



General Assembly

January Session, 2007

**Committee Bill No. 41**

LCO No. 4351

\*04351SB00041GAE\*

Referred to Committee on Government Administration and Elections

Introduced by:  
(GAE)

**AN ACT CONCERNING CLEAN CONTRACTING STANDARDS.**

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: (A) An agreement to only provide legal  
54 services, litigation support or management or financial consulting, or  
55 (B) 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  
76 goods 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. "Nonprofit agency" also includes private  
91 institutions of higher learning that 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 by the Governor, two members  
95 by the speaker of the House of Representatives, two members by the  
96 president pro tempore of the Senate, one member by the majority  
97 leader of the Senate and one member by the majority leader of the  
98 House of Representatives whenever the Governor is of a different  
99 political party than that which controls both houses of the General  
100 Assembly; seven members by the Governor, one member by the  
101 majority leader of the Senate, one member by the majority leader of the  
102 House of Representatives and four members by the highest ranking  
103 leader of the opposing party of the applicable house of the General  
104 Assembly whenever the political party of the Governor also controls  
105 only one of the houses of the General Assembly; seven members by the  
106 Governor, one member by the majority leader of the Senate, one  
107 member by the majority leader of the House of Representatives and  
108 two members by the minority leader of the House of Representatives  
109 and two members by the minority leader of the Senate whenever the  
110 political party of the Governor controls both houses of the General

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

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

141 (c) The chairperson of the board shall be compensated two hundred  
142 dollars per diem up to a maximum of thirty thousand dollars annually.  
143 Other members of the board shall be compensated two hundred

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

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

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

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

165 (g) No employee of the State Contracting Standards Board shall  
166 hold another state or municipal position, nor shall any such employee  
167 or any nonclerical employee or any spouse, child, stepchild, parent or  
168 sibling of such employee of the board be directly or indirectly involved  
169 in any enterprise that does business with the state. Each member and  
170 employee of the State Contracting Standards Board shall file, with the  
171 board and with the Office of State Ethics, a financial statement  
172 indicating all sources of business income of such person in excess of  
173 one thousand dollars, and the name of any business with which such  
174 member or employee is associated, as defined in subsection (b) of  
175 section 1-79 of the general statutes. Such statement shall be a public

176 record and subject to disclosure under chapter 14 of the general  
177 statutes. Financial statements for the preceding calendar year shall be  
178 filed with said office on or before April fifteenth of each year if such  
179 employee or member held such a position during the preceding  
180 calendar year.

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

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

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

193 Sec. 3. (NEW) (*Effective January 1, 2008*) (a) On or before January 1,  
194 2009, the State Contracting Standards Board shall prepare a uniform  
195 procurement code applicable to state contracting agency expenditures,  
196 including, but not limited to, expenditures: (1) By municipalities that  
197 receive state funds, (2) involving any state contracting and  
198 procurement processes, including, but not limited to, leasing and  
199 property transfers, purchasing or leasing of supplies, materials or  
200 equipment, as defined in section 4a-50 of the general statutes,  
201 consultant or consultant services, as defined in section 4b-55 of the  
202 general statutes, personal service agreements, as defined in section 4-  
203 212 of the general statutes, purchase of service agreements or  
204 privatization contracts, and (3) relating to contracts for the  
205 construction, reconstruction, alteration, remodeling, repair or  
206 demolition of any public building. Nothing in this section shall be  
207 construed to require the application of uniform procurement code

208 procedures when such procurement involves the expenditure of  
209 federal assistance or contract funds and federal law provides  
210 applicable procurement procedures to the extent such procedures are  
211 inconsistent with the uniform procurement code.

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

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

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

276 appropriate.

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

286 (e) Such uniform procurement code shall be submitted to the  
287 General Assembly for its approval. The board shall file such code with  
288 the clerks of the House of Representatives and the Senate not later than  
289 January 15, 2009, and not later than January 20, 2009, the speaker of the  
290 House of Representatives and the president pro tempore of the Senate  
291 shall submit such code to the joint standing committee of the General  
292 Assembly having cognizance of matters relating to government  
293 administration and elections. Said committee shall hold a public  
294 hearing on such code and shall report its recommendations, including  
295 any changes thereto, to the House of Representatives and the Senate  
296 concerning the approval or rejection of the code. The General  
297 Assembly shall take a vote on such code not later than the end of the  
298 2009 regular session.

299 Sec. 4. (NEW) (*Effective July 1, 2009*) In addition to the preparation of  
300 the uniform procurement code described in section 3 of this act, the  
301 duties of the State Contracting Standards Board shall include:

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

304 (2) Publishing and maintaining the uniform procurement code for  
305 all state contracting agencies;

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

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

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

317 (6) Defining the training requirements for state contracting agency  
318 procurement professionals;

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

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

329 (9) Providing the Governor and the joint standing committee of the  
330 General Assembly having cognizance of matters relating to  
331 government administration with recommendations concerning the  
332 uniform procurement code; and

333 (10) Approving an ethics training course for state employees  
334 involved in procurement and for state contractors and substantial  
335 subcontractors who are prequalified pursuant to the provisions of

336 section 4a-100 of the general statutes. Such ethics training course may  
337 be developed and provided by the Office of State Ethics or by any  
338 person, firm or corporation provided such course is approved by the  
339 State Contracting Standards Board.

340 Sec. 5. (NEW) (*Effective October 1, 2009*) (a) The State Contracting  
341 Standards Board shall triennially conduct audits of state contracting  
342 agencies to ensure compliance with the uniform procurement code. In  
343 conducting such audit, the State Contracting Standards Board shall  
344 have access to all contracting and procurement records, may interview  
345 personnel responsible for contracting, contract negotiation or  
346 procurement and may enter into an agreement with the Auditors of  
347 Public Accounts to effectuate such audit.

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

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

368 Sec. 6. (NEW) (*Effective October 1, 2009*) For cause, the State  
369 Contracting Standards Board may review or terminate any contract or  
370 procurement agreement undertaken by any state contracting agency  
371 after providing fifteen days notice to the state contracting agency and  
372 the applicable contractor, and consulting with the Attorney General.  
373 Such termination of a contract or procurement agreement by the board  
374 may occur only upon a vote of two-thirds of the members of the board  
375 present and voting for that purpose. Such action shall be accompanied  
376 by notice to the state contracting agency and any other affected party.  
377 For the purpose of this section, "for cause" means: (1) A violation of  
378 section 1-84, 1-86e or 4a-100 of the general statutes, (2) wanton or  
379 reckless disregard of any state contracting and procurement process by  
380 any person substantially involved in such contract or state contracting  
381 agency, or (3) notification from the Attorney General to the state  
382 contracting agency that an investigation pursuant to section 4-61dd of  
383 the general statutes indicates that the process by which such contract  
384 was awarded was compromised by fraud, collusion or other serious  
385 ethical improprieties.

386 Sec. 7. (NEW) (*Effective October 1, 2009*) (a) After reasonable notice, a  
387 hearing and consultation with the relevant state contracting agency  
388 and the Attorney General, the State Contracting Standards Board may  
389 disqualify any contractor, for a period of up to five years, from bidding  
390 on, applying for, or participating as a subcontractor under, contracts  
391 with the state. Such disqualification shall be upon the vote of two-  
392 thirds of the members of the board present and voting for that  
393 purpose. Such hearing shall be conducted in accordance with chapter  
394 54 of the general statutes. The board shall issue a written decision not  
395 later than ninety days after the conclusion of such hearing and state in  
396 the decision the reasons for the action taken and, if the contractor is  
397 being disqualified, the period of such disqualification. The existence of  
398 a cause for disqualification, as described in subsection (b) of this  
399 section, may not be the sole factor to be considered by the board in  
400 determining whether the contractor shall be disqualified. In  
401 determining whether to disqualify a contractor, the board shall

402 consider the seriousness of the contractor's acts or omissions and any  
403 mitigating factors. The board shall send the decision to the contractor  
404 by certified mail, return receipt requested. The written decision shall  
405 be a final decision for purposes of sections 4-180 and 4-183 of the  
406 general statutes.

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

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

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

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

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

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

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

428 (7) A wilful or egregious violation of the ethical standards set forth  
429 in sections 1-84, 1-86e or 4a-100 of the general statutes; or

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

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

445 (1) Newly discovered material evidence;

446 (2) Reversal of the conviction upon which the disqualification was  
447 based;

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

449 (4) Elimination of other causes for which the disqualification was  
450 imposed.

451 Sec. 8. (NEW) (*Effective October 1, 2009*) (a) After reasonable notice  
452 and a hearing, conducted in accordance with the provisions of chapter  
453 54 of the general statutes, a state contracting agency may suspend any  
454 contractor for a period of not more than six months from bidding on,  
455 applying for or performing work as a subcontractor under, contracts  
456 with the agency. The commissioner or director of any such state  
457 contracting agency shall issue a written decision not later than ninety  
458 days after the conclusion of such hearing and state in the decision the  
459 reasons for the action taken and, if the contractor is being suspended,

460 the period of such suspension. The existence of a cause for suspension,  
461 as described in subsection (b) of this section, may not be the sole factor  
462 to be considered by the agency in determining whether the contractor  
463 shall be suspended. In determining whether to suspend a contractor,  
464 the state contracting agency shall consider the seriousness of the  
465 contractor's acts or omissions and any mitigating factors. The  
466 commissioner or director of the state contracting agency shall send  
467 such decision to the contractor by certified mail, return receipt  
468 requested. Such decision shall be a final decision for purposes of  
469 sections 4-180 and 4-183 of the general statutes.

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

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

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

478 (3) Any cause the state contracting agency determines to be so  
479 serious and compelling as to affect the responsibility of a state  
480 contractor, including suspension by another state contracting agency  
481 for cause; or

482 (4) A violation of the ethical standards set forth in sections 1-84, 1-  
483 86e and 4a-100 of the general statutes.

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

490 Sec. 9. (NEW) (*Effective October 1, 2009*) (a) Any bidder on a state  
491 contract may contest the solicitation or award of a contract to the  
492 commissioner of the state agency that awarded such contract. Such  
493 contest shall be submitted, in writing, not later than fourteen days after  
494 such bidder knew or should have known of the facts giving rise to  
495 such contest and shall be limited to the procedural elements of the  
496 solicitation or award process, or claims of an unauthorized or  
497 unwarranted, noncompetitive selection process.

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

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

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

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

510 (3) Inform such bidder of the right to review, as provided in section  
511 10 of this act.

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

513 Sec. 10. (NEW) (*Effective October 1, 2009*) (a) Any bidder may appeal  
514 a decision issued by the commissioner or director of a state contracting  
515 agency, or the commissioner's or director's designee, pursuant to  
516 subsection (c) of section 9 of this act to the State Contracting Standards  
517 Board.

518 (b) Any such appeal shall be filed with the board not later than

519 fourteen days after such bidder's receipt of a decision issued pursuant  
520 to subsection (c) of section 9 of this act. Such bidder shall set forth the  
521 facts supporting its claim in sufficient detail for the State Contracting  
522 Standards Board to determine whether the procedural elements of the  
523 solicitation or award failed to comply with the code or whether an  
524 unauthorized or unwarranted, noncompetitive selection process was  
525 utilized.

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

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

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

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

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

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

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

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

566 Sec. 11. (NEW) (*Effective October 1, 2009*) There is established a  
567 Contracting Standards Advisory Council, that shall consist of nine  
568 state contracting agency representatives designated by the Governor,  
569 including at least one representative from each of the following: The  
570 Department of Administrative Services, the Department of  
571 Transportation and the Department of Public Works. The advisory  
572 council shall meet at least once a year to discuss problems with  
573 procurement processes and to make recommendations for  
574 improvements to the State Contracting Standards Board. The advisory  
575 council may conduct studies, research and analyses and make reports  
576 and recommendations with respect to subjects or matters within the  
577 jurisdiction of the State Contracting Standards Board.

578 Sec. 12. (NEW) (*Effective January 1, 2008*) (a) On and after October 1,  
579 2009, the powers, duties, obligations and other governmental functions  
580 of the State Properties Review Board, established under subsection (a)  
581 of section 4b-3 of the general statutes, shall transfer to the State

582 Contracting Standards Board, established under section 2 of this act.  
583 The powers, duties, obligations and other governmental functions of  
584 the State Properties Review Board, shall thereafter vest in the State  
585 Contracting Standards Board, in accordance with the provisions of  
586 sections 4-38d and 4-39 of the general statutes.

587 (b) On or before October 1, 2009, the State Contracting Standards  
588 Board shall establish a three-member subcommittee of the board to be  
589 known as the state properties review subcommittee to perform the  
590 duties described under subsection (a) of this section. The  
591 subcommittee shall perform the duties established under subsection  
592 (a) of this section in accordance with the rules and procedures  
593 established by the board pursuant to subsection (i) of section 2 of this  
594 act. The State Contracting Standards Board shall constitute a successor  
595 department to the State Properties Review Board in accordance with  
596 the provisions of sections 4-38d and 4-39 of the general statutes.

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

600 (i) [In the event that the] The General Assembly [approves] may  
601 approve legislation authorizing an exception to the competitive  
602 bidding process for a project, provided such legislation is approved, in  
603 whole, by a two-thirds vote of the members of each house of the  
604 General Assembly. If rejected, the legislation proposing an exception  
605 for such project shall not be valid and shall not be implemented. The  
606 legislation shall be deemed rejected if the General Assembly fails to  
607 vote to approve or reject the legislation (1) prior to the adjournment of  
608 the regular session of the General Assembly during which the  
609 legislation is filed, (2) prior to the adjournment of the next regular  
610 session of the General Assembly following the date on which the  
611 legislation is filed if the General Assembly is not in regular session on  
612 such date, or (3) prior to the adjournment of a special session convened  
613 before the next regular session of the General Assembly for the

614 purpose of considering the legislation if the General Assembly is not in  
615 regular session on the date on which the legislation is filed. However,  
616 if the legislation is filed less than thirty days before the end of a regular  
617 session, the General Assembly may vote to approve or reject the  
618 legislation (A) not later than thirty days after the first day of a special  
619 session convened before the next regular session of the General  
620 Assembly for the purpose of considering the legislation, or (B) not later  
621 than thirty days after the first day of the next regular session of the  
622 General Assembly. In the event that the General Assembly approves  
623 legislation authorizing an exception to the competitive bidding process  
624 for a project, the State Properties Review Board shall complete a  
625 review of the contract for such project and approve or disapprove such  
626 contract no later than thirty days after the Commissioner of Public  
627 Works submits such contract to the board. Such review shall be  
628 conducted in accordance with the provisions of section 4b-3. On and  
629 after October 1, 2009, such review shall be conducted by the  
630 subcommittee of the State Contracting Standards Board established  
631 under subsection (b) of section 12 of this act. In the event that such  
632 review does not occur within the thirty-day period prescribed by this  
633 subsection, such contract shall be deemed to be approved.

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

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

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

649 (3) Prior to any state agency's solicitation of bids for a privatization  
650 contract, such agency shall prepare an analysis of the costs and  
651 benefits to the agency of (A) privatizing services, and (B) continuing to  
652 provide such services using state employees of the state agency. Such  
653 analysis shall include, but not be limited to: (i) An examination of all  
654 direct and indirect costs to the state, including health insurance,  
655 pension costs of state employees, unemployment compensation costs  
656 of state employees terminated as a result of the privatization contract,  
657 gain or loss of income tax and sales tax revenue to the state, and (ii) an  
658 examination of the effect of such proposed privatization on the quality  
659 of such service, and the public health and safety of the residents of the  
660 state who may utilize such privatized service. In determining the cost  
661 of privatizing services, pursuant to this subsection, the state agency  
662 shall calculate labor costs for each employee position at a rate not less  
663 than the middle range salary of a state employee job class substantially  
664 similar to such employee position, or the average salary of employees  
665 who would be displaced by the proposed privatization, whichever is  
666 higher and shall assume comparable benefit costs. Additionally, the  
667 state agency shall include in such cost analysis any costs or penalties  
668 the state may incur if such contract is terminated by the state prior to  
669 the termination date contained in such contract. Each state agency  
670 shall transmit such analysis to the Secretary of the State who shall  
671 maintain copies of each such proposed contract and analysis as public  
672 records and to the Auditors of Public Accounts who may review and  
673 comment on such analysis.

674 (4) Not less than sixty days prior to publishing any notice soliciting  
675 bids for a privatization contract, a state agency shall notify each  
676 collective bargaining organization representing employees of the  
677 agency of such planned solicitation. After consulting with the  
678 potentially affected bargaining units, if any, the agency shall provide  
679 adequate resources for the purpose of encouraging and assisting

680 present agency employees to organize and submit a bid to provide the  
681 services that are the subject of the privatization contract. In  
682 determining what resources are adequate for this purpose, the agency  
683 shall refer to an existing collective bargaining agreement of a similar  
684 employee organization whose members perform the subject services, if  
685 available, which agreement provides similar resources in the same or  
686 other agencies. If no such collective bargaining agreement exists, the  
687 agency shall refer to any existing collective bargaining agreements  
688 providing such resources, and shall provide such resources at the  
689 minimum level of assistance provided in such agreements. The state  
690 agency shall also provide to the state employees its analysis and any  
691 report of the Auditors of Public Accounts prepared in connection with  
692 the provisions of sections 1 to 12, inclusive, of this act. The agency shall  
693 consider any such employee bid on the same basis as all other bids. An  
694 employee bid may be made as a joint venture with other persons.

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

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

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

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

709 (4) A report on the length of continuous employment of current  
710 employees of the contractor by job classification, without providing

711 individually identifiable information on such employees and  
712 information detailing the relevant prior experience of current  
713 employees within each job classification. If the positions identified by  
714 the bidder are newly created positions, the bid shall identify the  
715 minimum requirements for prospective applicants for each such  
716 position;

717 (5) The annual rate of employee turnover;

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

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

731 (8) Any political contributions made by the bidder or any employee  
732 of the bidder who participated substantially in the preparation of the  
733 bid, to any elected officer of the state or member of the General  
734 Assembly during the four years prior to the due date of the bid. For  
735 purposes of this section, "participated substantially" means  
736 participation that was direct, extensive and substantive, not peripheral,  
737 clerical or ministerial.

738 (c) Any state agency selecting a bidder for a privatization contract  
739 shall develop a contract that is acceptable to the bidder and the state  
740 agency, provided such contract shall include the following terms:

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

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

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

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

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

758 (d) Upon signing such contract, the state agency shall submit such  
759 contract to the Secretary of the State who shall maintain such contract  
760 as a public document. Concomitantly, the state agency shall submit to  
761 the Secretary of the State the following information:

762 (1) A certification that the state agency has complied with all the  
763 requirements of the state agency contained in the provisions of this  
764 section;

765 (2) The state agency analysis prepared in accordance with this  
766 section and a report by the state agency explaining any changes in  
767 such analysis and report as a result of the terms of the proposed  
768 privatization contract;

769 (3) A state agency analysis of the quality of the services to be

770 provided by the designated bidder and whether such services are  
771 equal to or exceed the quality of services that are provided by regular  
772 agency employees;

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

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

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

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

798 (g) No funds paid to any contractor as a result of any privatization  
799 contract may be used for purposes of lobbying, as defined in section 1-  
800 91 of the general statutes.

801 Sec. 15. Subsection (a) of section 1-92 of the general statutes is  
802 repealed and the following is substituted in lieu thereof (*Effective from*  
803 *passage*):

804 (a) The Citizen's Ethics Advisory Board shall adopt regulations, in  
805 accordance with chapter 54, to carry out the purposes of this part. Such  
806 regulations shall not be deemed to govern the conduct of any judge  
807 trial referee in the performance of such judge trial referee's duties  
808 pursuant to this chapter. Not later than January 1, 1992, the board shall  
809 adopt regulations which further clarify the meaning of the terms  
810 "directly and personally received" and "major life event", as used in  
811 subsection (e) of section 1-79 and subsection (g) of section 1-91. Not  
812 later than January 1, 2009, the board shall adopt regulations that  
813 further clarify the meaning of the term "directly or indirectly involved  
814 in any enterprise" as used in section 2 of this act.

815 Sec. 16. (NEW) (*Effective January 1, 2008*) (a) On or before January 1,  
816 2009, the Judicial Branch shall prepare a procurement code applicable  
817 to its contracting expenditures, including, but not limited to,  
818 expenditures: (1) Involving its contracting and procurement processes,  
819 including, but not limited to, purchasing or leasing of supplies,  
820 materials or equipment, consultant or consultant services, personal  
821 service agreements or purchase of service agreements, and (2) relating  
822 to contracts for the renovation, alteration or repair of any Judicial  
823 Branch facility in accordance with section 4b-1 of the general statutes.

824 (b) The procurement code described in subsection (a) of this section  
825 shall be designed to: (1) Establish uniform contracting standards and  
826 practices; (2) simplify and clarify contracting standards and  
827 procurement policies and practices, including, but not limited to,  
828 procedures for competitive sealed bids, competitive sealed proposals,  
829 small purchases, sole source procurements, emergency procurements  
830 and special procurements; (3) ensure the fair and equitable treatment  
831 of all businesses and persons who deal with the procurement system;  
832 (4) include a process to maximize the use of small contractors and

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

844 (c) On or before February 1, 2009, the Judicial Branch shall submit  
845 such procurement code for review and approval to the joint standing  
846 committee of the General Assembly having cognizance of matters  
847 relating to the Judicial Branch.

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

851 Sec. 17. (NEW) (*Effective from passage*) The Office of Policy and  
852 Management shall establish procedures for use by state agencies when  
853 entering purchase of service agreements that shall provide for the  
854 payment of fifty per cent of any unexpended funds allocated for such  
855 contract to the contracting nonprofit agency, partnership or  
856 corporation at the end of such contract, provided the services rendered  
857 under such contract meet the contracted requirements for number,  
858 type and quality of services and there is either an agreed upon price  
859 for such services, a set cost for such services or a flat grant for an  
860 agreed upon level of services.

861 Sec. 18. Subdivision (19) of subsection (d) of section 2c-2b and  
862 section 4b-3 of the general statutes are repealed. (*Effective October 1,*  
863 *2009*)

|   |                        |                  |
|---|------------------------|------------------|
| 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, 2008</i> | New section      |
| Sec. 4  | <i>July 1, 2009</i>    | New section      |
| Sec. 5  | <i>October 1, 2009</i> | New section      |
| Sec. 6  | <i>October 1, 2009</i> | New section      |
| Sec. 7  | <i>October 1, 2009</i> | New section      |
| Sec. 8  | <i>October 1, 2009</i> | New section      |
| Sec. 9  | <i>October 1, 2009</i> | New section      |
| Sec. 10   | <i>October 1, 2009</i> | New section      |
| Sec. 11   | <i>October 1, 2009</i> | New section      |
| Sec. 12   | <i>January 1, 2008</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(a)          |
| Sec. 16   | <i>January 1, 2008</i> | New section      |
| Sec. 17   | <i>from passage</i>    | New section      |
| Sec. 18   | <i>October 1, 2009</i> | Repealer section |

**Statement of Purpose:**

To establish uniform standards for all state agencies in the area of contracting.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: SEN. DEFRONZO, 6th Dist.; SEN. PRAGUE, 19th Dist.

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