

**Proposed Substitute
Bill No. 439**

LCO No. 3450

**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2 repealed and the following is substituted in lieu thereof (*Effective from*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, other than contracts with a nonprofit agency,
9 which are in effect as of January 1, 2009, and which through a renewal,
10 modification, extension or rebidding of contracts continue to be
11 provided by a nonprofit agency and includes any procurement
12 contract for which subsequent related services, the total cost of which
13 exceeds fifty thousand dollars per year, will be required, which are in
14 effect as of July 1, 2016;

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16 repealed and the following is substituted in lieu thereof (*Effective from*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

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

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34 repealed and the following is substituted in lieu thereof (*Effective from*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

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

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41 repealed and the following is substituted in lieu thereof (*Effective from*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

43 (c) All state agencies in the executive branch, the constituent units of
44 the state system of higher education and quasi-public agencies shall
45 post all bids, requests for proposals and all resulting contracts and
46 agreements on the State Contracting Portal and shall, with the
47 assistance of the Department of Administrative Services as needed,
48 develop the infrastructure and capability to electronically
49 communicate with the State Contracting Portal. No privatization
50 contract shall be valid unless at least thirty days prior to execution of

51 such contract, all certifications required by section 4e-16, as amended
52 by this act, have been posted on the State Contracting Portal.

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

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

85 waiver.

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

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

100 (NEW) (s) Any state contracting agency that seeks approval of a
101 contract that could be done more inexpensively by state employees but
102 that determines there is an insufficient number of state employees
103 within such agency to perform the contract shall, not later than sixty
104 days after making such determination, submit a plan to the Secretary
105 of the Office of Policy and Management for preventing a recurrence of
106 such determination by requesting the hiring of additional state
107 employees. The secretary shall, upon the submission of any proposed
108 budget or budget adjustment by the Governor, report to the joint
109 standing committees of the General Assembly having cognizance of
110 matters relating to appropriations and the budgets of state agencies
111 and government administration in accordance with the provisions of
112 section 11-4a, on whether and to what extent such agency plans are
113 included in such submission and the basis for determining whether
114 and to what extent to include such plans in the budget or budget
115 adjustment.

116 (NEW) (t) No state contracting agency may enter into a
117 privatization contract without obtaining the formal approval of the

118 Attorney General of such contract. Prior to entering into any such
119 contract, the agency shall submit (1) a copy of the proposed contract,
120 (2) any certifications required by this section attached to the contract,
121 and (3) either a certification that the contract is not subject to the
122 provisions of subsection (a) of this section, a certification that the
123 contract was approved by the State Contracting Standards Board or a
124 copy of the written exemption from the requirements of subsection (a)
125 of this section signed by the Governor pursuant to subsection (o) of
126 this section, to the Attorney General. Any such contract entered into
127 after the effective date of this section without complying with the
128 provisions of this subsection shall not be binding upon the state.

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

131 On or [after January 1, 2011,] before January 1, 2017, each
132 constituent unit of the state system of higher education shall propose
133 regulations to be adopted by the State Contracting Standards Board.
134 The board shall adopt such regulations, in accordance with the
135 provisions of chapter 54 [, to apply the contracting procedures, as
136 described in sections 4e-18 to 4e-45, inclusive, to each constituent unit
137 of the state system of higher education] with any modifications it
138 deems appropriate. Such regulations shall take into consideration
139 circumstances and factors that are unique to such constituent units.
140 Until such regulations are adopted by the State Contracting Standards
141 Board, the provisions of sections 4e-18 to 4e-46, inclusive, shall apply
142 to every expenditure of public funds by any constituent unit of the
143 state system of higher education, irrespective of such funds' source.

144 Sec. 8. (NEW) (*Effective July 1, 2016*) (a) Not later than ninety days
145 after the adjournment sine die of each regular session of the General
146 Assembly, the Auditors of Public Accounts shall recommend to the
147 Secretary of the Office of Policy and Management the appropriate
148 staffing levels at the State Contracting Standards Board that are
149 sufficient for the board to carry out its statutory mission. In any year
150 during which the board is staffed at substantially lower levels than

151 recommended by the auditors, the auditors may issue the compliance
152 report for each state contracting agency as required under section 4e-6
153 of the general statutes. If such a compliance report has not been issued
154 for an agency for three years or more as of December thirty-first of any
155 calendar year, the auditors shall issue such report not later than April
156 first of the following calendar year.

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