

SENATE BILL 1188

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 8 and Title 12, relative to public contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 4, Part 1, is amended by adding the following language as a new section:

12-4-127.

(a) On and after the effective date of this act, in the case of any contract for services to be let by a department or agency of state government organized in title 4, chapter 3, to an outside entity, the commissioner or director of such department or agency shall certify to the comptroller of the treasury that:

(1) No state employee within that department or agency is capable of accomplishing the tasks sought to be contracted;

(2) No vacant positions in such department or agency exist that can be filled by hiring an employee to perform the services in lieu of contacting for such services to an outside entity;

(3) A cost-benefit analysis has been conducted regarding the contract and the benefit has been determined to exceed the cost;

(4) The proposed contractor does not have a record of misconduct in the performance of any past or present contract with the state of Tennessee or any other contracting agency. For the purpose of this section, evidence of misconduct shall include any finding by any criminal or civil court of competent jurisdiction in the United States, or by any agency of federal government or the state government of Tennessee, that the contractor has conducted business

dishonestly or has acted in violation of state or federal law, or has violated the legally protected rights of its employees or of any other persons; and

(5) The contracting department or agency or another state department or agency competent to do so will oversee the performance of the contract. No third party outside of state government will conduct such oversight.

(b) The commissioner or director shall attach to the certification required under subsection (a) persuasive written reasons as to the inability of the department or agency's employees to perform the services required under the contract. The commissioner or director shall also attach a copy of the cost-benefit analysis to the certification.

SECTION 2. This act shall take effect July 1, 2013, the public welfare requiring it.