

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 96 entitled “An act relating to privatization contracts” respectfully
4 reports that it has considered the same and recommends that that bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

7 Sec. 1. 3 V.S.A. § 341 is amended to read:

8 § 341. DEFINITIONS

9 * * *

10 (3) “Privatization contract” means a contract or grant for services valued
11 at \$25,000.00 or more per year, which is the same or substantially similar to
12 and in lieu of services previously provided, in whole or in part, by permanent,
13 classified State employees, ~~and which results in a reduction in force of at least~~
14 ~~one permanent, classified employee, or the elimination of a vacant position of~~
15 ~~an employee covered by a collective bargaining agreement.~~

16 * * *

17 Sec. 2. 3 V.S.A. § 343 is amended to read:

18 § 343. PRIVATIZATION CONTRACTS; PROCEDURE

19 (a) An agency shall not enter into a privatization contract unless all of the
20 following are satisfied:

1 (1)(A) Thirty-five days prior to the beginning of any open bidding
2 process, the agency provides written notice to the collective bargaining
3 representative of the intent to seek to enter a privatization contract. During
4 those 35 days, the collective bargaining representative shall have the
5 opportunity to discuss alternatives to contracting. Such alternatives may
6 include amendments to the contract if mutually agreed upon by the parties.
7 Notices regarding the bid opportunity may not be issued during the 35-day
8 discussion period. The continuation of discussions beyond the end of the 35-
9 day period shall not delay the issuance of notices.

10 (B) During this 35-day period, the agency shall prepare a specific
11 written statement of the services proposed to be the subject of the privatization
12 contract, including the specific quantity and standard or quality of the subject
13 services. For each position in which a bidder will employ any person pursuant
14 to a privatization contract and for which the duties are substantially similar to
15 the duties performed by a permanent, classified State employee, the statement
16 shall also include the prevailing wage rate to be paid for each position, which
17 shall not be less than the average step of the grade under which the comparable
18 State employee position is paid. This statement shall be subject to 1 V.S.A.
19 chapter 5, subchapter 3 (Public Records Act).

1 nondiscrimination and affirmative action, environmental protection, and
2 conflicts of interest; and

3 (D) the proposed privatization contract is in the public interest in that
4 it meets the applicable quality and fiscal standards set forth in this section.

5 (b) Each privatization contract shall include:

6 (1) the wage rate for each position, which shall not be less than the
7 prevailing wage rate contained in the statement described in subdivision (a)(1)
8 of this section;

9 (2) a provision that the cost and coverage of the health, dental, and
10 vision insurance provided to employees is substantially similar to the cost and
11 coverage of the health, dental, and vision insurance provided to State
12 employees;

13 (3) a provision that the contractor shall submit quarterly payroll records
14 to the agency, which lists the hours worked and the hourly wage paid for each
15 employee in the previous quarter;

16 (4) a provision that the agency shall not amend any privatization
17 contract if the amendment has the purpose or effect of voiding any requirement
18 of this section;

19 (5) a provision requiring the contractor to comply with a policy of
20 nondiscrimination and equal opportunity for all persons and to take affirmative
21 steps to provide such equal opportunity for all persons;

1 (6) a provision granting all employees employed under the contract just
2 cause employment protection; and

3 (7) a provision requiring the contractor to comply with a policy of
4 whistleblower protection equal to those defined in sections 971–978 of this
5 title.

6 ~~(b)~~(c)(1) A privatization contract shall contain specific performance
7 measures regarding quantity, quality, and results and guarantees regarding the
8 services performed.

9 (2) The agency shall provide information in the State’s Workforce
10 Report on the contractor’s compliance with the specific performance measures
11 set out in the contract.

12 (3) The agency may not renew the contract if the contractor fails to
13 comply with the specific performance measures set out in the contract as
14 required by subdivision (1) of this subsection.

15 ~~(e)~~(d)(1) Before an agency may renew a privatization contract for the first
16 time, the Auditor of Accounts shall review the privatization contract analyzing
17 whether it is achieving:

18 (A) the ~~40~~ 20 percent cost-savings requirement set forth in
19 subdivision (a)(2) of this section; and

20 (B) the performance measures incorporated into the contract as
21 required under subdivision ~~(b)~~(c)(1) of this section.

1 (2) If the Auditor of Accounts finds that a privatization contract has not
 2 achieved the cost savings required under subdivision (a)(2) of this section or
 3 complied with performance measures required under subdivision ~~(b)~~(c)(1) of
 4 this section, the Auditor of Accounts shall file a report with the agency and the
 5 House Committee on Government Operations and Military Affairs and Senate
 6 ~~Committees~~ Committee on Government Operations, and the agency **shall not**
 7 **renew the privatization contract.** ~~review whether to renew the privatization~~
 8 ~~contract or perform the work with State employees.~~

9 Sec. 3. EFFECTIVE DATE

10 This act shall take effect on passage.

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13 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE