

Government Administration and Elections Committee
JOINT FAVORABLE REPORT

Bill No.: HB-5267

AN ACT CONCERNING THE STATE CONTRACTING STANDARDS BOARD

Title: AND REQUIREMENTS FOR PRIVATIZATION CONTRACTS.

Vote Date: 3/23/2018

Vote Action: Joint Favorable

PH Date: 3/5/2018

File No.: 431

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SPONSORS OF BILL:

Government Administration and Elections Committee

REASONS FOR BILL:

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

RESPONSE FROM ADMINISTRATION/AGENCY:

Benjamin Barnes, Secretary, Office of Policy and Management:

Secretary Barnes opposes H.B. No. 5267. He believes it would be a step back for the State of Connecticut. Furthermore, he states that, "the current evaluation already includes a useful tool for evaluating the cost effectiveness of our contracts and provides transparency. This and other information about state contracts is readily available to agency leaders, the Office of Policy and Management, the Contracting Standards Board and anyone else who seeks it. To place additional procedural steps around readily available information involves unnecessary requirements that simply do not add value and would be an unproductive use of our much smaller workforce." Finally, he argues that transparency already exists and that this bill would be unproductive, adding unnecessary bureaucratic steps.

Michael Bzdyra, Commissioner, Dept. of Motor Vehicles:

The DMV opposes H.B. No. 5267. This bill would increase jurisdiction and oversight of the State Contracting Standards Board. The requirements under this section are onerous, and this proposal expands them further.

It would require all contracts under the expanded definition, even those for services that are not currently being performed by the agency or cannot be performed by current state employees, to be submitted to the collective bargaining agent for the type of employees that work in the field that is covered by the contract. It requires that the agency meet with the collective bargaining representative to discuss whether the work can be done by state employees. It also requires a state agency to submit a plan to OPM for hiring additional employees in the event that the agency determines that the service or function could be done for a lesser cost by state employees.

James Redeker, Commissioner, CT Dept. of Transportation:

The CTDOT strongly opposes H.B. No. 5267 because it would seriously curtail CTDOT's ability to deliver its capital construction program in a timely fashion. Commissioner Redeker testified that the revised definition in Sec. 1 is unclear; Sec. 5's revision would affect their ability to hire the required staff in a timely manner; Sec. 6 (r) places unnecessary burden on CTDOT by requiring the department to give collective bargaining agents 60-days' notice before renewal of privatization contract which are publicly available and posted on the state's contracting portal, delaying critical infrastructure projects; the language of Sec. 6 (s) would mandate the CTDOT have state employees be hired should they be able to do the work "more cheaply," regardless of the department's budget; and Sec. 6 (t) would require CTDOT to obtain approval by the Attorney General's Office on all privatization contracts.

Melody A. Currey, Commissioner, Dept. of Administrative Services:

Commissioner Currey strongly opposes H.B. No. 5267. House Bill 5267 expands the requirement for an agency to conduct a cost-benefit analysis to nearly every procurement contract requiring services. This will result in increased costs to the state in both employee time and delayed contract delivery. Due to the current budget situation, Currey states there is no way that DAS would be able to prepare these analyses or review the analyses of sister agencies without significant increased staff.

Miriam E. Delphin-Rittmon, Commissioner, CT Dept. of Health and Addiction Services:

Commissioner Delphin-Rittmon opposes H.B. No. 5267 because increasing time and procedures required to contract for services would negatively impact DMHAS' ability to ensure timely clinically appropriate services in the least restrictive, most cost effective setting. Adding additional steps to the existing process, including developing a business case, providing compliance certification, and obtaining formal approval from the Attorney General, are unnecessary and will delay DMHAS from providing the best clinical services in a timely manner.

Department of Social Services:

DSS opposes H.B. No. 5267. It creates burdensome and unnecessary requirements to an already lengthy contracting process. Many of the requirements outlined in this legislation would immediately deplete the already strained resources of the Department.

Specifically:

Section 1, Subdivision (21) – It redefines privatization contract by extending the definition of privatization contract to include any procurement above \$50,000. This change is highly problematic. It exceeds the scope of the Privatization Board because it lacks any connection to contracting that supplants services provided by state employees and would instead bring

the majority of contracts under the State Contracting Standards Board (SCSB) authority. It also would dramatically increase the administrative burden on the Department.

Section 4 Subsection (c) - Adds an administrative burden on the Department to post contracting documents, which already are public documents, on the State Contracting Portal and would delay executing the contracts.

Section 5 Subsection (p) – The requirement of a cost-benefit analysis could impose unnecessary administration burden on the Department and on the SCSB.

Section 6 Subsection (r) – The requirement of a 60 day notice to collective bargaining units of privatization contracts adds a delay to the lengthy contracting process. They also believe that state agencies should not have to notify and meet with collective bargaining agents because OPM represents state agencies in union negotiations

Subsection (t) – Is redundant. All contracts over \$50,000 are already reviewed by the AG.

Section 8 Subsection (b) – The intent of the provision is unclear and seems to suggest that if the SCSB is understaffed, DSS is to assign a liaison to assume SCSB related duties. DDS doesn't have these additional resources.

Kevin Dillon, Executive Director, Connecticut Airport Authority:

Executive Director Dillon opposes H.B. No. 5267, as it would apply onerous requirements on the CAA and the state's other quasi-public agencies when attempting to pursue cost-saving initiatives. For the quasi- public agencies operating strictly under their own budgets, the option to privatize must remain available as a cost-saving measure. Rising costs for the CAA could result in future service reductions at Bradley Airport.

Robert J. Kane and John C. Geragosian, State Auditors, Auditors of Public Accounts:

State Auditors Kane and Geragosian oppose SECTION 8 H.B. No. 5267. Which states that "The Auditors of Public Accounts shall recommend to the Secretary of the Office of Policy and Management the appropriate staffing levels at the State Contracting Standards Board sufficient for the board to carry out its statutory duties."

The Auditors oppose to this language because professional standards require our auditors to be independent and forbid us from playing a management role.

They also believe it puts more workload on them with little resources to take on additional workload. The Auditors note that they have had discussions with the staff and members of the Contracting Standards Board and have tried to assist the board by imparting information and resources. This included sharing many of their forms and methods.

Raul Pino, M.D., M.P.H., Commissioner, Connecticut Department of Public Health

A cost benefit analysis is laborious task that would necessitate more staff to complete. Furthermore, every new contract must undergo a competitive bidding process, which would also delay execution. This would disrupt continuity of care which is important for the populations they serve.

Jordan A. Scheff, Commissioner, Department of Developmental Services

NATURE AND SOURCES OF SUPPORT:

Mark Kirschner, Connecticut State Employees Association (CSEA, SEIU Local 2001):

Mr. Kirschner testified in support of H.B. No. 5267 because it will help to enact meaningful reforms on state contracts in processes that would improve transparency, foster accountability and be cost saving to the state. He argues that the state of Connecticut needs to provide oversight and due diligence prior to considering contracting out information technology work.

Jan Lawrence, Connecticut State Employees Association (CSEA, SEIU Local 2001):

Ms. Lawrence testified in support of H.B. No. 5267. Ms. Lawrence works at the Department of Developmental Services in the IT Unit which is capable for spread thin. She cites an example of DDS hiring a consultant using bond money and believes that when the state is facing a deficit, that they could easily have employees do the work rather than expensive consultants. She believes that HB 5267 will bring much needed transparency to the process.

Zak Leavy, Legislative Advocate, AFSCME:

Mr. Leavy testified in support of H.B. No. 5267. HB 5267 makes it easier for the Contracting Standards Board to reach a quorum and conduct business. It will also ensure that quasi-public agencies and higher education contracts are open to review by the board and giving the impacted collective bargaining units the opportunity to comment on privatization attempts and show if they can provide better services among other changes that strengthen the Board.

The Contracting Standards Board should be allowed to reach a quorum to conduct their business and given the resources they require.

Stuart Mahler, West Hartford, CT:

Mr. Mahler testified in support of H.B. No. 5267 with minor changes. He supports the suggested change that a majority of the appointed members be considered a quorum because sometimes it is difficult to get the members to the board meeting. He also supports an amendment to support deals with agency staff levels when in-house employees are more effective than contracting out.

Dawn McKay, Connecticut State Employees Association (CSEA, SEIU Local 2001):

A stronger and better functioning state Contracting standards board will help ensure that contracts with outside vendors are held to better standards of service to the public. It will help by ensuring that we only "outsource" with vendors when it is really necessary rather than when it is convenient.

Jean Morningstar, First Vice President of AFT Connecticut

Ms. Morningstar would like the Committee to support the bill because it will strengthen language around privatization of state resources and loosen the quorum requirement of the SCSB. She argues that, "In a state that struggles with revenue each year it is beyond reasonable understanding why this Board has not been adequately funded or staffed, and why there has not been much more interest in capturing this revenue. I think we could all agree that no-bid contracts are not a good idea with this much money at stake."

Lori J. Pelletier, President, Connecticut AFL-CIO

Ms. Pelletier notes that the bill seeks to define “privatization contract” so that the required cost-benefit analysis is performed and that certifications required by the SCSB are posted on the State Contracting Portal prior to any outsourcing effort. The language would also assist in making sure it is clear which quasi-public agencies are subject to clean contracting standards in statute, requires higher education institutions to propose contracting regulations to the SCSB and provides state employee bargaining unit representatives the opportunity to suggest in-house alternatives to expensive and reckless privatization contracts.

NATURE AND SOURCES OF OPPOSITION:

Matt McCooe, CEO, Connecticut Innovations (CI):

Mr. McCooe testified in opposition to H.B. No. 5267 because he believes that it can hinder CI’s ability to operate effectively. Organizations like CI were established to have greater autonomy and flexibility outside the state bureaucracy. HB 5267 would inhibit them from carrying out their mission.

Reported by: Molly Ronan / Susan Tufts

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