



House of Representatives

File No. 945

General Assembly

January Session, 2009

(Reprint of File No. 201)

Substitute House Bill No. 6297
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 11, 2009

***AN ACT CONCERNING CERTAIN AUTHORITY AND DUTIES OF THE
DEPARTMENT OF ADMINISTRATIVE SERVICES.***

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

1 Section 1. Section 4a-16 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 When any person supported or cared for by the state under a
4 program of public assistance or in an institution maintained by the
5 Department of Public Health, Department of Developmental Services
6 or Department of Mental Health and Addiction Services, or when an
7 inmate of the Department of Correction, or when any child committed
8 to the Commissioner of Social Services or Commissioner of Children
9 and Families dies leaving only personal estate, including personal
10 assets owing and due the estate after death, not exceeding [twenty
11 thousand dollars in value] the aggregate value, as described in section
12 45a-273, the Commissioner of Administrative Services or the
13 commissioner's authorized representative shall, upon filing with the
14 probate court having jurisdiction of such estate a certificate that the
15 total estate is under [twenty thousand dollars] the aggregate value, as

16 described in section 45a-273, and the claim of the state, together with
17 the expense of last illness not exceeding three hundred seventy-five
18 dollars and funeral and burial expenses in accordance with section
19 17b-84, equals or exceeds the amount of such estate, be issued a
20 certificate by said court that the commissioner is the legal
21 representative of such estate only for the following purpose. The
22 commissioner shall have authority to claim such estate, the
23 commissioner's receipt for the same to be a valid discharge of the
24 liability of any person turning over the same, and to settle the same by
25 payment of the expense of last illness not exceeding three hundred
26 seventy-five dollars, expense of funeral and burial in accordance with
27 section 17b-84 and the remainder as partial or full reimbursement of
28 the claim of the state for care or assistance rendered to the decedent.
29 The commissioner shall file with said probate court a statement of the
30 settlement of such estate as herein provided.

31 Sec. 2. Subsection (a) of section 4a-57 of the general statutes is
32 repealed and the following is substituted in lieu thereof (*Effective from*
33 *passage*):

34 (a) All purchases of, and contracts for, supplies, materials,
35 equipment and contractual services, except purchases and contracts
36 made pursuant to the provisions of subsection (b) of this section and
37 public utility services as provided in subsection (e) of this section shall
38 be based, when possible, on competitive bids or competitive
39 negotiation. The commissioner shall solicit competitive bids or
40 proposals by providing notice of the planned purchase in a form and
41 manner that the commissioner determines will maximize public
42 participation in the competitive bidding or competitive negotiation
43 process, including participation by small contractors, as defined in
44 section 4a-60g, and promote competition. In the case of an expenditure
45 [which] that is estimated to exceed fifty thousand dollars, such notice
46 shall be [inserted, at least] posted, not less than five calendar days
47 before the final date of submitting bids or proposals, [in two or more
48 publications, at least one of which shall be a major daily newspaper
49 published in the state and shall be posted on the Internet] on the State

50 Contracting Portal. Each notice of a planned purchase under this
51 subsection shall indicate the type of goods and services to be
52 purchased and the estimated value of the contract award. The notice
53 shall also contain a notice of state contract requirements concerning
54 nondiscrimination and affirmative action pursuant to section 4a-60
55 and, when applicable, requirements concerning the awarding of
56 contracts to small contractors, minority business enterprises,
57 individuals with a disability and nonprofit corporations pursuant to
58 section 4a-60g. Each bid and proposal shall be kept sealed or secured
59 until opened publicly at the time stated in the notice soliciting such bid
60 or proposal.

61 Sec. 3. Subsections (j) to (o), inclusive, of section 4a-100 of the
62 general statutes are repealed and the following is substituted in lieu
63 thereof (*Effective from passage*):

64 (j) The commissioner may revoke a contractor's or substantial
65 subcontractor's prequalification or reduce the contractor's or
66 substantial subcontractor's prequalification classification or aggregate
67 work capacity ratings, after an opportunity for a hearing, if the
68 commissioner receives additional information that supports such
69 revocation or reduction. During the course of such hearing process, the
70 commissioner may suspend a contractor's or substantial
71 subcontractor's prequalification certificate if the commissioner
72 determines that there is probable cause to believe that such contractor
73 or substantial subcontractor engaged in conduct that significantly
74 undermines the skill, ability or integrity of such contractor or
75 substantial subcontractor. Any such suspension shall not exceed a
76 period of three months and shall be accompanied by a written decision
77 of the commissioner that sets forth the reasons for and duration of
78 such suspension. The commissioner shall send notification of any such
79 suspension to such contractor or substantial subcontractor by certified
80 mail, return receipt requested. Such contractor or substantial
81 subcontractor may file a response, in writing, not later than thirty days
82 after receipt of such notice. The commissioner shall review any such
83 response submitted by a contractor or substantial subcontractor within

84 such thirty-day period.

85 (k) (1) Any substantial evidence of fraud in obtaining or
86 maintaining prequalification or any materially false statement in the
87 application, update statement or update bid statement may, in the
88 discretion of the awarding authority, result in termination of any
89 contract awarded the [applicant] contractor or substantial
90 subcontractor by the awarding authority. The awarding authority shall
91 provide written notice to the commissioner of such false statement not
92 later than thirty days after discovering such false statement. The
93 commissioner shall provide written notice of such false statement to
94 the Commissioner of Public Works, the Commissioner of Consumer
95 Protection and the President of The University of Connecticut not later
96 than thirty days after discovering such false statement or receiving
97 such notice.

98 (2) The commissioner shall deny or revoke the prequalification of
99 any [person] contractor or substantial subcontractor if the
100 commissioner finds that the [person] contractor or substantial
101 subcontractor, or a principal or key personnel of such contractor or
102 substantial contractor, within the past five years (A) has included any
103 materially false statement in [such] a prequalification application,
104 update statement or update bid statement, (B) has been convicted of,
105 entered a plea of guilty or nolo contendere for, or admitted to, a crime
106 related to the procurement or performance of any public or private
107 construction contract, or [within the past five years,] (C) has otherwise
108 engaged in fraud in obtaining or maintaining prequalification. Any
109 revocation made pursuant to this subsection shall be made only after
110 an opportunity for a hearing. Any [person] contractor or substantial
111 subcontractor whose prequalification has been revoked pursuant to
112 this subsection shall be disqualified for a period of two years after
113 which the [person] contractor or substantial subcontractor may
114 reapply for prequalification, except that a [person] contractor or
115 substantial subcontractor whose prequalification has been revoked on
116 the basis of conviction of a crime or engaging in fraud shall be
117 disqualified for a period of five years after which the [person]

118 contractor or substantial subcontractor may reapply for
119 prequalification. The commissioner shall not prequalify a [person]
120 contractor or substantial subcontractor whose prequalification has
121 been revoked pursuant to this subdivision until the expiration of said
122 two-year, five-year, or other applicable disqualification period and the
123 commissioner is satisfied that the matters that gave rise to the
124 revocation have been eliminated or remedied.

125 (l) The commissioner shall provide written notice of any revocation,
126 disqualification, reduction in classification or capacity rating or
127 reinstated prequalification to the Commissioner of Public Works, the
128 Commissioner of Consumer Protection and the President of The
129 University of Connecticut not later than thirty days after any final
130 determination.

131 (m) The provisions of this section and section 4a-101, as amended by
132 this act, shall not apply to subcontractors who are not substantial
133 subcontractors.

134 (n) The commissioner shall establish an update statement for use by
135 [bidders] contractors and substantial subcontractors for purposes of
136 renewing or upgrading a prequalification certificate and an update bid
137 statement for purposes of submitting a bid pursuant to section 4b-91.

138 (o) Any [applicant] contractor or substantial subcontractor
139 aggrieved by the commissioner's final determination concerning a
140 preliminary determination, a denial of certification, a reduction in
141 prequalification classification or aggregate work capacity rating or a
142 revocation or nonrenewal of certification may appeal to the Superior
143 Court in accordance with section 4-183.

144 Sec. 4. Subsection (g) of section 4a-101 of the general statutes is
145 repealed and the following is substituted in lieu thereof (*Effective from*
146 *passage*):

147 (g) Notwithstanding the provisions of [subsection (a) of] this
148 section, any [political subdivision] public agency of the state, when

149 evaluating the performance of a contractor's subcontractors or
150 substantial subcontractors, to the extent known, may rely on an
151 evaluation of such subcontractors or substantial subcontractors that is
152 conducted by the contractor. No contractor shall be held liable to any
153 subcontractor or substantial subcontractor for any loss or injury
154 sustained by such subcontractor or substantial subcontractor as the
155 result of such evaluation provided to a public agency, unless such
156 contractor is found by a court of competent jurisdiction to have acted
157 in a wilful, wanton or reckless manner.

158 Sec. 5. Section 4b-91 of the general statutes is repealed and the
159 following is substituted in lieu thereof (*Effective from passage*):

160 (a) Every contract for the construction, reconstruction, alteration,
161 remodeling, repair or demolition of any public building or any other
162 public work by the state except a public highway or bridge project or
163 any other construction project administered by the Department of
164 Transportation, which is estimated to cost more than five hundred
165 thousand dollars, except a contract awarded by the Commissioner of
166 Public Works for (1) a community court project, as defined in
167 subsection (j) of section 4b-55, (2) the downtown Hartford higher
168 education center project, as defined in subsection (l) of section 4b-55,
169 (3) a correctional facility project, as defined in subsection (m) of section
170 4b-55, (4) a juvenile detention center project, as defined in subsection
171 (n) of section 4b-55, or (5) a student residential facility for the
172 Connecticut State University System that is a priority higher education
173 facility project, as defined in subsection (f) of section 4b-55, shall be
174 awarded to the lowest responsible and qualified general bidder who is
175 prequalified pursuant to section 4a-100, as amended by this act, on the
176 basis of competitive bids in accordance with the procedures set forth in
177 this chapter, after the Commissioner of Public Works or, in the case of
178 a contract for the construction of or work on a building or other public
179 work under the supervision and control of the Joint Committee on
180 Legislative Management of the General Assembly, the joint committee
181 or, in the case of a contract for the construction of or work on a
182 building or other public work under the supervision and control of one

183 of the constituent units of the state system of higher education, the
184 constituent unit, has invited such bids by [advertisements inserted at
185 least once in one or more newspapers having a circulation in each
186 county in the state] notice posted on the State Contracting Portal.
187 Every contract for the construction, reconstruction, alteration,
188 remodeling, repair or demolition of any public building or any other
189 public work by any public agency that is paid for, in whole or in part,
190 with state funds and that is estimated to cost more than five hundred
191 thousand dollars, except a public highway or bridge project or any
192 other construction project administered by the Department of
193 Transportation, shall be awarded to a bidder that is prequalified
194 pursuant to section 4a-100, as amended by this act, after the public
195 agency has invited such bids by notice posted on the State Contracting
196 Portal. The Commissioner of Public Works, the joint committee, [or]
197 the constituent unit or the public agency, as the case may be, shall
198 indicate the prequalification classification required for the contract in
199 such [advertisement] notice. As used in this section, "prequalification
200 classification" means the prequalification classifications established by
201 the Commissioner of Administrative Services pursuant to section 4a-
202 100, as amended by this act. As used in this section, "public agency"
203 means a public agency, as defined in section 1-200.

204 (b) The Commissioner of Public Works, the joint committee or the
205 constituent unit, as the case may be, shall determine the manner of
206 submission and the conditions and requirements of such bids, and the
207 time within which the bids shall be submitted, consistent with the
208 provisions of sections 4b-91 to 4b-96, inclusive, as amended by this act.
209 Such award shall be made not later than ninety days after the opening
210 of such bids. If the general bidder selected as the general contractor
211 fails to perform the general contractor's agreement to execute a
212 contract in accordance with the terms of the general contractor's
213 general bid and furnish a performance bond and also a labor and
214 materials or payment bond to the amount specified in the general bid
215 form, an award shall be made to the next lowest responsible and
216 qualified general bidder. No employee of the Department of Public

217 Works, the joint committee or a constituent unit with decision-making
218 authority concerning the award of a contract and no public official, as
219 defined in section 1-79, may communicate with any bidder prior to the
220 award of the contract if the communication results in the bidder
221 receiving information about the contract that is not available to other
222 bidders, except that if the lowest responsible and qualified bidder's
223 price submitted is in excess of funds available to make an award, the
224 Commissioner of Public Works, the Joint Committee on Legislative
225 Management or the constituent unit, as the case may be, may negotiate
226 with such bidder and award the contract on the basis of the funds
227 available, without change in the contract specifications, plans and
228 other requirements. If the award of a contract on said basis is refused
229 by such bidder, the Commissioner of Public Works, the Joint
230 Committee on Legislative Management or the constituent unit, as the
231 case may be, may negotiate with other contractors who submitted bids
232 in ascending order of bid prices without change in the contract,
233 specifications, plans and other requirements. In the event of
234 negotiation with general bidders as provided in this section, the
235 general bidder involved may negotiate with subcontractors on the
236 same basis, provided such general bidder shall negotiate only with
237 subcontractors named on such general bidder's general bid form.

238 (c) No person may bid on a contract or perform work pursuant to a
239 contract [for the construction, reconstruction, alteration, remodeling,
240 repair or demolition of any public building for work by the state or a
241 municipality, which is estimated to cost more than five hundred
242 thousand dollars and is paid for, in whole or in part, with state funds,]
243 that is subject to the provisions of subsection (a) of this section unless
244 the person is prequalified in accordance with section 4a-100, as
245 amended by this act.

246 (d) Each bid submitted for a contract described in subsection (c) of
247 this section shall include [a copy of a prequalification certificate issued
248 by the Commissioner of Administrative Services. The bid shall also be
249 accompanied by] an update bid statement in such form as the
250 Commissioner of Administrative Services prescribes and, if required

251 by the public agency soliciting such bid, a copy of the prequalification
252 certificate issued by the Commissioner of Administrative Services. The
253 form for such update bid statement shall provide space for information
254 regarding all projects completed by the bidder since the date the
255 bidder's prequalification certificate was issued or renewed, all projects
256 the bidder currently has under contract, including the percentage of
257 work on such projects not completed, the names and qualifications of
258 the personnel who will have supervisory responsibility for the
259 performance of the contract, any significant changes in the bidder's
260 financial position or corporate structure since the date the certificate
261 was issued or renewed, any change in the contractor's qualification
262 status as determined by the provisions of subdivision (6) of subsection
263 (c) of section 4a-100, as amended by this act, and such other relevant
264 information as the Commissioner of Administrative Services
265 prescribes. Any bid submitted without a copy of the prequalification
266 certificate, if required by the public agency soliciting such bid, and an
267 update bid statement shall be deemed invalid. Any public agency that
268 accepts a bid submitted without a copy of such prequalification
269 certificate, if required by such public agency soliciting such bid, and an
270 update bid statement [, as required by this section,] may become
271 ineligible for the receipt of funds related to such bid.

272 (e) Any person who bids on a contract described in subsection (c) of
273 this section shall certify under penalty of false statement at the
274 conclusion of the bidding process that the information in the bid is
275 true, that there has been no substantial change in the bidder's financial
276 position or corporate structure since the bidder's most recent
277 prequalification certificate was issued or renewed, other than those
278 changes noted in the update bid statement, and that the bid was made
279 without fraud or collusion with any person.

280 (f) Any person who receives information from a state employee or
281 public official that is not available to the general public concerning any
282 construction, reconstruction, alteration, remodeling, repair or
283 demolition project on a public building or any other public work prior
284 to the date that [an advertisement] a notice for bids on the project is

285 [published] posted shall be disqualified from bidding on the project.

286 (g) Notwithstanding the provisions of this chapter regarding
287 competitive bidding procedures, the commissioner may select and
288 interview at least three responsible and qualified general contractors
289 who are prequalified pursuant to section 4a-100, as amended by this
290 act, and submit the three selected contractors to the construction
291 services award panels process described in section 4b-100a and any
292 regulation adopted by the commissioner. The commissioner may
293 negotiate with the successful bidder a contract which is both fair and
294 reasonable to the state for a community court project, as defined in
295 subsection (j) of section 4b-55, the downtown Hartford higher
296 education center project, as defined in subsection (l) of section 4b-55, a
297 correctional facility project, as defined in subsection (m) of section 4b-
298 55, a juvenile detention center project, as defined in subsection (n) of
299 section 4b-55, or a student residential facility for the Connecticut State
300 University System that is a priority higher education facility project, as
301 defined in subsection (f) of section 4b-55. The Commissioner of Public
302 Works, prior to entering any such contract or performing any work on
303 such project, shall submit such contract to the State Properties Review
304 Board for review and approval or disapproval by the board, pursuant
305 to subsection (i) of this section. Any general contractor awarded a
306 contract pursuant to this subsection shall be subject to the same
307 requirements concerning the furnishing of bonds as a contractor
308 awarded a contract pursuant to subsection (b) of this section.

309 (h) Any agency that seeks to have a project awarded without being
310 subject to competitive bidding procedures shall certify to the joint
311 committee of the General Assembly having cognizance of matters
312 relating to government administration and elections that the project is
313 of such an emergency nature that an exception to the competitive
314 bidding procedures of this section is required. Such certification shall
315 include input from all affected agencies, detail the need for the
316 exception and include any relevant documentation.

317 (i) In the event that the General Assembly approves legislation

318 authorizing an exception to the competitive bidding process for a
 319 project, the State Properties Review Board shall complete a review of
 320 the contract for such project and approve or disapprove such contract
 321 no later than thirty days after the Commissioner of Public Works
 322 submits such contract to the board. Such review shall be conducted in
 323 accordance with the provisions of section 4b-3. In the event that such
 324 review does not occur within the thirty-day period prescribed by this
 325 subsection, such contract shall be deemed to be approved.

326 (j) On and after [October 1, 2007] the effective date of this section, no
 327 person whose subcontract exceeds five hundred thousand dollars in
 328 value may perform work as a subcontractor on a project for the
 329 construction, reconstruction, alteration, remodeling, repair or
 330 demolition of any public building [for work] or any other public work
 331 by the state or a municipality, except a public highway or bridge
 332 project or any other construction project administered by the
 333 Department of Transportation, which project is estimated to cost more
 334 than five hundred thousand dollars and is paid for, in whole or in part,
 335 with state funds, unless the person is prequalified in accordance with
 336 section 4a-100, as amended by this act. The provisions of this
 337 subsection shall not apply to a project described in subdivision (2) of
 338 subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4a-16
Sec. 2	<i>from passage</i>	4a-57(a)
Sec. 3	<i>from passage</i>	4a-100(j) to (o)
Sec. 4	<i>from passage</i>	4a-101(g)
Sec. 5	<i>from passage</i>	4b-91

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Dept. of Administrative Services	GF - Savings	See Below	See Below
Dept. of Administrative Services	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipalities	Savings	See Below	See Below

Explanation

The bill makes several changes to the duties of the Department of Administrative Services (DAS), the contractor and subcontractor prequalification statutes, and to notices for public works construction contracts.

The bill increases, from \$20,000 to \$40,000, the aggregate value of small estates for which DAS may petition the probate court for appointment as legal representative for the purpose of collecting debts owed to the state. Modifying the definition of a small estate is anticipated to result in a minimal General Fund revenue gain as DAS will now be able to act as legal representative and ensure that it recovers the money owed to the state from estates valued between \$20,000 and \$40,000.

This bill allows DAS to advertise certain state procurement opportunities for goods and contractual services on the internet only, instead of on the internet and in a newspaper. This will result in a minimal savings (less than \$20,000) as DAS will no longer have to pay

for newspaper advertising to solicit certain procurement bids or proposals.

The bill eliminates the requirement that state public works contracts valued at \$500,000 (other than those administered by DOT) must be published in a newspaper. This will result in a savings to the state. It is estimated that the total savings to construction contracting agencies will exceed \$200,000 annually. This may also result in a savings to certain municipalities, depending on their town requirements and current advertising practices.

The bill also eliminates the requirement that contractors include a copy of their prequalification certificate with their bids on all public works projects (other than DOT contracts). This provision may result in a significant savings to the state and municipalities if a low bidder on a project was ruled ineligible because it failed to include its prequalification certificate. Under current law, the state or municipality would have to select the next lowest bidder, whose cost may be significantly higher than the low bidder. Under this bill, the bid of the low bidder would no longer be invalid, thus the state or municipality would be able to select the low bidder for the project.

House "A" makes several changes that will not impact the fiscal note of the underlying bill described above.

Source: Department of Administrative Services

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6297 (as amended by House "A")******AN ACT CONCERNING CERTAIN AUTHORITY AND DUTIES OF
THE DEPARTMENT OF ADMINISTRATIVE SERVICES.*****SUMMARY:**

This bill:

1. allows Department of Administrative Services (DAS) to serve as the legal representative of more small estates for the purpose of collecting debts owed to the state;
2. requires the DAS commissioner to revoke or deny the prequalification of a contractor or substantial subcontractor based on the acts of his or her principal or key personnel;
3. requires that notice of most state public works contracts be posted on the state contracting portal;
4. extends to state agencies the authority to complete evaluations of subcontractors and substantial subcontractors by relying on evaluations completed by general contractors;
5. eliminates a requirement for contractors to include a copy of their prequalification certificate with their bids on all public works contracts, other than Department of Transportation (DOT) contracts, and instead requires them to provide the certificate when the public agency soliciting the bids requests it;
6. specifies that subcontractors do not have to prequalify with DAS before performing work on highway, bridge, or construction projects administered by DOT;

7. clarifies that subcontractors must be prequalified by DAS before they perform work on any non-DOT-administered public works projects, instead of just public works building projects, if their work and the total contract are each valued at \$500,000 or more; and
8. makes technical and conforming changes.

*House Amendment "A" expands the bill's provisions on the state contracting portal and prequalification certificates to apply to any public agency, not only state and municipal agencies.

EFFECTIVE DATE: Upon passage

SMALL ESTATE ADMINISTRATION

The bill increases, from \$20,000 to \$40,000, the aggregate value of estates for which DAS may petition the probate court for appointment as legal representative. This is the threshold for filing an affidavit in lieu of administration in probate court. By law, DAS files these petitions when (1) the state has a claim against the estate for support or care provided to the decedent; (2) the amount of the claim, together with other specified claims, equals or exceeds the value of the estate; and (3) the value of the assets does not exceed \$20,000.

PREQUALIFICATION

The bill allows the DAS commissioner to refuse to issue or renew a prequalification certificate if a contractor's or substantial subcontractor's principal or key staff member is convicted of, or admits to, acts or omissions that could have reasonably resulted in the contractor's or substantial subcontractor's disqualification.

It requires the commissioner to deny or revoke a contractor's or substantial subcontractor's prequalification if she finds that a principal or key member of their staff, within the past five years, (1) included a materially false statement in a prequalification application, update statement (i.e., statement submitted when renewing or upgrading a prequalification certificate), or update bid statement; (2) was convicted

of a crime, entered a plea of guilty or *nolo contendere* (no contest) for, or admitted to, a crime related to getting or performing a construction contract; or (3) engaged in some other fraud to get or stay prequalified. By law, the commissioner can deny or revoke the prequalification if the contractor or substantial contractor committed these acts.

The bill also requires the commissioner to deny or revoke the prequalification of a contractor or substantial subcontractor who pleads guilty or no contest to a crime related to getting or performing a construction contract.

NOTICES OF PUBLIC WORKS CONSTRUCTION CONTRACTS

The bill eliminates a requirement for (1) the DAS commissioner to place notices of bid solicitation for contracts in excess of \$50,000 in two publications, including one newspaper, and on the Internet and (2) state public works contracts valued at \$500,000, other than those administered by DOT, to be published in newspapers. It instead requires that the notices be posted on the state contracting portal.

It requires public agencies that receive state funds for all or a portion of public work projects valued at \$500,000 or more to post notices of the contracts, other than DOT-administered contracts, on the state contracting portal. These public agencies must include the qualifications necessary for the contract in the notice. By law, DOT has its own prequalification program.

Under the bill, “public agency” means all state and local governmental agencies, departments, institutions, bureaus, boards, and commissions, including executive, administrative, and legislative offices, and the administrative functions of the judicial branch and the Division of Criminal Justice.

SUBCONTRACTOR EVALUATIONS

By law, public agencies must evaluate the performance of contractors and subcontractors working on public projects. Any agency that fails to file a completed evaluation with the DAS

commissioner within 70 days after the project is completed is ineligible for future state funds to complete such projects.

The bill permits all public agencies, instead of just political subdivisions, to evaluate a subcontractor's or substantial subcontractor's performance by relying on the general contractor's evaluation of them. It absolves general contractors of liability for any harm an evaluation causes a subcontractor or substantial subcontractor. However, the general contractor may be liable for willful, wanton, or reckless actions related to the evaluations.

BACKGROUND

Consequences for Agencies that Accept Bids Without Prequalification Certificates

Bids submitted without prequalification certificates are deemed invalid and any agency that accepts a bid without the certificate may be ineligible for state funds.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/06/2009)

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (04/14/2009)

Appropriations Committee

Joint Favorable

Yea 51 Nay 0 (04/27/2009)