



# Senate

General Assembly

**File No. 295**

February Session, 2010

Substitute Senate Bill No. 285

*Senate, April 6, 2010*

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT REQUIRING PUBLIC BIDDING FOR JUDICIAL DEPARTMENT PUBLIC BUILDING CONTRACTS.***

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

1 Section 1. Section 4b-91 of the 2010 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2010*):

4 (a) Every contract for the construction, reconstruction, alteration,  
5 remodeling, repair or demolition of any public building or any other  
6 public work by the state except a public highway or bridge project or  
7 any other construction project administered by the Department of  
8 Transportation, which is estimated to cost more than five hundred  
9 thousand dollars, except a contract awarded by the Commissioner of  
10 Public Works for (1) a community court project, as defined in  
11 subsection (j) of section 4b-55, (2) the downtown Hartford higher  
12 education center project, as defined in subsection (l) of section 4b-55,  
13 (3) a correctional facility project, as defined in subsection (m) of section

14 4b-55, (4) a juvenile detention center project, as defined in subsection  
15 (n) of section 4b-55, or (5) a student residential facility for the  
16 Connecticut State University System that is a priority higher education  
17 facility project, as defined in subsection (f) of section 4b-55, shall be  
18 awarded to the lowest responsible and qualified general bidder who is  
19 prequalified pursuant to section 4a-100 on the basis of competitive bids  
20 in accordance with the procedures set forth in this chapter, after the  
21 Commissioner of Public Works or, in the case of a contract for (A) the  
22 construction of or work on a building or other public work under the  
23 supervision and control of the Joint Committee on Legislative  
24 Management of the General Assembly, the joint committee; [or, in the  
25 case of a contract for] (B) the construction of or work on a building or  
26 other public work under the supervision and control of one of the  
27 constituent units of the state system of higher education, the  
28 constituent unit; or (C) the construction of or work on a building or  
29 other public work under the supervision and control of the Judicial  
30 Branch, the Judicial Department, has invited such bids by notice  
31 posted on the State Contracting Portal. Every contract for the  
32 construction, reconstruction, alteration, remodeling, repair or  
33 demolition of any public building or any other public work by a public  
34 agency that is paid for, in whole or in part, with state funds and that is  
35 estimated to cost more than five hundred thousand dollars, except a  
36 public highway or bridge project or any other construction project  
37 administered by the Department of Transportation, shall be awarded  
38 to a bidder that is prequalified pursuant to section 4a-100 after the  
39 public agency has invited such bids by notice posted on the State  
40 Contracting Portal. The Commissioner of Public Works, the joint  
41 committee, the constituent unit, the Judicial Department or the public  
42 agency, as the case may be, shall indicate the prequalification  
43 classification required for the contract in such notice. As used in this  
44 section, "prequalification classification" means the prequalification  
45 classifications established by the Commissioner of Administrative  
46 Services pursuant to section 4a-100. As used in this section, "public  
47 agency" means public agency, as defined in section 1-200.

48 (b) The Commissioner of Public Works, the joint committee, [or] the

49 constituent unit or the Judicial Department, as the case may be, shall  
50 determine the manner of submission and the conditions and  
51 requirements of such bids, and the time within which the bids shall be  
52 submitted, consistent with the provisions of sections 4b-91 to 4b-96,  
53 inclusive, as amended by this act. Such award shall be made not later  
54 than ninety days after the opening of such bids. If the general bidder  
55 selected as the general contractor fails to perform the general  
56 contractor's agreement to execute a contract in accordance with the  
57 terms of the general contractor's general bid and furnish a performance  
58 bond and also a labor and materials or payment bond to the amount  
59 specified in the general bid form, an award shall be made to the next  
60 lowest responsible and qualified general bidder. No employee of the  
61 Department of Public Works, the joint committee, [or] a constituent  
62 unit or the Judicial Department with decision-making authority  
63 concerning the award of a contract and no public official, as defined in  
64 section 1-79, may communicate with any bidder prior to the award of  
65 the contract if the communication results in the bidder receiving  
66 information about the contract that is not available to other bidders,  
67 except that if the lowest responsible and qualified bidder's price  
68 submitted is in excess of funds available to make an award, the  
69 Commissioner of Public Works, the Joint Committee on Legislative  
70 Management, [or] the constituent unit or the Judicial Department, as  
71 the case may be, may negotiate with such bidder and award the  
72 contract on the basis of the funds available, without change in the  
73 contract specifications, plans and other requirements. If the award of a  
74 contract on said basis is refused by such bidder, the Commissioner of  
75 Public Works, the Joint Committee on Legislative Management, [or]  
76 the constituent unit or the Judicial Department, as the case may be,  
77 may negotiate with other contractors who submitted bids in ascending  
78 order of bid prices without change in the contract, specifications, plans  
79 and other requirements. In the event of negotiation with general  
80 bidders as provided in this section, the general bidder involved may  
81 negotiate with subcontractors on the same basis, provided such  
82 general bidder shall negotiate only with subcontractors named on such  
83 general bidder's general bid form.

84 (c) No person may bid on a contract or perform work pursuant to a  
85 contract that is subject to the provisions of subsection (a) of this section  
86 unless the person is prequalified in accordance with section 4a-100.

87 (d) Each bid submitted for a contract described in subsection (c) of  
88 this section shall include an update bid statement in such form as the  
89 Commissioner of Administrative Services prescribes and, if required  
90 by the public agency soliciting such bid, a copy of the prequalification  
91 certificate issued by the Commissioner of Administrative Services. The  
92 form for such update bid statement shall provide space for information  
93 regarding all projects completed by the bidder since the date the  
94 bidder's prequalification certificate was issued or renewed, all projects  
95 the bidder currently has under contract, including the percentage of  
96 work on such projects not completed, the names and qualifications of  
97 the personnel who will have supervisory responsibility for the  
98 performance of the contract, any significant changes in the bidder's  
99 financial position or corporate structure since the date the certificate  
100 was issued or renewed, any change in the contractor's qualification  
101 status as determined by the provisions of subdivision (6) of subsection  
102 (c) of section 4a-100 and such other relevant information as the  
103 Commissioner of Administrative Services prescribes. Any bid  
104 submitted without a copy of the prequalification certificate, if required  
105 by the public agency soliciting such bid, and an update bid statement  
106 shall be deemed invalid. Any public agency that accepts a bid  
107 submitted without a copy of such prequalification certificate, if  
108 required by such public agency soliciting such bid, and an update bid  
109 statement may become ineligible for the receipt of funds related to  
110 such bid.

111 (e) Any person who bids on a contract described in subsection (c) of  
112 this section shall certify under penalty of false statement at the  
113 conclusion of the bidding process that the information in the bid is  
114 true, that there has been no substantial change in the bidder's financial  
115 position or corporate structure since the bidder's most recent  
116 prequalification certificate was issued or renewed, other than those  
117 changes noted in the update bid statement, and that the bid was made

118 without fraud or collusion with any person.

119 (f) Any person who receives information from a state employee or  
120 public official that is not available to the general public concerning any  
121 construction, reconstruction, alteration, remodeling, repair or  
122 demolition project on a public building or any other public work prior  
123 to the date that a notice for bids on the project is posted shall be  
124 disqualified from bidding on the project.

125 (g) Notwithstanding the provisions of this chapter regarding  
126 competitive bidding procedures, the commissioner may select and  
127 interview at least three responsible and qualified general contractors  
128 who are prequalified pursuant to section 4a-100 and submit the three  
129 selected contractors to the construction services award panels process  
130 described in section 4b-100a and any regulation adopted by the  
131 commissioner. The commissioner may negotiate with the successful  
132 bidder a contract which is both fair and reasonable to the state for a  
133 community court project, as defined in subsection (j) of section 4b-55,  
134 the downtown Hartford higher education center project, as defined in  
135 subsection (l) of section 4b-55, a correctional facility project, as defined  
136 in subsection (m) of section 4b-55, a juvenile detention center project,  
137 as defined in subsection (n) of section 4b-55, or a student residential  
138 facility for the Connecticut State University System that is a priority  
139 higher education facility project, as defined in subsection (f) of section  
140 4b-55. The Commissioner of Public Works, prior to entering any such  
141 contract or performing any work on such project, shall submit such  
142 contract to the State Properties Review Board for review and approval  
143 or disapproval by the board, pursuant to subsection (i) of this section.  
144 Any general contractor awarded a contract pursuant to this subsection  
145 shall be subject to the same requirements concerning the furnishing of  
146 bonds as a contractor awarded a contract pursuant to subsection (b) of  
147 this section.

148 (h) Any agency that seeks to have a project awarded without being  
149 subject to competitive bidding procedures shall certify to the joint  
150 committee of the General Assembly having cognizance of matters

151 relating to government administration and elections that the project is  
 152 of such an emergency nature that an exception to the competitive  
 153 bidding procedures of this section is required. Such certification shall  
 154 include input from all affected agencies, detail the need for the  
 155 exception and include any relevant documentation.

156 (i) In the event that the General Assembly approves legislation  
 157 authorizing an exception to the competitive bidding process for a  
 158 project, the State Properties Review Board shall complete a review of  
 159 the contract for such project and approve or disapprove such contract  
 160 no later than thirty days after the Commissioner of Public Works  
 161 submits such contract to the board. Such review shall be conducted in  
 162 accordance with the provisions of section 4b-3. In the event that such  
 163 review does not occur within the thirty-day period prescribed by this  
 164 subsection, such contract shall be deemed to be approved.

165 (j) On and after October 5, 2009, no person whose subcontract  
 166 exceeds five hundred thousand dollars in value may perform work as  
 167 a subcontractor on a project for the construction, reconstruction,  
 168 alteration, remodeling, repair or demolition of any public building or  
 169 any other public work by the state or a municipality, except a public  
 170 highway or bridge project or any other construction project  
 171 administered by the Department of Transportation, which project is  
 172 estimated to cost more than five hundred thousand dollars and is paid  
 173 for, in whole or in part, with state funds, unless the person is  
 174 prequalified in accordance with section 4a-100. The provisions of this  
 175 subsection shall not apply to a project described in subdivision (2) of  
 176 subsection (a) of this section.

|   |                 |       |
|---|-----------------|-------|
| This act shall take effect as follows and shall amend the following sections: |                 |       |
| Section 1   | October 1, 2010 | 4b-91 |

**GAE**      *Joint Favorable Subst.*

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.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill conforms statutory language to current practice and has no fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None*Sources: Department of Public Works*

**OLR Bill Analysis****sSB 285*****AN ACT REQUIRING PUBLIC BIDDING FOR JUDICIAL DEPARTMENT PUBLIC BUILDING CONTRACTS.*****SUMMARY:**

This bill requires the Judicial Department to comply with competitive bidding laws when awarding public building contracts estimated to cost more than \$500,000.

It specifies that, for contracts estimated to cost more than \$500,000, the Judicial Department must:

1. award a contract to the lowest responsible qualified general bidder prequalified by the Department of Administrative Services;
2. invite project bids by posting notice to the State Contracting Portal and indicate the prequalification classification required for the contract;
3. determine the manner of submission and the conditions and requirements of such bids;
4. make an award within 90 days of opening the bids; and
5. refrain from communicating with bidders before awarding a contract, except that the department may negotiate with the winning bidder if that bidder's price exceeds funds available for the award. If these negotiations are unsuccessful, the department may negotiate with other contractors in ascending order of bid price.

With certain exceptions, contracts for constructing, reconstructing,

altering, remodeling, repairing, or demolishing of a public building or other public work that are estimated to cost more than \$500,000 must be awarded through competitive bidding to a prequalified bidder. By law, the Judicial Department has charge and supervision over public building projects that cost \$1.25 million or less and involve buildings rented or occupied by the Judicial Branch.

EFFECTIVE DATE: October 1, 2010

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 14 Nay 0 (03/18/2010)