

2011 -- S 0153

LC00691

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS - STATE PURCHASES

Introduced By: Senators DiPalma, Sheehan, E O'Neill, Nesselbush, and Ciccone

Date Introduced: February 03, 2011

Referred To: Senate Government Oversight

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 37-2 of the General Laws entitled "State Purchases" is hereby  
2 amended by adding thereto the following section:

3 **37-2-81. Duty to review contracts.** – (a) The chief purchasing officer shall monitor all  
4 state contracts awarded pursuant to chapter 37-2 with a value greater than five hundred thousand  
5 dollars (\$500,000) and with respect to said contracts:

6 If there is a proposed material change to the scope of the work or to one or more of the  
7 terms of the contract, then the chief purchasing officer shall determine in writing whether it is in  
8 the best interest of the state to proceed under the existing contract, to proceed with a separate  
9 procurement, or to terminate the original agreement and rebid the contract. Such determination  
10 shall be made prior to implementing the contract increase or material change and shall clearly  
11 enumerate the circumstances of the contract increase and/or material change and the reasons  
12 supporting the decision. Furthermore, such determination and the reasons supporting the decision  
13 shall not be deemed to establish or be considered as evidence in the litigation, arbitration or  
14 mediation of a claim seeking reimbursement and/or damages for delay, change in circumstances  
15 or unforeseen conditions. The chief purchasing officer shall file copies of the written  
16 determination with the senate fiscal advisor and the house fiscal advisor no later than three (3)  
17 business days after executing the written determination.

18 (b) Notwithstanding any other provision to the contrary, including any provision  
19 exempting any entity from the requirements of this chapter, all public corporations as defined in

1 subdivision 35-20-5(4) and quasi-public agencies shall monitor their respective contracts with a  
2 value greater than five hundred thousand dollars (\$500,000) and with respect to said contracts:

3 If there is a proposed material change to the scope of the work or to one or more of the  
4 terms of the contract, then the chief executive officer shall determine in writing whether it is in  
5 the best interest of the state to proceed under the existing contact, to proceed with a separate  
6 procurement, or to terminate the original agreement and rebid the contract. Such determination  
7 shall be made prior to implementing the contract increase or material change, shall comply with  
8 the requirements of section 37-2-6 of this chapter, and shall clearly enumerate the circumstances  
9 of the contract increase and/or material change and the reasons for the decision made.  
10 Furthermore, such determination and the reasons supporting the decision shall not be deemed to  
11 establish or be considered as evidence in the litigation, arbitration or mediation of a claim seeking  
12 reimbursement and/or damages for delay, change in circumstances or unforeseen conditions. The  
13 chief executive officer shall file copies of the written determination with the governor, the  
14 president of the senate, the speaker of the house, the director of the department of administration,  
15 the budget officer, the senate fiscal advisor, and the house fiscal advisor no later than three (3)  
16 business days after executing the written determination.

17 (c) Definitions: For the purposes of this section, the words used in this subsection have  
18 the meaning set forth below:

19 (1) A “material change” means a change to the scope of the work or to a term of the  
20 contract that would have been important to or would have tended to influence the public bidding  
21 process or the decision to award the original contract or that would substantially increase the  
22 value of the contract to the contractor. A five percent (5%) cumulative increase in the value of  
23 the contract shall, by itself, constitute a material change.

24 SECTION 2. This act shall take effect upon passage and shall apply to all contracts  
25 entered into after July 1, 2011.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would require the chief purchasing officer as well as all public corporations and  
2 quasi-public agencies to monitor all state contracts with a value of greater than five hundred  
3 thousand dollars (\$500,000) for certain changes.

4           This act would take effect upon passage and would apply to all contracts entered into  
5 after July 1, 2011.

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