



House of Representatives

General Assembly

File No. 498

January Session, 2021

Substitute House Bill No. 6194

House of Representatives, April 19, 2021

The Committee on Government Administration and Elections reported through REP. FOX of the 148th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE COMPETITIVE BIDDING AND
OVERSIGHT OF QUASI-PUBLIC AGENCY CONTRACTS.***

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

1 Section 1. (NEW) (*Effective October 1, 2021*) (a) As used in this section:

2 (1) "Quasi-public agency" has the same meaning as provided in
3 section 1-120 of the general statutes;

4 (2) "Supplies", "materials" and "equipment" mean any and all articles
5 of personal property furnished to or used by any quasi-public agency;

6 (3) "Contractual services" means any and all laundry and cleaning
7 service, pest control service, janitorial service, security service, the rental
8 and repair, or maintenance, of equipment, machinery and other state-
9 owned personal property, advertising and other service arrangements
10 where the services are provided by persons other than quasi-public
11 agency employees;

12 (4) "Competitive bidding" means the submission of prices by persons,
13 firms or corporations competing for a contract to provide supplies,
14 materials, equipment or contractual services, under a procedure in
15 which the contracting authority does not negotiate prices;

16 (5) "Competitive negotiation" means a procedure for contracting for
17 supplies, materials, equipment or contractual services, in which (A)
18 proposals are solicited from qualified suppliers by a request for
19 proposals, and (B) changes may be negotiated in proposals and prices
20 after being submitted;

21 (6) "Bidder" means a person, firm or corporation submitting a
22 competitive bid in response to a solicitation;

23 (7) "Proposer" means a person, firm or corporation submitting a
24 proposal in response to a request for proposals;

25 (8) "Lowest responsible qualified bidder" means the bidder whose bid
26 is the lowest of those bidders possessing the skill, ability and integrity
27 necessary to faithful performance of the work based on objective criteria
28 considering past performance and financial responsibility; and

29 (9) "Highest scoring bidder in a multiple criteria bid" means the
30 bidder whose bid receives the highest score for a combination of
31 attributes, including, but not limited to, price, skill, ability and integrity
32 necessary for the faithful performance of the work, based on multiple
33 criteria considering quality of product, warranty, life-cycle cost, past
34 performance, financial responsibility and other objective criteria that are
35 established in the bid solicitation for the contract.

36 (b) Notwithstanding any provision of the general statutes, any
37 purchases of, and contracts for, supplies, materials, equipment and
38 contractual services, except purchases and contracts made pursuant to
39 the provisions of subsection (c) of this section and public utility services
40 as provided in subsection (e) of this section shall be based, when
41 possible, on competitive bids or competitive negotiation. The quasi-
42 public agency shall solicit competitive bids or proposals by providing

43 notice of the planned purchase in a form and manner that the quasi-
44 public agency determines will maximize public participation in the
45 competitive bidding or competitive negotiation process, including
46 participation by small contractors, as defined in section 4a-60g of the
47 general statutes, and promote competition. Each notice of a planned
48 purchase under this subsection shall indicate the type of goods and
49 services to be purchased and the estimated value of the contract award.
50 The notice shall, when applicable, also contain a notice of quasi-public
51 agency contract requirements concerning nondiscrimination and
52 affirmative action pursuant to section 4a-60 of the general statutes and
53 requirements concerning the awarding of contracts to small contractors,
54 minority business enterprises, individuals with a disability and
55 nonprofit corporations pursuant to section 4a-60g of the general
56 statutes. Each bid and proposal shall be kept sealed or secured until
57 opened publicly at the time stated in the notice soliciting such bid or
58 proposal.

59 (c) A quasi-public agency may waive the requirement of competitive
60 bidding or competitive negotiation in the case of minor nonrecurring
61 and emergency purchases of ten thousand dollars or less in amount.

62 (d) Each quasi-public agency shall adopt procedures, in accordance
63 with the provisions of section 1-121 of the general statutes, establishing
64 (1) standards and procedures for using competitive negotiation for
65 purchases and contracts, including, but not limited to, criteria which
66 shall be considered in making purchases by competitive negotiation and
67 the weight which shall be assigned to each such criterion, and (2)
68 standards and procedures under which additional purchases may be
69 made under existing contracts.

70 (e) The purchase of or contract for the following public utility services
71 shall not be subject to competitive bidding or competitive negotiation:
72 (1) Electric distribution services; (2) water services; (3) gas distribution
73 services; (4) electric generation services if such services are provided by
74 an electric municipal utility other than by a participating electric
75 municipal utility, as defined in section 16-1 of the general statutes, in the

76 service area of such electric municipal utility; and (5) gas supply services
77 until the date such services are competitive pursuant to legislative act or
78 order of the Public Utilities Regulatory Authority, provided gas supply
79 services shall be exempt from competitive bidding and competitive
80 negotiation after said date if such services are provided by a gas
81 municipal utility in the service area of such gas municipal utility.

82 (f) All open market orders or contracts shall be awarded to (1) the
83 lowest responsible qualified bidder, the qualities of the articles to be
84 supplied, their conformity with the specifications, their suitability to the
85 requirements of the quasi-public agency and the delivery terms being
86 taken into consideration, (2) the highest scoring bidder in a multiple
87 criteria bid, in accordance with the criteria set forth in the bid solicitation
88 for the contract, or (3) the proposer whose proposal is deemed by the
89 quasi-public agency to be the most advantageous, in accordance with
90 the criteria set forth in the request for proposals, including price and
91 evaluation factors.

92 (g) Notwithstanding any provision of the general statutes, each
93 quasi-public agency awarding a contract through competitive
94 negotiation shall include price as an explicit factor in the criteria in the
95 request for proposals and for the contract award. In considering past
96 performance of a bidder for the purpose of determining the lowest
97 responsible qualified bidder or the highest scoring bidder in a multiple
98 criteria bid, the quasi-public agency shall evaluate the skill, ability and
99 integrity of the bidder in terms of the bidder's fulfillment of past contract
100 obligations and the bidder's experience or lack of experience in
101 delivering supplies, materials, equipment or contractual services of the
102 size or amount for which bids have been solicited.

103 Sec. 2. Subdivision (28) of section 4e-1 of the general statutes is
104 repealed and the following is substituted in lieu thereof (*Effective October*
105 *1, 2021*):

106 (28) "State contracting agency" means any executive branch agency,
107 board, commission, department, office, institution or council. "State
108 contracting agency" does not include the judicial branch, the legislative

109 branch, the offices of the Secretary of the State, the State Comptroller,
110 the Attorney General, the State Treasurer, with respect to their
111 constitutional functions, any state agency with respect to contracts
112 specific to the constitutional and statutory functions of the office of the
113 State Treasurer. For the purposes of section 4e-16, "state contracting
114 agency" includes any constituent unit of the state system of higher
115 education and for the purposes of section 4e-19, "state contracting
116 agency" includes [the State Education Resource Center, established
117 under section 10-4q] any quasi-public agency, as defined in section 1-
118 120;

119 Sec. 3. Section 4e-7 of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective October 1, 2021*):

121 (a) For cause, the State Contracting Standards Board may review,
122 terminate or recommend to a state contracting agency or quasi-public
123 agency the termination of any contract or procurement agreement
124 undertaken by any state contracting agency or quasi-public agency after
125 providing fifteen days' notice to the state contracting agency or quasi-
126 public agency, the applicable contractor, and consulting with the
127 Attorney General. Such termination of a contract or procurement
128 agreement by the board may occur only after (1) the board has consulted
129 with the state contracting agency or quasi-public agency to determine
130 the impact of an immediate termination of the contract, (2) a
131 determination has been made jointly by the board and the state
132 contracting agency or quasi-public agency that an immediate
133 termination of the contract will not create imminent peril to the public
134 health, safety or welfare, (3) a vote of two-thirds of the members of the
135 board present and voting for that purpose, and (4) the board has
136 provided the state contracting agency or quasi-public agency and the
137 contractor with opportunity for a hearing conducted pursuant to the
138 provisions of chapter 54. Such action shall be accompanied by notice to
139 the state contracting agency or quasi-public agency and any other
140 affected party. For the purpose of this section, "for cause" means: (A) A
141 violation of section 1-84 or 1-86e, as determined by the Citizen's Ethics
142 Advisory Board; (B) wanton or reckless disregard of any state or quasi-

143 public contracting and procurement process by any person substantially
144 involved in such contract, or by any state contracting agency or quasi-
145 public agency; or (C) notification from the Attorney General to the state
146 contracting agency or quasi-public agency that an investigation
147 pursuant to section 4-61dd has concluded that the process by which
148 such contract was awarded was compromised by fraud, collusion or any
149 other criminal violation. Nothing in this section shall be construed to
150 limit the authority of the board as described in section 4e-6.

151 (b) Following consultation with the state contracting agency or quasi-
152 public agency and upon providing fifteen days' notice and the
153 opportunity for a hearing, the State Contracting Standards Board may
154 restrict or terminate the authority of any state contracting agency or
155 quasi-public agency to enter into any contract or procurement
156 agreement if: (1) The board, upon a vote of two-thirds of the members
157 of the board present and voting for such purpose, determines that such
158 state contracting agency or quasi-public agency failed to comply with
159 statutory contracting and procurement requirements and evidenced a
160 reckless disregard for applicable procedures and policy; and (2) such
161 limitation, restriction or termination of authority is in the state's best
162 interest, provided the board has made arrangements for the exercise of
163 the contracting power of such agency during the period of limitation,
164 restriction or termination. Such limitation, restriction or termination of
165 authority shall remain in effect until such time as the board determines
166 that such state contracting agency or quasi-public agency has
167 implemented corrective measures and demonstrated compliance with
168 statutes and regulations concerning procurement.

169 (c) Following consultation with the state contracting agency or quasi-
170 public agency, and thereafter upon providing fifteen days' notice and
171 the opportunity for a hearing, the State Contracting Standards Board
172 may order a state contracting agency or quasi-public agency to take
173 appropriate action to restrict or terminate the authority of an employee
174 or agent to enter into any contract or procurement agreement if the
175 board, upon a vote of two-thirds of the members of the board present
176 and voting for such purpose, determines that such employee or agent

177 failed to comply with statutory contracting and procurement
178 requirements, and evidenced a reckless disregard for applicable
179 procedures and policy. Such limitation, restriction or termination of
180 authority shall remain in effect until such time as the board determines
181 that such state contracting agency or quasi-public agency has
182 implemented corrective measures and demonstrated compliance with
183 statutes and regulations concerning procurement.

184 Sec. 4. Subdivision (6) of subsection (c) of section 8-169jj of the general
185 statutes is repealed and the following is substituted in lieu thereof
186 (*Effective October 1, 2021*):

187 (6) To contract for construction, development, concessions and the
188 procurement of goods and services, and to establish and modify
189 procurement procedures from time to time in accordance with the
190 provisions of section 1 of this act and section 8-169kk to implement the
191 [foregoing] provisions of this section;

192 Sec. 5. Subsection (c) of section 10-357b of the general statutes is
193 repealed and the following is substituted in lieu thereof (*Effective October*
194 *1, 2021*):

195 (c) The State Education Resource Center shall be subject to (1) rules,
196 regulations and restrictions on purchasing, procurement, personal
197 service agreements and the disposition of assets generally applicable to
198 Connecticut state agencies, including those contained in titles 4, 4a and
199 4b and [section 4e-19] the applicable provisions of chapter 62 concerning
200 quasi-public agencies, and (2) audit by the Auditors of Public Accounts
201 under section 2-90.

202 Sec. 6. Section 10a-196 of the general statutes is repealed and the
203 following is substituted in lieu thereof (*Effective October 1, 2021*):

204 Sections 10a-176 to 10a-195, inclusive, shall be deemed to provide a
205 complete, additional and alternative method for the doing of the things
206 authorized thereby, and shall be regarded as supplemental and
207 additional to powers conferred by other laws; provided (1) the issuance

208 of bonds and refunding bonds under the provisions of this chapter need
209 not comply with the requirements of any other law applicable to the
210 issuance of bonds including, particularly, title 42a; [and provided] (2) in
211 the construction and acquisition of a project pursuant hereto the
212 authority need not comply with the requirements of chapter 50; and (3)
213 the authority shall comply with the provisions of section 1 of this act.
214 Except as otherwise expressly provided in this chapter, none of the
215 powers granted to the authority under the provisions of this chapter
216 shall be subject to the supervision or regulation or require the approval
217 or consent of any municipality or political subdivision or any
218 commission, board, body, bureau, official or agency thereof or of the
219 state, except as provided in any provision concerning quasi-public
220 agencies contained in chapter 62.

221 Sec. 7. Subsection (s) of section 10a-204b of the general statutes is
222 repealed and the following is substituted in lieu thereof (*Effective October*
223 *1, 2021*):

224 (s) The provisions of this section shall be deemed to provide a
225 complete, additional and alternative method for the actions and the
226 things authorized thereby and shall be regarded as supplemental and
227 additional to powers granted by other laws; the issuance of bonds, notes
228 or other obligations under the provisions of this section need not comply
229 with the requirements of any law applicable to the issuance of bonds,
230 notes or other obligations. This section, being necessary for the welfare
231 of the state and its inhabitants, shall be liberally construed to affect its
232 purpose. None of the powers granted to the corporation or to any
233 subsidiary created pursuant to subdivision (5) of section 10a-204 under
234 the provisions of this section shall be subject to the supervision or
235 regulation or require the approval or consent of any municipality or
236 political subdivision or any department, division, commission, board,
237 body, bureau, official or agency thereof or of the state, and the exercise
238 thereof shall not cause the corporation or any such subsidiary to be
239 construed to be an agency within the scope of chapter 54 or a
240 department, institution or agency of the state, except that the
241 corporation or any such subsidiary shall comply with the applicable

242 provisions of chapter 62 and section 1 of this act.

243 Sec. 8. Section 10a-243 of the general statutes is repealed and the
244 following is substituted in lieu thereof (*Effective October 1, 2021*):

245 The provisions of this chapter shall be deemed to provide a complete,
246 additional and alternative method for the actions of the things
247 authorized thereby and shall be regarded as supplemental and
248 additional to powers granted by other laws; the issuance of revenue
249 bonds or notes and revenue refunding bonds or notes under the
250 provisions of this chapter need not comply with the requirements of any
251 other law applicable to the issuance of bonds or notes, except that the
252 authority shall comply with the provisions of section 1 of this act. This
253 chapter, being necessary for the welfare of the state and its inhabitants,
254 shall be liberally construed to effect its purpose. Except as otherwise
255 expressly provided in this chapter or the applicable provisions of
256 chapter 62 concerning quasi-public agencies, none of the powers
257 granted to the authority under the provisions of this chapter shall be
258 subject to the supervision or regulation or require the approval or
259 consent of any municipality or political subdivision or any department,
260 division, commission, board, body, bureau, official or agency thereof or
261 of the state. The authority shall not be construed to be an agency within
262 the scope of chapter 54 or a department, institution or agency of the
263 state.

264 Sec. 9. Subdivision (16) of subsection (b) of section 12-806 of the
265 general statutes is repealed and the following is substituted in lieu
266 thereof (*Effective October 1, 2021*):

267 (16) To invest in, acquire, lease, purchase, own, manage, hold and
268 dispose of real property and lease, convey or deal in or enter into
269 agreements with respect to such property on any terms necessary or
270 incidental to carrying out the purposes of sections 12-563a and 12-800 to
271 12-818, inclusive, provided such transactions shall not be subject to
272 approval, review or regulation pursuant to title 4b or any other statute
273 by any state agency, except that real property transactions shall be
274 subject to review by the State Properties Review Board and contracts

275 shall be subject to the requirements of section 1 of this act and the
276 applicable provisions of chapter 62;

277 Sec. 10. Section 12-815 of the general statutes is repealed and the
278 following is substituted in lieu thereof (*Effective October 1, 2021*):

279 (a) The corporation shall establish and adopt specific policies, rules
280 and procedures on purchasing and contracting. Such policies, rules and
281 procedures or amendments thereto shall be approved by a two-thirds
282 vote of the entire board. Notwithstanding any other provision of law to
283 the contrary, the corporation may enter into management, consulting
284 and other agreements for the provision of goods, services and
285 professional advisors necessary or useful in connection with the
286 operation and management of the lottery (1) pursuant to a process of
287 open or competitive bidding, provided (A) the corporation shall first
288 determine the format, content and scope of any agreement for any
289 procurement of goods or services, the conditions under which bidding
290 will take place and the schedule and stipulations for contract award, and
291 (B) the corporation may select the contractor deemed to have submitted
292 the most favorable bid, considering price and other factors, when, in the
293 judgment of the corporation, such award is in the best interests of the
294 corporation, or (2) if the corporation, in its discretion, determines that,
295 due to the nature of the agreement to be contracted for or procured,
296 open or public bidding is either impracticable or not in the best interests
297 of the corporation, by competitive negotiation, [with such prospective
298 providers as the corporation may determine] as defined in section 1 of
299 this act. The terms and conditions of agreements and the fees or other
300 compensation to be paid to such persons shall be determined by the
301 corporation. The agreements entered into by the corporation in
302 accordance with the provisions of this section shall not be subject to the
303 approval of any state department, office or agency, except as provided
304 in regulations adopted by the Department of Consumer Protection or
305 any applicable provision of chapter 62. Nothing in this section shall be
306 deemed to restrict the discretion of the corporation to utilize its own
307 staff and workforce for the performance of any of its assigned
308 responsibilities and functions whenever, in the discretion of the

309 corporation, it becomes necessary, convenient or desirable to do so.
310 Copies of all agreements of the corporation shall be maintained by the
311 corporation at its offices as public records, subject to said exemption.

312 (b) The corporation shall not be subject to rules, regulations or
313 restrictions on purchasing or procurement or the disposition of assets
314 generally applicable to Connecticut state agencies, including those
315 contained in titles 4a and 4b and the corresponding rules and
316 regulations, but shall be subject to the requirements of section 1 of this
317 act and the applicable provisions concerning quasi-public agencies in
318 chapter 62. The board shall adopt rules and procedures on purchasing,
319 procurement and the disposition of assets applicable to the corporation.
320 The adoption of such rules or procedures shall not be subject to chapter
321 54. Any such rules or procedures shall be a public record, as defined in
322 section 1-200.

323 Sec. 11. Subdivision (15) of subsection (a) of section 15-31b of the
324 general statutes is repealed and the following is substituted in lieu
325 thereof (*Effective October 1, 2021*):

326 (15) Invest in, acquire, lease, purchase, own, manage, hold and
327 dispose of real property and lease, convey or deal in or enter into
328 agreements with respect to such property on any terms necessary or
329 incidental to carrying out the purposes of sections 15-31a to 15-31i,
330 inclusive, provided such transactions shall not be subject to approval,
331 review or regulation by any state agency pursuant to title 4b or any other
332 provision of the general statutes, except the authority (A) shall not
333 convey fee simple ownership in any property associated with the ports
334 or harbors under its jurisdiction and control without the approval of the
335 State Properties Review Board and the Attorney General, and (B) shall
336 be subject to the applicable provisions concerning quasi-public agencies
337 in chapter 62; and

338 Sec. 12. Subdivision (16) of subsection (a) of section 22a-266 of the
339 general statutes is repealed and the following is substituted in lieu
340 thereof (*Effective October 1, 2021*):

341 (16) Contract for services in the performance of architectural and
342 engineering design, the supervision of design and construction, system
343 management and facility management; for such professional or
344 technical services as are specified in subdivision (3) of section 22a-265;
345 and for such other professional or technical services as may require
346 either prequalification of a contractor or the submission by any
347 individual, firm or consortium or association of individuals or firms of
348 a proposal in response to an official request for proposal or similar
349 written communication of the authority that is issued or made pursuant
350 to section 1 of this act and the contracting procedures adopted under
351 section 22a-268a, as amended by this act, whenever such services are, in
352 the discretion of the authority, deemed necessary, desirable or
353 convenient in carrying out the purposes of the authority;

354 Sec. 13. Subsections (b) and (c) of section 22a-266 of the general
355 statutes are repealed and the following is substituted in lieu thereof
356 (*Effective October 1, 2021*):

357 (b) Any contracts authorized by this chapter shall be entered into by
358 the authority (1) on the same basis and subject to the same limitations
359 and considerations applicable to municipal and regional resources
360 recovery authorities pursuant to subsection (c) of section 7-273bb, and
361 (2) pursuant to section 1 of this act and the contracting procedures
362 adopted under section 22a-268a, as amended by this act, except that in
363 entering into a contract for a resources recovery facility, solid waste
364 facility, volume reduction plant or solid waste management system, the
365 authority shall consider the best interests of the municipality or region
366 to be served by such facility, plant or system.

367 (c) The authority shall have power, in its discretion, either to purchase
368 on a centralized basis, heavy solid waste processing equipment to be
369 installed in waste management projects, or to require such purchase and
370 installation as part of a construction contract. The authority shall
371 conduct its contracting and purchasing operations in accordance with
372 section 1 of this act and its regularly adopted and promulgated
373 procurement policies, including the contracting procedures adopted

374 under section 22a-268a, as amended by this act, and specific rules and
375 procedures on purchasing and contracting approved by a two-thirds
376 vote of its full board of directors. In procuring services with respect to
377 the establishment, management and operation of transfer stations, and
378 the transportation of solid wastes therefrom to a solid waste facility, the
379 authority and its subcontractors shall insofar as is practicable give
380 preference to firms based in Connecticut. Whenever the authority
381 determines that a contract for facility management shall be awarded on
382 other than a competitive bidding basis, in accordance with applicable
383 provisions of subdivision (16) of subsection (a) of this section, subsection
384 (b) of this section, section 22a-268, as amended by this act, and section 1
385 of this act, and the contracting procedures adopted under section 22a-
386 268a, as amended by this act, the directors shall, at least sixty days prior
387 to the award date, pass a resolution expressing their intent to award and
388 shall within ten days cause a copy of such resolution to be printed in
389 one daily and one weekly newspaper published within the state.
390 Thereupon, interested parties who so desire may, within thirty days,
391 petition the directors with respect to such contract and offer evidence in
392 extenuation before a referee appointed by the chairperson. Such referee
393 shall not be an employee of the authority and shall report the referee's
394 findings with respect to such petition and evidence to the directors at
395 least ten days prior to the projected award date. The directors shall give
396 due consideration to such findings in determining the final award of the
397 contract.

398 Sec. 14. Section 22a-268 of the general statutes is repealed and the
399 following is substituted in lieu thereof (*Effective October 1, 2021*):

400 The authority shall utilize private industry, by contract, to carry out
401 the business, design, operating, management, marketing, planning and
402 research and development functions of the authority, unless the
403 authority determines that it is in the public interest to adopt another
404 course of action. The authority is hereby empowered to enter into long-
405 term contracts with private persons for the performance of any such
406 functions of the authority which, in the opinion of the authority, can
407 desirably and conveniently be carried out by a private person under

408 contract provided any such contract shall contain such terms and
409 conditions as will enable the authority to retain overall supervision and
410 control of the business, design, operating, management, transportation,
411 marketing, planning and research and development functions to be
412 carried out or to be performed by such private persons pursuant to such
413 contract. Such contracts shall be entered into either on a competitive
414 negotiation or competitive bidding basis, and the authority in its
415 discretion may select the type of contract it deems most prudent to
416 utilize, pursuant to the contracting procedures adopted under section
417 22a-268a, as amended by this act, and considering the scope of work, the
418 management complexities associated therewith, the extent of current
419 and future technological development requirements and the best
420 interests of the state. Whenever a long-term contract is entered into on
421 other than a competitive bidding basis, the criteria and procedures
422 therefor shall conform to applicable provisions of subdivision (16) of
423 subsection (a) and subsections (b) and (c) of section 22a-266, as amended
424 by this act, provided however, that any contract for a period of over five
425 years in duration, or any contract for which the annual consideration is
426 greater than fifty thousand dollars shall be approved by a two-thirds
427 vote of the authority's full board of directors. The terms and conditions
428 of such contracts shall be determined by the authority, as shall the fees
429 or other similar compensation to be paid to such persons for such
430 contracts. The contracts entered into by the authority shall not be subject
431 to the approval of any other state department, office or agency, other
432 than the State Contracting Standards Board under the applicable
433 provisions of chapter 62. However, copies of all contracts of the
434 authority shall be maintained by the authority as public records, subject
435 to the proprietary rights of any party to the contract. Nothing of the
436 aforesaid shall be deemed to restrict the discretion of the authority to
437 utilize its own staff and work force for the performance of any of its
438 assigned responsibilities and functions whenever, in the discretion of
439 the authority, it becomes necessary, convenient or desirable to do so.
440 Any litigation with respect to any terms, conditions or provisions of any
441 contract of the authority, or the performance or nonperformance of same
442 by either party, shall be tried before a judge of the Superior Court of

443 Connecticut.

444 Sec. 15. Section 22a-268a of the general statutes is repealed and the
445 following is substituted in lieu thereof (*Effective October 1, 2021*):

446 The board of directors of the Materials Innovation and Recycling
447 Authority shall adopt written procedures, in accordance with the
448 provisions of section 1-121, for: (1) Adopting an annual budget and plan
449 of operations, including a requirement of board approval before the
450 budget or plan may take effect; (2) hiring, dismissing, promoting and
451 compensating employees of the authority, including an affirmative
452 action policy and a requirement of board approval before a position may
453 be created or a vacancy filled; (3) acquiring real and personal property
454 and personal services, including a requirement of board approval for
455 any such nonbudgeted expenditure in excess of five thousand dollars;
456 (4) contracting for (A) the business, design, operating, management,
457 construction, transportation, marketing, planning and research and
458 development functions of the authority, (B) financial, legal, bond
459 underwriting and other professional services, and (C) supplies,
460 materials and equipment, including (i) notwithstanding any provision
461 of this chapter, standards for determining when contracts described in
462 this subdivision (4) shall be awarded on the basis of competitive bidding
463 or competitive negotiation, an exemption for small purchases, and
464 criteria for waiving competitive bidding or competitive negotiation,
465 provided any such criteria shall comply with the provisions of section 1
466 of this act, and (ii) a requirement that the authority solicit proposals at
467 least once every three years for each such professional service which it
468 uses; (5) issuing and retiring bonds, bond anticipation notes and other
469 obligations of the authority; (6) awarding loans, grants and other
470 financial assistance, including eligibility criteria, the application process
471 and the role played by the authority's staff and board of directors; and
472 (7) the use of surplus funds to the extent authorized under this chapter
473 or other provisions of the general statutes.

474 Sec. 16. Subdivision (14) of subsection (b) of section 31-49h of the
475 general statutes is repealed and the following is substituted in lieu

476 thereof (*Effective October 1, 2021*):

477 (14) Make and enter into any contract or agreement necessary or
478 incidental to the performance of its duties and execution of its powers
479 subject to the provisions of section 1 of this act. The contracts and
480 agreements entered into by the authority shall not be subject to the
481 approval of any other state department, office or agency, other than the
482 State Contracting Standards Board under the applicable provisions of
483 chapter 62, provided copies of all such contracts shall be maintained by
484 the authority as public records, subject to the proprietary rights of any
485 party to such contracts. No contract shall contain any provision in which
486 any contractor derives any direct or indirect economic benefit from
487 denying or otherwise influencing the outcome of any claim for benefits.
488 The standard criteria for the evaluation of proposals relating to claims
489 processing, web site development, database development, marketing
490 and advertising, in the event the authority seeks the services of an
491 outside contractor for such tasks, and for the evaluation of proposals
492 relating to all other contracts in amounts equal to or exceeding two
493 hundred fifty thousand dollars shall include, but need not be limited to:
494 (A) Transparency, (B) cost, (C) efficiency of operations, (D) quality of
495 work related to the contracts issued, (E) user experience, (F)
496 accountability, and (G) a cost-benefit analysis documenting the direct
497 and indirect costs of such contracts, including qualitative and
498 quantitative benefits that will result from the implementation of such
499 contracts. The establishment of additional standard criteria shall be
500 approved by a two-thirds vote of the board after such criteria have been
501 posted on a public Internet web site maintained by the authority for
502 notice and comment for at least one week prior to such vote.

503 Sec. 17. Subdivision (13) of subsection (c) of section 38a-1083 of the
504 general statutes is repealed and the following is substituted in lieu
505 thereof (*Effective October 1, 2021*):

506 (13) Make and enter into any contract or agreement necessary or
507 incidental to the performance of its duties and execution of its powers.
508 The contracts entered into by the exchange shall not be subject to the

509 approval of any other state department, office or agency other than the
 510 State Contracting Standards Board under the applicable provisions of
 511 chapter 62, provided copies of all contracts of the exchange shall be
 512 maintained by the exchange as public records, subject to the proprietary
 513 rights of any party to the contract;

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	New section
Sec. 2	October 1, 2021	4e-1(28)
Sec. 3	October 1, 2021	4e-7
Sec. 4	October 1, 2021	8-169jj(c)(6)
Sec. 5	October 1, 2021	10-357b(c)
Sec. 6	October 1, 2021	10a-196
Sec. 7	October 1, 2021	10a-204b(s)
Sec. 8	October 1, 2021	10a-243
Sec. 9	October 1, 2021	12-806(b)(16)
Sec. 10	October 1, 2021	12-815
Sec. 11	October 1, 2021	15-31b(a)(15)
Sec. 12	October 1, 2021	22a-266(a)(16)
Sec. 13	October 1, 2021	22a-266(b) and (c)
Sec. 14	October 1, 2021	22a-268
Sec. 15	October 1, 2021	22a-268a
Sec. 16	October 1, 2021	31-49h(b)(14)
Sec. 17	October 1, 2021	38a-1083(c)(13)

Statement of Legislative Commissioners:

In Section 1(b), a reference to Subsec. "(d)" was changed to "(c)" for accuracy.

GAE Joint Favorable Subst. -LCO

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.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Governmental Accountability, Off.	GF - Cost	130,000	133,900
State Comptroller - Fringe Benefits ¹	GF - Cost	53,700	55,300

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill subjects quasi-public agencies to certain oversight by the State Contracting Standards Board (SCSB). Generally, it applies to quasi-public agencies provisions in existing law that allow SCSB to limit state contracting agencies' authority to enter into contracts or procurement agreements. The SCSB would need to fill its unfunded vacant Chief Procurement Officer position to handle the bill's requirements. The salary for this position is approximately \$130,000.

Please note that the SCSB is located within the Office of Governmental Accountability.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.3% of payroll in FY 22 and FY 23.

OLR Bill Analysis**HB 6194****AN ACT CONCERNING THE COMPETITIVE BIDDING AND OVERSIGHT OF QUASI-PUBLIC AGENCY CONTRACTS.****SUMMARY**

This bill generally requires quasi-public agencies to follow the same procedures as state agencies when entering into certain goods and services contracts. (By law, the state has 17 quasi-public agencies.) Generally, these procedures require (1) using competitive bidding or competitive negotiation when purchasing goods and services and (2) awarding contracts to the lowest responsible qualified bidder or highest-scoring bidder in a multiple-criteria bid. The bill's provisions generally mirror provisions in existing law that apply to executive branch state agencies (CGS §§ 4a-50, -57 & -59).

The bill also subjects quasi-public agencies to certain oversight by the State Contracting Standards Board (SCSB). Generally, it applies to quasi-public agencies provisions in existing law that allow SCSB to limit state contracting agencies' authority to enter into contracts or procurement agreements. It also requires quasi-public agencies to purchase goods and services using procurement methods specified in regulations that existing law requires SCSB to adopt. (To date, the board has not adopted these regulations.)

The bill makes numerous conforming changes to individual quasi-public agencies' authorizing statutes where they would otherwise conflict with the bill's requirements (§§ 4-17).

EFFECTIVE DATE: October 1, 2021

§ 1 — COMPETITIVE BIDDING REQUIREMENTS***Procedures***

The bill's requirements apply to quasi-public agencies' purchases of supplies, materials, equipment, and specified contractual services (e.g., laundry and cleaning, equipment maintenance). With certain exceptions, it requires that purchases of these goods and services be made using competitive bidding or competitive negotiation (as defined in existing law) when possible. When using competitive negotiation, the quasi-public agency must include price as an explicit criterion in the request for proposals and contract award.

The bill requires quasi-public agencies to adopt procedures establishing standards and procedures for (1) using competitive negotiation, including criteria to be considered and each criterion's weight, and (2) making additional purchases from existing contracts. As under existing law, the bill establishes exceptions for (1) minor nonrecurring and emergency purchases of \$10,000 or less and (2) specified public utility services.

Solicitations

Under the bill, quasi-public agencies must solicit competitive bids or proposals by noticing the planned purchase in a form and manner they determine will promote competition and maximize public participation, including by small contractors certified under the state set-aside program (see BACKGROUND). The notice must include the types of goods and services sought by the agency and the contract award's estimated value.

When applicable, the notice must also contain (1) a notice of state law's nondiscrimination and affirmative action requirements and (2) provisions for awarding contracts to entities certified under the state set-aside program (e.g., small contractors and minority business enterprises).

The bill requires quasi-public agencies to keep bids and proposals sealed or secured until publicly opened at the time stated in the solicitation notice.

Contract Awards

The bill requires that all open-market orders or contracts for the specified goods and services be awarded to the (1) lowest responsible qualified bidder, (2) highest-scoring bidder in a multiple-criteria bid, or (3) proposer that the quasi-public agency deems as having the most advantageous proposal.

“Lowest responsible qualified bidder” refers to the lowest bidder that has the skill, ability, and integrity needed to perform the work. “Highest-scoring bidder in a multiple-criteria bid” refers to the bidder with the highest score for a combination of attributes, including price, skill, ability, and integrity based on objective criteria established in the bid solicitation. In both cases, the quasi-public agency must base its evaluation on the bidder’s fulfillment of past contract obligations and experience or lack of experience in delivering the specific goods or services sought in the bid solicitation.

§§ 2 & 3 — SCSB OVERSIGHT

Under current law, SCSB has limited authority over quasi-public agencies, as they are not included in the definition of “state contracting agency” in SCSB’s authorizing statutes (however, the State Education Resource Center (SERC) is a state contracting agency under a statute governing procurement methods) (see BACKGROUND).

The bill applies to quasi-public agencies provisions in existing law that allow SCSB to limit state contracting agencies’ authority to enter into contracts or procurement agreements. Specifically, it allows SCSB, under specified conditions, to (1) review, terminate, or recommend termination of a contract or procurement agreement for cause following specified procedures (e.g., provide the contractor with a hearing); (2) restrict or terminate a quasi-public agency’s authority to enter into a contract or procurement agreement; and (3) order a quasi-public agency to restrict or terminate an employee’s or agent’s authority to enter into contracts or procurement agreements.

The bill also applies to quasi-public agencies a requirement in

existing law that all goods and services purchases by a state contracting agency be made by (1) competitive sealed bidding or proposals, (2) small purchase procedure, (3) sole source procurement, (4) emergency procurements, or (5) a bid or proposal waiver for extraordinary conditions (CGS § 4e-19). Under current law, SERC is the only quasi-public agency subject to these requirements.

These provisions require SCSB to adopt implementing regulations before they become operative. However, SCSB has not adopted any such implementing regulations to date. Therefore, it is unclear how the statutes would apply to quasi-public agencies.

BACKGROUND

Related Bills

sHB 6664, reported favorably by the Government Administration and Elections (GAE) Committee, makes numerous changes that, generally, increase the executive and legislative branches' oversight of quasi-public agencies.

sHB 6577, reported favorably by the GAE Committee, requires the State Properties Review Board to review and approve or disapprove certain real estate transactions proposed by quasi-public agencies.

Attorney General Opinion

In a 2021 opinion (Attorney General Opinion 2021-01), the attorney general concluded that most SCSB statutes give the board authority over state contracting agencies only, with only limited authority over quasi-public agencies. He noted that although the board has authority over certain bid contests involving quasi-public agencies, generally its authority over quasi-public agencies "is much more limited and circumscribed relative to its authority over state contracting agencies."

Set-Aside Program

The state set-aside program requires state agencies and certain political subdivisions (including quasi-public agencies) to set aside 25% of the total value of all contracts they let for construction, goods, and

services each year for exclusive bidding by certified small contractors. The agencies must further reserve 25% of the set-aside value (6.25% of the total) for exclusive bidding by certified minority business enterprises (MBE).

By law, a “certified small contractor” is a business that (1) maintains its principal place of business in Connecticut, (2) had gross revenues of \$20 million or less during its most recent fiscal year, and (3) is independent. MBEs are small contractors owned by women, minorities, or people with disabilities. The owner must have managerial and technical competence and experience directly related to his or her principal business activities (CGS § 4a-60g(a)).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 19 Nay 0 (03/31/2021)