



Senate

General Assembly

File No. 826

January Session, 2007

Substitute Senate Bill No. 1290

Senate, May 15, 2007

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ACCOUNTABILITY IN CONTRACTING WITH STATE AGENCIES.

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

1 Section 1. Section 1-218 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2008*):

3 Each contract in excess of two million five hundred thousand
4 dollars between a public agency and a person for the performance of a
5 governmental function shall (1) provide that the public agency is
6 entitled to receive a copy of records and files, including, but not
7 limited to, the titles and salaries of the employees of such person,
8 related to the performance of the governmental function, and (2)
9 indicate that such records and files are subject to the Freedom of
10 Information Act and may be disclosed by the public agency pursuant
11 to the Freedom of Information Act. No request to inspect or copy such
12 records or files shall be valid unless the request is made to the public
13 agency in accordance with the Freedom of Information Act. Any

14 complaint by a person who is denied the right to inspect or copy such
15 records or files shall be brought to the Freedom of Information
16 Commission in accordance with the provisions of sections 1-205 and 1-
17 206.

18 Sec. 2. (NEW) (*Effective January 1, 2008*) (a) Notwithstanding any
19 provision of the general statutes, on or before March thirty-first of each
20 calendar year, if any for-profit or nonprofit agency has a contract,
21 subcontract, personal service agreement or purchase of service
22 agreement with the state to provide any service that constitutes the
23 performance of a governmental function, as defined in section 1-200 of
24 the general statutes, to any state agency, such for-profit or nonprofit
25 agency shall provide, as a condition of such contract, subcontract,
26 personal service agreement or purchase of service agreement, in a
27 format determined by the commissioner of such state agency, the
28 following information to such state agency: (1) Such for-profit or
29 nonprofit agency's identifying information, including the official name
30 of such for-profit or nonprofit agency, (2) any applicable provider state
31 identification number, (3) the name, business address and telephone
32 number of the executive responsible for such contract, subcontract,
33 personal service agreement or purchase of service agreement, (4)
34 financial information including the total annual operating budget that
35 sets forth annual expenditures for personnel and administrative
36 expenses, in addition to any independently conducted audits within
37 the possession of such for-profit or nonprofit agency that relate to the
38 performance of such governmental function, (5) personnel
39 compensation information that includes the average annual wages or
40 salaries of employees and professional staff engaged in such
41 contracted for services, (6) the names and salaries of the three highest
42 paid officials of such for-profit or nonprofit agency, (7) health care
43 information that includes the percentage of employees and
44 professional and managerial personnel who receive health care
45 insurance through such for-profit or nonprofit agency, and (8) any
46 performance assessments conducted by such for-profit or nonprofit
47 agency in connection with such contract, subcontract, personal service
48 agreement or purchase of service agreement.

49 (b) Any information submitted pursuant to the provisions of
 50 subsection (a) of this section shall be subject to disclosure in
 51 accordance with the provisions of chapter 14 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2008	1-218
Sec. 2	January 1, 2008	New section

Statement of Legislative Commissioners:

The language in section 2(a) preceding subdivisions (1) to (8), inclusive, was rewritten for grammatical accuracy and clarity.

PD 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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill requires that information relating to contracts with public agencies contracting for certain governmental function services valued at more than \$2.5 million is subject to the Freedom of Information Act. The bill requires that these contractors provide salary and job title information relating to the employees performing the work under such contracts to the contracting agency.

The bill also requires any for-profit or non-profit agency that has a contract, subcontract, personal service agreement, or purchase of service agreement with the state to provide certain information as outlined in the bill.

These provisions will have no fiscal impact to the state.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 1290*****AN ACT CONCERNING ACCOUNTABILITY IN CONTRACTING WITH STATE AGENCIES.*****SUMMARY:**

This bill creates a new disclosure requirement for any for-profit or nonprofit agency seeking contracts, at any dollar amount, with the state to perform a governmental function as defined in law. It requires these contractors to provide specific information to the state, including company financial information, compensation of employees engaged in providing the contracted functions, and the names and salaries of the agencies' three highest paid officials. The bill makes this information subject to public disclosure under the Freedom of Information Act (FOIA).

The existing governmental functions disclosure law requires that public agency contracts with private parties to provide governmental functions include provisions (1) entitling the public agency to copies of records and files related to the contract and (2) indicating that such records and files are subject to disclosure under FOIA. The bill specifies that a contractor's employees' titles and salaries must be included in the records and files related to the contract.

EFFECTIVE DATE: January 1, 2008

DISCLOSURE REQUIREMENT FOR CONTRACTS AT ANY DOLLAR AMOUNT

The bill creates a new disclosure requirement for any for-profit or nonprofit agency that seeks a contract, at any dollar amount, with the state to perform a governmental function. It (1) covers any contract, personal service agreement, or purchase of service agreement to provide services to any state agency that constitutes the performance

of a government function, and (2) makes the information that must be provided under the bill subject to public disclosure under FOIA. The bill applies this requirement to any subcontract with a state agency, but it is not clear how a private entity subcontracts with the state.

As a condition of the contract, the providing entity must, by March 31 of each year, provide the following to the state agency:

1. identifying information, including the entity's official name and any applicable state identification number;
2. the name, business address, and telephone number of the executive responsible for the governmental function contract;
3. financial information including the total annual operating budget that sets the annual expenditures for personnel and administrative expenses, in addition to any independently conducted audits within the possession of such entity that relate to the performance of such governmental function;
4. personnel compensation information, including the average annual wages or salaries of employees and professional staff engaged in the contracted services;
5. the names and salaries of the three highest-paid officials of the entity;
6. health care information, including the percentage of employees and professional and managerial personnel who receive health care insurance through the entity; and
7. any performance assessments the entity conducts in connection with the contract, subcontract, personal service agreement, or purchase of service agreement.

The bill does not define "for-profit agency."

BACKGROUND

Performance of Governmental Function

By law a “governmental function” is the administration or management of a public agency’s program authorized by law to be performed by an entity (1) receiving public agency funding; (2) participating in program policy formation and decisions that bind the agency; and (3) where the public agency is significantly, but not necessarily directly or continuously, involved in or regulating the entity’s administration or management. The law excludes entities that merely provide goods and services to an agency and have no responsibility to administer or manage the agency’s program.

Legislative History

The Senate referred the bill to the Planning and Development Committee, which voted out a substitute bill. The new bill reverts back to existing law on governmental functions by (1) raising the law’s dollar threshold back to \$2.5 million from \$250,000 and (2) removing the law’s application to subcontractors.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Change of Reference
Yea 8 Nay 1 (03/01/2007)

Government Administration and Elections Committee

Joint Favorable
Yea 7 Nay 6 (03/28/2007)

Planning and Development Committee

Joint Favorable Substitute
Yea 14 Nay 4 (05/02/2007)