



General Assembly

February Session, 2016

Raised Bill No. 439

LCO No. 2875



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT CONCERNING THE STATE CONTRACTING STANDARDS
BOARD AND REQUIREMENTS FOR PRIVATIZATION CONTRACTS.***

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

1 Section 1. Subdivision (21) of section 4e-1 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (21) "Privatization contract" means an agreement or series of
5 agreements between a state contracting agency and a person or entity
6 in which such person or entity agrees to provide services that are
7 substantially similar to and in lieu of services provided, in whole or in
8 part, by state employees, and includes any procurement contract for
9 which subsequent related services, the total cost of which exceeds fifty
10 thousand dollars per year, will be required, other than contracts with a
11 nonprofit agency, which are in effect as of January 1, 2009, and which
12 through a renewal, modification, extension or rebidding of contracts
13 continue to be provided by a nonprofit agency;

14 Sec. 2. Subdivision (28) of section 4e-1 of the general statutes is
15 repealed and the following is substituted in lieu thereof (*Effective from*
16 *passage*):

17 (28) "State contracting agency" means any executive branch agency,
18 board, commission, department, office, institution or council. "State
19 contracting agency" does not include the judicial branch, the legislative
20 branch, the offices of the Secretary of the State, the State Comptroller,
21 the Attorney General, the State Treasurer, with respect to their
22 constitutional functions, any state agency with respect to contracts
23 specific to the constitutional and statutory functions of the office of the
24 State Treasurer. For the purposes of section 4e-16, as amended by this
25 act, "state contracting agency" includes any constituent unit of the state
26 system of higher education and [for] notwithstanding any provision of
27 the general statutes, any quasi-public agency created to provide
28 financing for any such constituent unit, and any quasi-public agency
29 not specifically excluded under this chapter. For the purposes of
30 section 4e-19, "state contracting agency" includes the State Education
31 Resource Center, established under section 10-4q;

32 Sec. 3. Subsection (m) of section 4e-2 of the general statutes is
33 repealed and the following is substituted in lieu thereof (*Effective from*
34 *passage*):

35 (m) [Eight] The lesser of a majority of the appointed members of the
36 board or eight members of the board, including not less than one
37 member appointed by a legislative leader, shall constitute a quorum
38 which shall be required for the transaction of business by the board.

39 Sec. 4. Subsection (c) of section 4e-13 of the general statutes is
40 repealed and the following is substituted in lieu thereof (*Effective from*
41 *passage*):

42 (c) All state agencies in the executive branch, the constituent units of
43 the state system of higher education and quasi-public agencies shall
44 post all bids, requests for proposals and all resulting contracts and

45 agreements on the State Contracting Portal and shall, with the
46 assistance of the Department of Administrative Services as needed,
47 develop the infrastructure and capability to electronically
48 communicate with the State Contracting Portal. No privatization
49 contract shall be valid unless at least thirty days prior to execution of
50 such contract, all certifications required by section 4e-16, as amended
51 by this act, have been posted on the State Contracting Portal.

52 Sec. 5. Subsection (p) of section 4e-16 of the general statutes is
53 repealed and the following is substituted in lieu thereof (*Effective from*
54 *passage*):

55 (p) Prior to entering into or renewing any privatization contract that
56 is not subject to the provisions of subsection (a) of this section, the state
57 contracting agency shall evaluate such contract to determine if
58 entering into or renewing such contract is the most cost-effective
59 method of delivering the service, by determining the costs, as defined
60 in subsection (b) of this section, of such service. If the contract is for a
61 total amount of more than one million dollars, the agency shall also
62 provide a business case for such privatization as required under
63 subsection (d) of this section. The state contracting agency shall
64 perform such evaluation of cost-effectiveness in accordance with a
65 template prescribed by the Secretary of the Office of Policy and
66 Management and such evaluation shall be subject to verification by the
67 secretary. Such template shall require a certification by the state
68 contracting agency that it has complied with all requirements of this
69 subsection and an explanation for the basis of such agency's
70 determination that the provisions of subsection (a) of this section do
71 not apply. If the evaluation determines that there are no savings to the
72 state if the contract is performed by state employees, the state
73 contracting agency shall not enter into such contract without (1)
74 providing a written report to the secretary concerning the reason such
75 agency seeks to enter into such contract despite a lack of savings, and
76 (2) receiving written authorization from the secretary to enter into such
77 contract. If such contract is not a renewal, the state contracting agency

78 shall also consider and report, in writing, to the secretary whether the
79 quality of services could be diminished by the privatization and any
80 risks associated with the termination or rescission of such contract. The
81 secretary may waive the requirement for an evaluation [of cost-
82 effectiveness] under this subsection upon a written finding by the
83 secretary that exigent or emergent circumstances necessitate such
84 waiver.

85 Sec. 6. Section 4e-16 of the general statutes is amended by adding
86 subsections (r) to (t), inclusive, as follows (*Effective from passage*):

87 (NEW) (r) A state contracting agency that seeks to enter into or
88 renew a privatization contract shall, not less than sixty days before
89 entering into such contract or renewal, provide written notice to any
90 collective bargaining agent that represents state employees performing
91 work of the type and nature required by the privatization contract.
92 Such notice shall include the information required under subsections
93 (a) to (d), inclusive, of this section, or subsection (p) of this section, as
94 applicable, and shall offer the collective bargaining agent the
95 opportunity to meet and discuss with the agency such information and
96 whether the work could more appropriately be provided by state
97 employees, prior to the contract or renewal being entered into by the
98 agency.

99 (NEW) (s) Any state contracting agency that seeks approval of a
100 contract that could be done more cheaply by state employees but that
101 determines there is an insufficient number of state employees within
102 such agency to perform the contract shall, not later than sixty days
103 after making such determination, submit a plan to the Secretary of the
104 Office of Policy and Management for preventing a recurrence of such
105 determination by requesting the hiring of additional state employees.
106 The secretary shall, upon the submission of any proposed budget or
107 budget adjustment by the Governor, report to the joint standing
108 committees of the General Assembly having cognizance of matters
109 relating to appropriations and the budgets of state agencies and

110 government administration in accordance with the provisions of
111 section 11-4a, on whether and to what extent such agency plans are
112 included in such submission and the basis for determining whether
113 and to what extent to include such plans in the budget or budget
114 adjustment.

115 (NEW) (t) No state contracting agency may enter into a
116 privatization contract without obtaining the formal approval of the
117 Attorney General of such contract. Prior to entering into any such
118 contract, the agency shall submit (1) a copy of the proposed contract,
119 (2) any certifications required by this section attached to the contract,
120 and (3) either a certification that the contract is not subject to the
121 provisions of subsection (a) of this section, a certification that the
122 contract was approved by the State Contracting Standards Board or a
123 copy of the written exemption from the requirements of subsection (a)
124 of this section signed by the Governor pursuant to subsection (o) of
125 this section, to the Attorney General. Any such contract entered into
126 after the effective date of this section without complying with the
127 provisions of this subsection shall not be binding upon the state.

128 Sec. 7. Section 4e-47 of the general statutes is repealed and the
129 following is substituted in lieu thereof (*Effective July 1, 2016*):

130 On or [after January 1, 2011,] before January 1, 2016, each
131 constituent unit of the state system of higher education shall propose
132 regulations to be adopted by the State Contracting Standards Board.
133 The board shall adopt such regulations, in accordance with the
134 provisions of chapter 54, [to apply the contracting procedures, as
135 described in sections 4e-18 to 4e-45, inclusive, to each constituent unit
136 of the state system of higher education.] Such regulations shall take
137 into consideration circumstances and factors that are unique to such
138 constituent units. Until such regulations are adopted by the State
139 Contracting Standards Board, the provisions of sections 4e-18 to 4e-46,
140 inclusive, shall apply to every expenditure of public funds by any
141 constituent unit of the state system of higher education, irrespective of

142 such funds' source.

143 Sec. 8. (NEW) (Effective July 1, 2016) (a) Not later than ninety days
144 after the adjournment sine die of each regular session of the General
145 Assembly, the Auditors of Public Accounts shall recommend to the
146 Secretary of the Office of Policy and Management the appropriate
147 staffing levels at the State Contracting Standards Board that are
148 sufficient for the board to carry out its statutory mission. In any year
149 during which the board is staffed at substantially lower levels than
150 recommended by the auditors, the auditors may issue the compliance
151 report for each state contracting agency as required under section 4e-6
152 of the general statutes. If such a compliance report has not been issued
153 for an agency for three years or more as of December thirty-first of any
154 calendar year, the auditors shall issue such report not later than April
155 first of the following calendar year.

156 (b) To the extent the State Contracting Standards Board remains
157 below the staffing level recommended by the auditors, each state
158 contracting agency shall designate an employee to serve as a liaison
159 with the State Contracting Standards Board. Such liaison shall notify
160 the board of any privatization contract valued at over fifty thousand
161 dollars and shall provide the board any evaluations or analysis of such
162 contact not later than ten days after completing such evaluation or
163 analysis. Electronic communications to the board directing the staff of
164 the board to postings on the State Contracting Portal shall constitute
165 sufficient notice under this subsection. Each state contracting agency
166 shall inform its liaison that any such reporting is an essential part of
167 the employee's duties.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4e-1(21)
Sec. 2	<i>from passage</i>	4e-1(28)
Sec. 3	<i>from passage</i>	4e-2(m)
Sec. 4	<i>from passage</i>	4e-13(c)

Sec. 5	<i>from passage</i>	4e-16(p)
Sec. 6	<i>from passage</i>	4e-16
Sec. 7	<i>July 1, 2016</i>	4e-47
Sec. 8	<i>July 1, 2016</i>	New section

Statement of Purpose:

To redefine "privatization contract" and "state contracting agency", to modify the quorum requirement of the State Contracting Standards Board, to impose additional requirements on proposed privatization contracts and to require the Auditors of Public Accounts to issue compliance reports regarding staffing levels of the State Contracting Standards Board.

[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.]