



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC WORKS
165 Capitol Avenue, Hartford, Connecticut 06106-1606

RAEANNE V. CURTIS
Commissioner

**TESTIMONY
BEFORE THE
GOVERNMENT ADMINISTRATION & ELECTIONS
COMMITTEE**

MARCH 19, 2010

SB 472 SB 473 HB 5510 HB 5520

SB 472 (Raised) An Act Concerning State Agency Permissive In-State Contracting Preferences and Pilot Program for Janitorial Employees.

The proposed legislation allows for an "adjustment" based upon a bidder's projection of the amount of state income taxes its employees will pay that are attributable to work on the project. The statute provides no criteria for verifying the adjustment and no possibility of challenging it prior to the award of the contract. Based upon our reading of the statute, the state contracting agency must pay the full bid price, resulting in a higher cost for bonded projects. There is an exception to paying the full bid price for the circumstance where the projected amount of taxes is higher than the taxes paid by employees. Under this circumstance, the difference is deducted from the bid price. The bidder, under this circumstance will then be in the difficult position of having to complete the contract for an amount less than what is in the bid, which is presumably the amount it determined necessary to complete all of the work. The bill, consequently, exposes the state to higher project costs (particularly when interest on bonds is included in the calculation) as well as potential problems for completion of the work when the bidder's initial projection proves erroneously too high.

SB 473 (Raised) An Act Concerning State Contracting.

Sections 1 through 3 present a concern to DPW in that a "contract" for the purposes of Sections 4e-1 to 4e-47, as currently defined, includes leases and license agreements. Under such definition, most leases or license agreement for real property entered into by DPW with a private party would be subject to the requirements of Section 3 of the bill. Since most such agreements contain renewal options exercisable by the state when the state determines it is in the best interests of the state to remain at the location for financial or public service reasons. Leases and license agreements for real estate are already subject to an objective process strictly designed to avoid conflicts of interest, favoritism or politics. Such agreements are not subject to low bid requirements, and DPW is given latitude to seek out and negotiate lease and license agreements in the best interests of the state. The fiscal, legal and business terms of the agreements are subject to the review and approval of the Office of Policy and Management, the State Property Review Board and ultimately, the Office of the Attorney General. To subject the agreements to the review and approval of the General Assembly would add time an already extensive process and have the appearance of contradicting the apolitical nature of the process, particularly as the statute does not limit review to specific factors or provide criteria for the General Assembly's decision.

Section 5 of the bill allows the Commissioner of DAS to deny a prequalification certificate to any contractor, or substantial subcontractor who has received four or more unsatisfactory written performance evaluations in the past three years. DPW feels that the current timeframe of three years may not be the most appropriate timeframe. The average amount of time it takes to construct a building is between 18 to 30 months, therefore it will be very difficult for even a poor performing contractor to ever accumulate 4 unsatisfactory evaluations within 3 years (36 months). As such, the three year timeframe should be raised to seven years. DPW supports a performance based prequalification program that furnishes an incentive for good contractor performance, while at the same time influencing marginal contractors to improve their performance. This adds value to the state contracting process.

House Bill 5510 (Raised) An Act Concerning the Disposition of Surplus State Property

The additional language in Section 1(d) concerning committee recommendations is too ambiguous and needs clarification. As currently written, the amendment lacks sufficient guidance as to what, if anything, the Commissioner is to do with the recommendations from the Committee, and how such recommendations will impact the process. Any recommendation requiring a change in an agreement will require re-negotiation, re-execution and re-submission to all of the approving entities. It is doubtful that this could be accomplished with 30 days. Recommendations under such circumstances would constitute a denial.

House Bill 5520 (Raised) An Act Concerning the Conveyance of Certain Parcels of State Land

Section 2 of the bill provides an easement of state land to a private developer for the benefit of the development of a retail establishment. DPW's client agency Connecticut State University System "CSUS" does not support this proposal (See Chancellor Carter's testimony). DPW is not aware of specific plans for the development and shares CSUS concerns that the easement may create safety issues and increase costs for the State.

Section 3 of the bill transfer approximately 30 acres of State land at Cedar Ridge State Hospital to the Town of Newington at no cost. The State is working on a plan to relocate the Department of Information Technology's "DOIT" data center currently located in leased space to state owned space at Cedar Ridge. The Finance Committee is currently considering a request to authorize \$21 million in bonds to develop a new DOIT data center, DPW is concerned that this conveyance may impact on the proposed state project at Cedar Ridge. Furthermore, DPW does not have the funds for surveys, title searches or any other necessary administrative costs for this land transfer. Finally, given the current fiscal crisis and the legislative assumption of \$60 million in revenue from the sale of state land, DPW does not think it wise to give away state land for free.

Section 18 of the bill conveys the Seaside Regional Center in Waterford at a cost equal to the fair market value of the average of two appraisals. DPW believes that the Seaside property is a valuable asset and the State should be able to obtain the maximum possible price for this property. DPW suggests the language of this section to be changed so that Seaside could be sold for no less than the average of two appraisals.

The Department of Public Works, if requested, is available to meet to discuss the information contained in this testimony. Please contact Doug Moore, DPW Chief of Staff at (860) 713-5800 with any further questions.