layoffs as a result of privatization, the contractor shall be required to
747 offer available employee positions pursuant to the contract to qualified
748 regular employees of the agency whose state employment is
749 terminated because of the privatization contract and who satisfy the
750 hiring criteria of the contractor;

751 (2) The contractor shall be prohibited from engaging in
752 discriminatory employment practices, as defined in section 46a-51 of
753 the general statutes, and shall take affirmative steps to provide such
754 equal opportunity for all such persons;

755 (3) The contractor shall be required to submit to performance audits
756 of such contract by the Auditors of Public Accounts on a periodic
757 basis, as determined by the Auditors of Public Accounts;

758 (4) The contractor shall pay a minimum wage rate no lower than the
759 established wage under this act; and

760 (5) Such contract shall not become effective until the contractor and
761 state agency have complied with the provisions of this section.

762 (d) Upon signing such contract, the state agency shall submit such
763 contract to the Secretary of the State who shall maintain such contract
764 as a public document. Concomitantly, the state agency shall submit to
765 the Secretary of the State the following information:

766 (1) A certification that the state agency has complied with all the
767 requirements of the state agency contained in the provisions of this
768 section;

769 (2) The state agency analysis prepared in accordance with this
770 section and a report by the state agency explaining any changes in
771 such analysis and report as a result of the terms of the proposed
772 privatization contract;

773 (3) A state agency analysis of the quality of the services to be
774 provided by the designated bidder and whether such services are
775 equal to or exceed the quality of services that are provided by regular
776 agency employees;

777 (4) A certification by the designated bidder that the bidder and its
778 supervisory employees, while in the employ of the designated bidder,
779 have no adjudicated record of repeated wilful noncompliance with any
780 relevant federal or state regulatory law including, but not limited to,
781 laws concerning labor relations, occupational safety and health,
782 nondiscrimination and affirmative action, environmental protection
783 and conflicts of interest; and

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

786 (e) Nothing in this section shall be construed to prohibit a
787 privatization contract with a nonprofit agency and the renewal,
788 modification, extension or rebidding of a privatization agreement in
789 effect on or before the effective date of this section shall not be covered
790 by this section.

791 (f) Any employees, or collective bargaining agent of any employee
792 adversely affected by any proposed privatization contract may file a
793 motion for an order to show cause in the superior court for the judicial
794 district of Hartford claiming that such contract fails to comply with the
795 substantive or procedural requirements of this act. A ruling on any
796 such motion may: (1) Deny the motion, if the court finds that all
797 procedural and substantive provisions of this act have been complied
798 with; (2) grant the motion if the court finds that the proposed contract
799 would substantively violate the provisions of this act; or (3) stay the

800 effective date of the contract until any procedural or substantive defect
801 found by the court has been corrected.

802 (g) No funds paid to any contractor as a result of any privatization
803 contract may be used for purposes of lobbying, as defined in section 1-
804 91 of the 2006 supplement to the general statutes.

805 Sec. 15. Subdivision (1) of section 1-92 of the general statutes is
806 repealed and the following is substituted in lieu thereof (*Effective from*
807 *passage*):

808 (1) Adopt regulations in accordance with chapter 54 to carry out the
809 purposes of this part. Not later than January 1, 1992, the commission
810 shall adopt regulations which further clarify the meaning of the terms
811 "directly and personally received" and "major life event", as used in
812 subsection (e) of section 1-79 and subsection (g) of section 1-91. The
813 commission shall adopt regulations that further clarify the meaning of
814 the term "directly or indirectly involved in any enterprise", as used in
815 section 2 of this act.

816 Sec. 16. (NEW) (*Effective January 1, 2007*) (a) On or before January 1,
817 2008, the Judicial Branch shall prepare a procurement code applicable
818 to its contracting expenditures, including, but not limited to,
819 expenditures: (1) Involving its contracting and procurement processes,
820 including, but not limited to, purchasing or leasing of supplies,
821 materials or equipment, consultant or consultant services, personal
822 service agreements or purchase of service agreements, and (2) relating
823 to contracts for the renovation, alteration or repair of any Judicial
824 Branch facility in accordance with section 4b-1 of the general statutes.

825 (b) The procurement code described in subsection (a) of this section
826 shall be designed to: (1) Establish uniform contracting standards and
827 practices; (2) simplify and clarify contracting standards and
828 procurement policies and practices, including, but not limited to,
829 procedures for competitive sealed bids, competitive sealed proposals,
830 small purchases, sole source procurements, emergency procurements

831 and special procurements; (3) ensure the fair and equitable treatment
832 of all businesses and persons who deal with the procurement system;
833 (4) include a process to maximize the use of small contractors and
834 minority business enterprises, as defined in section 4a-60g of the
835 general statutes; (5) provide increased economy in procurement
836 activities and maximize purchasing value to the fullest extent possible;
837 (6) ensure that the procurement of supplies, materials, equipment,
838 services, real property and construction is obtained in a cost-effective
839 and responsive manner; (7) include a process to ensure contractor and
840 Judicial Department accountability; and (8) provide a process for
841 competitive sealed bids, competitive sealed proposals, small
842 purchases, sole source procurements, emergency procurements,
843 special procurements, best value selection, qualification based
844 selection and the conditions for their use.

845 (c) On or before February 1, 2008, the Judicial Branch shall submit
846 such procurement code for review and approval to the joint standing
847 committee of the General Assembly having cognizance of matters
848 relating to the Judicial Branch.

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

852 Sec. 17. Section 4a-100 of the general statutes is repealed and the
853 following is substituted in lieu thereof (*Effective January 1, 2007*):

854 (a) As used in this section: (1) "Prequalification" means
855 prequalification issued by the Commissioner of Administrative
856 Services to bid on a contract for the construction, reconstruction,
857 alteration, remodeling, repair or demolition of any public building for
858 work by the state or a municipality or to perform work under such a
859 contract as a substantial subcontractor; (2) "subcontractor" means a
860 person who performs work with a value in excess of twenty-five
861 thousand dollars for a contractor pursuant to a contract for work for
862 the state or a municipality which is estimated to cost more than five

863 hundred thousand dollars; (3) "principals and key personnel" includes
864 officers, directors, shareholders, members, partners and managerial
865 employees; (4) "aggregate work capacity rating" means the maximum
866 amount of work an applicant is capable of undertaking for any and all
867 projects; [and] (5) "single project limit" means the highest estimated
868 cost of a single project that an applicant is capable of undertaking; (6)
869 "substantial subcontractor" means a person who performs work with a
870 value in excess of five hundred thousand dollars for a contractor
871 pursuant to a contract for work for the state or a municipality which is
872 estimated to cost more than five hundred thousand dollars.

873 (b) (1) Any person may apply for prequalification to the Department
874 of Administrative Services. Such application shall be made on such
875 form as the Commissioner of Administrative Services prescribes and
876 shall be accompanied by a nonrefundable application fee as set forth in
877 subdivision (2) of this subsection. The application shall be signed
878 under penalty of false statement.

879 (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

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

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

883 (2) The applicant's principals and key personnel and any names
884 under which the applicant, principals or key personnel conducted

885 business during the past five years;

886 [(3) The applicant's experience on public and private construction
887 projects over the past five years, or on the applicant's ten most
888 recently-completed projects and the names of any subcontractors used
889 on the projects;]

890 [(4)] (3) Any legal or administrative proceedings pending or
891 concluded adversely against the applicant or any of the applicant's
892 principals or key personnel within the past five years which relate to
893 the procurement or performance of any public or private construction
894 contract and whether the applicant is aware of any investigation
895 pending against the applicant or any principal or key personnel;

896 [(5)] (4) The nature of any financial, personal or familial relationship
897 between the applicant and any public or private construction project
898 owner listed on the application as constituting construction experience;

899 [(6)] (5) A statement of whether (A) the applicant has been
900 disqualified pursuant to section 4b-95, this section or section 31-57c or
901 31-57d, (B) the applicant is on the list distributed by the Labor
902 Commissioner pursuant to section 31-57a, (C) the applicant is
903 disqualified or prohibited from being awarded a contract pursuant to
904 section 31-57b, (D) the applicant has been disqualified by another state,
905 (E) the applicant has been disqualified by a federal agency or pursuant
906 to federal law, (F) the applicant's registration has been suspended or
907 revoked by the Department of Consumer Protection pursuant to
908 section 20-341gg, (G) the applicant has been disqualified by a
909 municipality, and (H) the matters that gave rise to any such
910 disqualification, suspension or revocation have been eliminated or
911 remedied; and

912 [(7)] (6) Other information as the commissioner deems relevant to
913 the determination of the applicant's qualifications and responsibilities.

914 (d) The applicant shall include a statement of financial condition

915 prepared by a certified public accountant which includes information
916 concerning the applicant's assets and liabilities, plant and equipment,
917 bank and credit references, bonding company and maximum bonding
918 capacity, and other information as the commissioner deems relevant to
919 an evaluation of the applicant's financial capacity and responsibility.

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

923 (f) The commissioner shall determine whether to prequalify an
924 applicant on the basis of the application and on relevant past
925 performance according to procedures and criteria set forth in
926 regulations which the commissioner shall adopt on or before October
927 1, 2005, in accordance with chapter 54. Such criteria shall include, at a
928 minimum, the record of the applicant's performance, including, but
929 not limited to, written evaluations of the applicant's performance on
930 public or private projects, [within the past five years,] the applicant's
931 past experience on projects of various size and type, the skill, ability
932 and integrity of the applicant and any subcontractors used by the
933 applicant, the experience and qualifications of supervisory personnel
934 employed by the applicant, the maximum amount of work the
935 applicant is capable of undertaking as demonstrated by the applicant's
936 financial condition, bonding capacity, size of past projects and present
937 and anticipated work commitments, and any other relevant criteria
938 that the commissioner prescribes. Such regulations shall also (1)
939 provide that the criteria considered shall be assigned separate
940 designated numerical values and weights and that the applicant shall
941 be assigned an overall numerical rating on the basis of all criteria, and
942 (2) establish prequalification classifications, aggregate work capacity
943 ratings and single project limits. Such prequalification classifications
944 shall be used to establish the types of work a contractor or substantial
945 subcontractor is qualified to perform and the aggregate work capacity
946 ratings shall be used to establish the maximum amount of work a
947 contractor or substantial subcontractor is capable of undertaking.

948 (g) (1) The applicant shall indicate the prequalification
949 classifications, aggregate work capacity ratings and single project
950 limits that are sought. The commissioner may issue a certificate of
951 prequalification to any applicant who meets the requirements of this
952 section. Such certificate shall be effective for one year from the date
953 issued and shall indicate the contractor's or substantial subcontractor's
954 prequalification classifications, aggregate work capacity ratings and
955 single project limits. The commissioner may cause the initial certificate
956 of prequalification to be effective for a period not to exceed two years
957 and may require the applicant to remit payment of the application fee,
958 as set forth in subsection (b) of this section, for the first twelve months
959 of certification as well as a prorated application fee, as described in
960 subdivision (3) of this subsection, for any additional period of
961 certification beyond the first twelve months.

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

967 (3) The commissioner may renew a prequalification certificate upon
968 receipt of a completed update statement, any other material the
969 commissioner requires and a nonrefundable fee in an amount [equal
970 to] not less than one-half of the application fee for the applicable
971 aggregate work capacity rating as set forth in subsection (b) of this
972 section. [, except that in no event shall such fee be less than six
973 hundred dollars.]

974 (h) Not later than sixty days after receiving a completed application,
975 the commissioner shall mail or send by electronic mail a notice to the
976 applicant concerning the commissioner's preliminary determination
977 regarding the conditions of the prequalification certification, a denial
978 of certification, a reduction in the level of certification sought or
979 nonrenewal of certification. Any applicant aggrieved by the

980 commissioner's preliminary determination may request copies of the
981 information upon which the commissioner relied in making the
982 preliminary determination, provided such request is made not later
983 than ten days after the date the notice was mailed or sent by electronic
984 mail to the applicant. Not later than twenty days after the date the
985 notice was mailed or sent by electronic mail, the applicant may submit
986 additional information to the commissioner with a request for
987 reconsideration. The commissioner shall issue a final determination
988 regarding the application not later than ninety days after the date the
989 commissioner mailed or sent by electronic mail the notice of the
990 preliminary determination, which ninety-day period may be extended
991 for an additional period not to exceed ninety days if (1) the
992 commissioner gives written notice to the applicant that the
993 commissioner requires additional time, and (2) such notice is mailed or
994 sent by electronic mail during the initial ninety-day period.

995 (i) The commissioner may not issue a prequalification certificate to
996 any contractor or substantial subcontractor (1) who is disqualified
997 pursuant to section 31-57c or 31-57d, (2) who has a principal or key
998 personnel who, within the past five years, has a conviction or has
999 entered a plea of guilty or nolo contendere for or has admitted to
1000 commission of an act or omission that reasonably could have resulted
1001 in disqualification pursuant to any provision of subdivisions (1) to (3),
1002 inclusive, of subsection (d) of section 31-57c or subdivisions (1) to (3),
1003 inclusive, of subsection (d) of section 31-57d, as determined by the
1004 commissioner.

1005 (j) The commissioner may revoke a contractor's or substantial
1006 subcontractor's prequalification or reduce the contractor's or
1007 substantial subcontractor's prequalification classification or aggregate
1008 work capacity ratings, after an opportunity for a hearing, if the
1009 commissioner receives additional information that supports such
1010 revocation or reduction or if such contractor is suspended from
1011 bidding on a state contract pursuant to the provisions of section 8 of
1012 this act.

1013 (k) (1) Any materially false statement in the application or any
1014 update statement may, in the discretion of the awarding authority,
1015 result in termination of any contract awarded the applicant by the
1016 awarding authority. The awarding authority shall provide written
1017 notice to the commissioner of such false statement not later than thirty
1018 days after discovering such false statement. The commissioner shall
1019 provide written notice of such false statement to the Commissioner of
1020 Public Works and the Commissioner of Consumer Protection not later
1021 than thirty days after discovering such false statement or receiving
1022 such notice.

1023 (2) The commissioner shall revoke the prequalification of any
1024 person, after an opportunity for hearing, if the commissioner finds that
1025 the person has included any materially false statement in such
1026 application or update statement, has been convicted of a crime related
1027 to the procurement or performance of any public or private
1028 construction contract has been disqualified by the State Contracting
1029 Standards Board from bidding on state contracts pursuant to section 7
1030 of this act or, within the past five years or has otherwise engaged in
1031 fraud in obtaining or maintaining prequalification. Any person whose
1032 prequalification has been revoked pursuant to this subsection shall be
1033 disqualified for a period of two years after which the person may
1034 reapply for prequalification, except that a person whose
1035 prequalification has been revoked on the basis of conviction of a crime
1036 or engaging in fraud shall be disqualified for a period of five years
1037 after which the person may reapply for prequalification and a person
1038 whose prequalification has been revoked on the basis of
1039 disqualification by the State Contracting Standards Board shall be
1040 disqualified for the same length of time as the disqualification period
1041 imposed by the State Contracting Standards Board pursuant to section
1042 7 of this act. The commissioner shall not prequalify a person whose
1043 prequalification has been revoked pursuant to this subdivision until
1044 the expiration of said [two or] two-year, five-year, or other applicable
1045 disqualification period and the commissioner is satisfied that the
1046 matters that gave rise to the revocation have been eliminated or

1047 remedied.

1048 (l) The commissioner shall provide written notice of any revocation,
1049 disqualification, reduction in classification or capacity rating or
1050 reinstated prequalification to the Commissioner of Public Works and
1051 the Commissioner of Consumer Protection not later than thirty days
1052 after any final determination.

1053 (m) The provisions of this section and section 4a-101, as amended by
1054 this act, shall not apply to subcontractors.

1055 (n) The commissioner shall establish an update statement for use by
1056 bidders and substantial subcontractors for purposes of renewing or
1057 upgrading a prequalification certificate and for purposes of submitting
1058 a bid pursuant to section 4b-91, as amended by this act.

1059 (o) Any applicant aggrieved by the commissioner's final
1060 determination concerning a preliminary determination, a denial of
1061 certification, a reduction in prequalification classification or aggregate
1062 work capacity rating or a revocation or nonrenewal of certification
1063 may appeal to the Superior Court in accordance with section 4-183.

1064 (p) Not later than one hundred twenty days after becoming
1065 prequalified, any contractor or substantial subcontractor prequalified
1066 under the provisions of this section shall participate in an ethics
1067 training course approved by the State Contracting Standards Board
1068 pursuant to section 4 of this act.

1069 (q) The commissioner shall adopt regulations, in accordance with
1070 chapter 54, to establish a schedule of application fees for substantial
1071 subcontractors.

1072 Sec. 18. Section 4a-101 of the general statutes is repealed and the
1073 following is substituted in lieu thereof (*Effective January 1, 2007*):

1074 (a) On or before October 1, 2005, the Commissioner of
1075 Administrative Services shall adopt regulations, in accordance with

1076 chapter 54, to establish a standard contractor evaluation form. Such
1077 form shall include, at a minimum, the following evaluation criteria: (1)
1078 Timeliness of performance; (2) quality of performance; (3) cost
1079 containment, including, but not limited to, the contractor's ability to
1080 work within the contract's allotted cost, the accuracy of the contractor's
1081 billing, and the number and cause of change orders and the manner in
1082 which the contractor determined the price on the change orders; (4)
1083 safety; (5) the quality of the contractor's working relationship with the
1084 agency and the quality of the contractor's supervision of the work area;
1085 (6) communication with the agency; (7) the quality of the contractor's
1086 required documentation; (8) the performance of the contractor's
1087 subcontractors and substantial subcontractors, to the extent known by
1088 the official who completes the evaluation; and (9) the contractor's and
1089 any subcontractor's compliance with part III of chapter 557, or chapter
1090 558, or the provisions of the federal Davis-Bacon Act, 40 USC, Sections
1091 276a to 276a-5, inclusive, as from time to time amended, to the extent
1092 known by the official who completes the evaluation.

1093 (b) Each public agency shall compile evaluation information during
1094 the performance of the contract and complete and submit the
1095 evaluation form to the commissioner after completion of a building
1096 project under the agency's control if the building project is funded, in
1097 whole or in part, by state funds. Such evaluation information shall be
1098 available to any public agency for purposes of assessing the
1099 responsibility of the contractor during a bid selection and evaluation
1100 process. The designated official from such agency shall certify that the
1101 information contained in the evaluation form represents, to the best of
1102 the certifying official's knowledge, a true and accurate analysis of the
1103 contractor's performance record on the contract. The commissioner
1104 shall include the evaluation in the contractor's prequalification file. The
1105 official shall mail a copy of the completed evaluation form to the
1106 contractor. Any contractor who wishes to contest any information
1107 contained in the evaluation form may submit a written response to the
1108 commissioner not later than thirty days after the date the form was
1109 mailed as indicated by the postmark on the envelope. Such response

1110 shall set forth any additional information concerning the building
1111 project or the oversight of the contract by the public agency that may
1112 be relevant in the evaluation of the contractor's performance on the
1113 project. The commissioner shall include any such response in the
1114 contractor's prequalification file.

1115 (c) As used in this section, "public agency" means a public agency,
1116 as defined in section 1-200, but does not include The University of
1117 Connecticut with respect to any project, as defined in subdivision (16)
1118 of section 10a-109c, that is undertaken and controlled by the
1119 university, and "subcontractor" means a person who performs work
1120 with a value in excess of twenty-five thousand dollars for a contractor
1121 pursuant to a contract for work for the state or a municipality which is
1122 estimated to cost more than five hundred thousand dollars.

1123 (d) Upon fifty per cent completion of any building project under a
1124 public agency's control, the agency shall advise the contractor in
1125 writing of the agency's preliminary evaluation of the contractor's
1126 performance on the project.

1127 (e) No public agency, employee of a public agency or certifying
1128 official of a public agency shall be held liable to any contractor for any
1129 loss or injury sustained by such contractor as the result of the
1130 completion of an evaluation form, as required by this section, unless
1131 such agency, employee or official is found by a court of competent
1132 jurisdiction to have acted in a wilful, wanton or reckless manner.

1133 (f) Any public agency that fails to submit a completed evaluation
1134 form, as required by this section, not later than seventy days after the
1135 completion of a project, shall be ineligible for the receipt of any public
1136 funds disbursed by the state for the purposes of the construction,
1137 reconstruction, alteration, remodeling, repair or demolition of any
1138 public building or any public works project until such completed
1139 evaluation form is submitted.

1140 (g) Notwithstanding the provisions of subsection (a) of this section,

1141 any political subdivision of the state, when evaluating the performance
1142 of a contractor's subcontractors or substantial subcontractors, to the
1143 extent known, may rely on an evaluation of such subcontractors or
1144 substantial subcontractors that is conducted by the contractor.

1145 Sec. 19. Section 4b-91 of the 2006 supplement to the general statutes
1146 is amended by adding subsection (j) as follows (*Effective January 1,*
1147 *2007*):

1148 (NEW) (j) On and after January 1, 2007, no person whose
1149 subcontract exceeds five hundred thousand dollars in value may
1150 perform work as a subcontractor, except for a project described in
1151 subdivision (2) of subsection (a) of this section, for the construction,
1152 reconstruction, alteration, remodeling, repair or demolition of any
1153 public building for work by the state or a municipality, which is
1154 estimated to cost more than five hundred thousand dollars and is paid
1155 for, in whole or in part, with state funds, unless the person is
1156 prequalified in accordance with section 4a-100, as amended by this act.

1157 Sec. 20. (NEW) (*Effective January 1, 2007*) (a) This section shall be
1158 known as the "Anthony J. Tercyak Act".

1159 (b) The Department of Administrative Services shall require any
1160 publicly traded corporation that seeks to do business with the state to
1161 certify in an affidavit that such company is not a company that: (1)
1162 Conducted business in the United States, (2) was previously
1163 incorporated within the United States' territorial limits, (3)
1164 reincorporated outside the United States' territorial limits on or after
1165 July 1, 2005, and (4) as a result of such reincorporation outside the
1166 United States' territorial limits, has received a reduction in federal or
1167 Connecticut tax liability.

1168 (c) The state may not enter into any contract with any publicly
1169 traded company that does not deny such reincorporation in a sworn
1170 affidavit, except that the Attorney General may waive such prohibition
1171 if the services sought by the state are not available from a company

1172 that is incorporated in the United States or if waiver of such
1173 prohibition is in the best interest of the state.

1174 Sec. 21. (NEW) (*Effective July 1, 2006*) (a) As used in this section:

1175 (1) "Fixture" means the assembly that holds a lamp and may include
1176 an assembly housing, a mounting bracket or pole socket, a lamp
1177 holder, a ballast, a reflector or mirror and a refractor or lens;

1178 (2) "Full cut-off luminaire" means a luminaire that allows no direct
1179 light emissions above a horizontal plane through the luminaire's
1180 lowest light-emitting part;

1181 (3) "Glare" means direct light emitting from a luminaire that causes
1182 reduced vision or momentary blindness;

1183 (4) "Illuminance" means the level of light measured at a surface;

1184 (5) "Lamp" means the component of a luminaire that produces the
1185 light;

1186 (6) "Light trespass" means light emitted by a luminaire that shines
1187 beyond the boundaries of the property on which the luminaire is
1188 located;

1189 (7) "Lumen" means a unit of measurement of luminous flux;

1190 (8) "Luminaire" means the complete lighting unit, including the
1191 lamp and the fixture;

1192 (9) "Permanent outdoor luminaire" means any luminaire or system
1193 of luminaires that is outdoors and intended to be used for seven days
1194 or longer; and

1195 (10) "State funds" means any bond revenues or any money
1196 appropriated or allocated by the General Assembly.

1197 (b) Except as provided in subsection (c) of this section, no state

1198 funds shall be used to install or replace a permanent outdoor luminaire
1199 for lighting on the grounds of any state building or facility unless (1)
1200 the luminaire is designed to maximize energy conservation and to
1201 minimize light pollution, glare and light trespass, (2) the luminaire's
1202 illuminance is equal to the minimum illuminance adequate for the
1203 intended purpose of the lighting, and (3) for a luminaire with a rated
1204 output of more than one thousand eight hundred lumens, such
1205 luminaire is a full cut-off luminaire.

1206 (c) The provisions of subdivision (3) of subsection (b) of this section
1207 shall not apply to luminaires located on the grounds of any
1208 correctional institution or facility administered by the Commissioner of
1209 Correction, required by federal regulations, required for storm
1210 operation activities performed by the Department of Transportation, or
1211 in a lighting plan for a Department of Transportation facility where
1212 less than twenty-five per cent of the luminaires are to be replaced. The
1213 Commissioner of Public Works, or the commissioner's designee, may
1214 waive the provisions of subdivision (3) of subsection (b) of this section
1215 with respect to luminaires on the grounds of any other state building
1216 or facility when, after a request for such a waiver has been made and
1217 reviewed, the commissioner or the commissioner's designee
1218 determines that such a waiver is necessary for the lighting application.
1219 Requests for such a waiver shall be made to the commissioner or the
1220 commissioner's designee in such form as the commissioner shall
1221 prescribe and shall include, without limitation, a description of the
1222 lighting plan, a description of the efforts that have been made to
1223 comply with the provisions of subdivision (3) of subsection (b) of this
1224 section and the reasons such a waiver is necessary. In reviewing a
1225 request for such a waiver, the commissioner or the commissioner's
1226 designee shall consider design safety, costs and other factors deemed
1227 appropriate by the commissioner or the commissioner's designee.

1228 (d) The provisions of this section shall not apply to the installation
1229 or replacement of luminaires for which the Secretary of the Office of
1230 Policy and Management (1) conducts a life-cycle cost analysis of one or

1231 more luminaires that meet the requirements set forth in subsection (b)
1232 of this section and one or more luminaires that do not meet such
1233 requirements, and (2) certifies that a luminaire which meets such
1234 requirements is not cost effective and is not the most appropriate
1235 alternative based on the life-cycle cost analysis.

1236 Sec. 22. Subsection (d) of section 13a-143d of the general statutes is
1237 repealed and the following is substituted in lieu thereof (*Effective July*
1238 *1, 2006*):

1239 (d) [Any] All luminaire in violation of any provision of subsection
1240 (b) or (c) of this section operating prior to October 1, [2003] 2004, shall
1241 be brought into compliance with the requirements in subsection (b) of
1242 this section [no later than October 1, 2005] in accordance with the
1243 following schedule: Approximately twenty per cent by October 1, 2006,
1244 approximately forty per cent by October 1, 2007, approximately sixty
1245 per cent by October 1, 2008, approximately eighty per cent by October
1246 1, 2009, and one hundred per cent by October 1, 2010.

1247 Sec. 23. Subsection (d) of section 4b-91 of the general statutes is
1248 repealed and the following is substituted in lieu thereof (*Effective from*
1249 *passage*):

1250 (d) On and after October 1, 2004, each bid submitted for a contract
1251 described in subsection (c) of this section shall include a copy of a
1252 prequalification certificate issued by the Commissioner of
1253 Administrative Services. The bid shall also be accompanied by an
1254 update statement in such form as the Commissioner of Administrative
1255 Services prescribes. The form for such update statement shall provide
1256 space for information regarding all bonded projects completed by the
1257 bidder since the date the bidder's prequalification certificate was
1258 issued or renewed, all bonded projects the bidder currently has under
1259 contract, including the percentage of work on such projects not
1260 completed, the names and qualifications of the personnel who will
1261 have supervisory responsibility for the performance of the contract,
1262 any significant changes in the bidder's financial position or corporate

1263 structure since the date the certificate was issued or renewed, any
 1264 change in the contractor's qualification status as determined by the
 1265 provisions of subdivision (6) of subsection (c) of section 4a-100 and
 1266 such other relevant information as the Commissioner of
 1267 Administrative Services prescribes. Any bid submitted without a copy
 1268 of the prequalification certificate and an update statement shall be
 1269 invalid. Any public agency that accepts a bid submitted without a
 1270 copy of such prequalification certificate and an update statement, as
 1271 required by this section, shall be ineligible for the receipt of any state
 1272 funds disbursed for the purpose of the construction, reconstruction,
 1273 alteration, remodeling, repair or demolition of any public building or
 1274 any public works project.

1275 Sec. 24. Subdivision (19) of subsection (d) of section 2c-2b and
 1276 section 4b-3 of the general statutes are repealed. (*Effective October 1,*
 1277 *2008*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>January 1, 2007</i>	New section
Sec. 4	<i>July 1, 2008</i>	New section
Sec. 5	<i>October 1, 2008</i>	New section
Sec. 6	<i>October 1, 2008</i>	New section
Sec. 7	<i>October 1, 2008</i>	New section
Sec. 8	<i>October 1, 2008</i>	New section
Sec. 9	<i>October 1, 2008</i>	New section
Sec. 10	<i>October 1, 2008</i>	New section
Sec. 11	<i>October 1, 2008</i>	New section
Sec. 12	<i>January 1, 2007</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>	1-92(1)
Sec. 16	<i>January 1, 2007</i>	New section
Sec. 17	<i>January 1, 2007</i>	4a-100
Sec. 18	<i>January 1, 2007</i>	4a-101

Sec. 19	<i>January 1, 2007</i>	4b-91
Sec. 20	<i>January 1, 2007</i>	New section
Sec. 21	<i>July 1, 2006</i>	New section
Sec. 22	<i>July 1, 2006</i>	13a-143d(d)
Sec. 23	<i>from passage</i>	4b-91(d)
Sec. 24	<i>October 1, 2008</i>	Repealer section