



General Assembly

Substitute Bill No. 917

January Session, 2019



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2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2019*):

4 (21) "Privatization contract" means (A) 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; or (B) a procurement contract entered
12 into on or after July 1, 2019, for which subsequent related services, the
13 total cost of which exceed fifty thousand dollars per year, will be
14 required;

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16 repealed and the following is substituted in lieu thereof (*Effective July*
17 *1, 2019*):

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34 repealed and the following is substituted in lieu thereof (*Effective July*
35 *1, 2019*):

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

41 Sec. 4. Subsection (c) of section 4e-13 of the general statutes is
42 repealed and the following is substituted in lieu thereof (*Effective July*
43 *1, 2019*):

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

51 contract shall be valid unless, at least thirty days prior to the execution
52 of such contract, all certifications required by section 4e-16, as
53 amended by this act, have been posted on the State Contracting Portal.

54 Sec. 5. Subsection (p) of section 4e-16 of the general statutes is
55 repealed and the following is substituted in lieu thereof (*Effective July*
56 *1, 2019*):

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

84 the termination or rescission of such contract. The secretary may waive
85 the requirement for an evaluation of cost-effectiveness under this
86 subsection upon a written finding by the secretary that exigent or
87 emergent circumstances necessitate such waiver.

88 Sec. 6. Section 4e-16 of the general statutes is amended by adding
89 subsections (r) to (t), inclusive, as follows (*Effective July 1, 2019*):

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

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

117 budget adjustment.

118 (NEW) (t) No state contracting agency may enter into a
119 privatization contract without obtaining the formal approval of the
120 contract from the Attorney General. Prior to entering into any such
121 contract, the agency shall submit to the Attorney General (1) a copy of
122 the proposed contract, (2) any certifications required by this section
123 attached to the contract, and (3) one of the following: (A) A
124 certification that the contract is not subject to the provisions of
125 subsection (a) of this section, (B) a certification that the contract was
126 approved by the State Contracting Standards Board, or (C) a copy of
127 the written exemption from the requirements of subsection (a) of this
128 section signed by the Governor pursuant to subsection (o) of this
129 section. Any privatization contract entered into on or after July 1, 2019,
130 shall not be binding upon the state unless such privatization contract
131 conforms with the requirements of this subsection.

132 Sec. 7. Section 4e-47 of the general statutes is repealed and the
133 following is substituted in lieu thereof (*Effective July 1, 2019*):

134 On or [after January 1, 2011,] before January 1, 2020, each
135 constituent unit of the state system of higher education shall propose
136 regulations concerning its contracting procedures to the State
137 Contracting Standards Board to be adopted by the board. The board
138 shall adopt regulations, in accordance with the provisions of chapter
139 54, [to apply the contracting procedures, as described in sections 4e-18
140 to 4e-45, inclusive, to each constituent unit of the state system of higher
141 education.] with any modifications to the proposed regulations the
142 board deems appropriate. Such regulations shall take into
143 consideration circumstances and factors that are unique to such
144 constituent units. Until such regulations are adopted by the State
145 Contracting Standards Board, the provisions of sections 4e-18 to 4e-46,
146 inclusive, shall apply to every expenditure of public funds by any
147 constituent unit of the state system of higher education, regardless of
148 the source of such funds.

149 Sec. 8. (NEW) (*Effective July 1, 2019*) (a) Not later than ninety days
150 after the adjournment sine die of each regular session of the General
151 Assembly, the Secretary of the Office of Policy and Management shall
152 determine the appropriate staffing levels at the State Contracting
153 Standards Board sufficient for the board to carry out its statutory
154 duties. In any year during which the secretary determines that the
155 board is staffed at substantially lower levels than is sufficient, the
156 secretary shall notify the Auditors of Public Accounts of such
157 determination and the auditors may issue the compliance report for
158 each state contracting agency as required under section 4e-6 of the
159 general statutes. If such a compliance report has not been issued for an
160 agency for three years or more as of December thirty-first of any
161 calendar year, the auditors shall issue such report not later than April
162 first of the following calendar year.

163 (b) To the extent the State Contracting Standards Board remains
164 below the appropriate staffing level determined by the secretary, each
165 state contracting agency shall designate an employee to serve as a
166 liaison with the State Contracting Standards Board. Such liaison shall
167 notify the board of any privatization contract valued at over fifty
168 thousand dollars and shall provide the board any evaluation or
169 analysis of such contract not later than ten days after the agency
170 completes such evaluation or analysis. An electronic communication to
171 the board that directs the staff of the board to a posting on the State
172 Contracting Portal shall constitute sufficient notice under this
173 subsection. Each state contracting agency shall inform its liaison that
174 any such reporting is an essential part of such employee's duties.

175 Sec. 9. (NEW) (*Effective July 1, 2019*) The administrative head of each
176 budgeted agency shall include in its estimates of expenditure
177 requirements transmitted to the Secretary of the Office of Policy and
178 Management pursuant to section 4-77 of the general statutes, and the
179 Governor may include in the Governor's recommended appropriations
180 in the budget document transmitted to the General Assembly pursuant
181 to section 4-71 of the general statutes, an estimate of the amount

182 required by such agency for expenditures related to hiring additional
 183 employees pursuant to subsection (s) of section 4e-16 of the general
 184 statutes, as amended by this act.

185 Sec. 10. Subsection (a) of section 4-73 of the general statutes is
 186 repealed and the following is substituted in lieu thereof (*Effective July*
 187 *1, 2019*):

188 (a) The budget document shall present in detail for each fiscal year
 189 of the ensuing biennium the Governor's recommendation for
 190 appropriations to meet the expenditure needs of the state from the
 191 General Fund and from all special and agency funds classified by
 192 budgeted agencies and showing for each budgeted agency and its
 193 subdivisions: (1) A narrative summary describing the agency, the
 194 Governor's recommendations for appropriations for the agency, and a
 195 list of agency programs, the actual expenditure for the last-completed
 196 fiscal year, the estimated expenditure for the current fiscal year, the
 197 amount requested by the agency and the Governor's recommendations
 198 for appropriations for each fiscal year of the ensuing biennium; and (2)
 199 a summary of permanent full-time positions by fund, setting forth the
 200 number filled and the number vacant as of the end of the last-
 201 completed fiscal year, the total number intended to be funded by
 202 appropriations without reduction for turnover for the fiscal year in
 203 progress, the total number requested and the total number
 204 recommended for each fiscal year of the biennium to which the budget
 205 relates, including the rationale for determining its estimate of
 206 additional expenditures, if any, related to hiring additional employees
 207 reported under section 9 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	4e-1(21)
Sec. 2	<i>July 1, 2019</i>	4e-1(28)
Sec. 3	<i>July 1, 2019</i>	4e-2(m)
Sec. 4	<i>July 1, 2019</i>	4e-13(c)

Sec. 5	<i>July 1, 2019</i>	4e-16(p)
Sec. 6	<i>July 1, 2019</i>	4e-16
Sec. 7	<i>July 1, 2019</i>	4e-47
Sec. 8	<i>July 1, 2019</i>	New section
Sec. 9	<i>July 1, 2019</i>	New section
Sec. 10	<i>July 1, 2019</i>	4-73(a)

Statement of Legislative Commissioners:

Section 10(a) was reworded for statutory consistency.

GAE *Joint Favorable Subst.*