

1 H.530

2 Introduced by Representative Sweaney of Windsor

3 Referred to Committee on

4 Date:

5 Subject: Government operations; State contracts; contracts for services;

6 personal services contracts

7 Statement of purpose of bill as introduced: This bill proposes to clarify the
8 categorization of contracts used in the State's contracting system.

9 An act relating to categorization of State contracts for service

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 ~~Sec. 1. 3 V.S.A. § 311 is amended to read:~~

12 § 311. CLASSIFIED SERVICE DEFINED; EXCEPTIONS

13 (a) The classified service to which this chapter shall apply shall include all
14 positions and categories of employment by the ~~state~~ State, except as otherwise
15 provided by law, and except the following:

16 * * *

17 (10) A person or persons engaged under ~~retainer~~, contract as defined in
18 section 341 of this title, or special agreement, ~~for \$25,000.00 or more~~, when
19 certified to the ~~secretary of administration~~ Secretary of Administration by the
20 ~~attorney general~~ Attorney General that such engagement is not contrary to the

1 ~~spirit and intent of the classification plan and merit system principles and~~
2 standards provided by this chapter.

3 * * *

4 Sec. 2. 3 V.S.A. § 341 is amended to read:

5 § 341. DEFINITIONS

6 As used in this chapter:

7 (1) "Agency" means any agency, board, department, commission,
8 committee, or authority of the ~~executive branch~~ Executive Branch of state
9 State government.

10 (2) "Personal services contract" ~~or "contract"~~ means ~~an agreement or~~
11 ~~combination or series of agreements, by which an entity or individual who is~~
12 ~~not a state employee agrees with an agency to provide services~~ a contract for
13 service, valued at \$10,000.00 \$25,000.00 or more per year, that is categorized
14 as personal services in accordance with procedures developed by the Secretary
15 of Administration.

16 (3) "Privatization contract" means a personal services contract ~~by which~~
17 ~~an entity or an individual who is not a state employee agrees with an agency to~~
18 ~~provide services, valued at \$20,000.00 or more per year, which are~~ is the same
19 or substantially similar to and in lieu of services previously provided, in whole
20 or in part, by permanent, classified state State employees, and which result
21 results in a reduction in force of at least one permanent, classified employee, or

1 ~~the elimination of a vacant position of an employee covered by a collective~~
2 bargaining agreement.

3 (4) "Contract for services" means an agreement or combination or series
4 of agreements by which an entity or individual who is not a State employee
5 agrees with an agency to provide services, including personal and professional
6 services of an individual or of persons working for a business enterprise.

7 Sec. 3. 3 V.S.A. § 344 is amended to read:

8 § 344. CONTRACT ADMINISTRATION

9 (a) The Secretary of Administration shall maintain a database with
10 information about contracts for services, including approved privatization
11 contracts and approved personal services contracts. The Secretary shall also
12 maintain a database with information about privatization contracts which are
13 rejected because they fail to qualify under subdivision 343(2) of this title.
14 Contracts maintained in the database shall be public record to the extent
15 provided under 1 V.S.A. chapter 5, and shall be located at the agency of origin,
16 including information about names of contractors, summaries of work to be
17 performed, costs, and duration.

18 (b) The information on contracts maintained in the database shall be
19 reported to the General Assembly in the annual workforce report required
20 under subdivision 309(a)(19) of this title. The provisions of 2 V.S.A. § 20(d)

1 ~~(expiration of required reports) shall not apply to the report to be made under~~
2 this subsection.

3 Sec. 4. EFFECTIVE DATE

4 ~~This act shall take effect on July 1, 2016.~~

Sec. 1. 3 V.S.A. § 311 is amended to read:

§ 311. CLASSIFIED SERVICE DEFINED; EXCEPTIONS

(a) The classified service to which this chapter shall apply shall include all positions and categories of employment by the ~~state~~ State, except as otherwise provided by law, and except the following:

** * **

(10) A person or persons engaged under retainer, contract for services as defined in section 341 of this title, or special agreement, ~~when certified to the secretary of administration by the attorney general that such engagement is not contrary to the spirit and intent of the classification plan and merit system principles and standards provided by this chapter.~~

** * **

Sec. 2. 3 V.S.A. § 341 is amended to read:

§ 341. DEFINITIONS

As used in this chapter:

~~(1) "Agency" means any agency, board, department, commission, committee, or authority of the executive branch Executive Branch of state State government.~~

~~(2) "Personal services contract" or "contract" means an agreement or combination of series of agreements, by which an entity or individual who is not a state employee agrees with an agency to provide services, valued at \$10,000.00 or more per year a contract for services that is categorized as personal services in accordance with procedures developed by the Secretary of Administration.~~

~~(3) "Privatization contract" means a personal services contract by which an entity or an individual who is not a state employee agrees with an agency to provide services, for services, valued at \$20,000.00 \$25,000.00 or more per year, which are is the same or substantially similar to and in lieu of services previously provided, in whole or in part, by permanent, classified state State employees, and which result results in a reduction in force of at least one permanent, classified employee, or the elimination of a vacant position of an employee covered by a collective bargaining agreement.~~

~~(4) "Contract for services" means an agreement or combination or series of agreements by which an entity or individual agrees with an agency to provide services as an independent contractor, rather than as an employee.~~

~~Sec. 3. 3 V.S.A. § 342 is amended to read:~~

~~§ 342. CONTRACTING STANDARDS; PERSONAL SERVICES~~

~~CONTRACTS FOR SERVICES~~

~~*Each contract for services valued at \$25,000.00 or more per year shall require certification by the Office of the Attorney General to the Secretary of Administration that such contract for services is not contrary to the spirit and intent of the classification plan and merit system and standards of this title. A personal services contract for services is contrary to the spirit and intent of the classification plan and merit system and standards of this title, and shall not be certified by the Office of the Attorney General under subdivision 311(a)(10) of this title as provided in this subsection, unless the provisions of subdivisions (1), (2) and (3) of this subsection are met, or one or more of the exceptions described in subdivision (4) of this subsection apply.*~~

~~* * *~~

~~Sec. 4. 3 V.S.A. § 344 is amended to read:~~

~~§ 344. CONTRACT ADMINISTRATION~~

~~*(a) The Secretary of Administration shall maintain a database with information about contracts for services, including approved privatization contracts and approved personal services contracts. The Secretary shall also maintain a database with information about privatization contracts which are rejected because they fail to qualify under subdivision 343(2) of this title.*~~

~~Contracts maintained in the database shall be public record to the extent provided under 1 V.S.A. chapter 5, and shall be located at the agency of origin, including information about names of contractors, summaries of work to be performed, costs, and duration.~~

~~(b) The information on contracts maintained in the database shall be reported to the General Assembly in the annual workforce report required under subdivision 309(a)(19) of this title. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 5. EFFECTIVE DATE

~~This act shall take effect on July 1, 2016.~~

Sec. 1. 3 V.S.A. § 311 is amended to read:

§ 311. CLASSIFIED SERVICE DEFINED; EXCEPTIONS

(a) The classified service to which this chapter shall apply shall include all positions and categories of employment by the ~~state~~ State, except as otherwise provided by law, and except the following:

** * **

(10) A person or persons engaged under retainer, contract for services as defined in section 341 of this title, or special agreement, ~~when certified to the secretary of administration by the attorney general that such engagement is~~

~~not contrary to the spirit and intent of the classification plan and merit system principles and standards provided by this chapter.~~

* * *

Sec. 2. 3 V.S.A. § 341 is amended to read:

§ 341. DEFINITIONS

As used in this chapter:

(1) “Agency” means any agency, board, department, commission, committee, or authority of the ~~executive branch~~ Executive Branch of state State government.

(2) “Personal services contract” ~~or “contract”~~ means ~~an agreement or combination or series of agreements, by which an entity or individual who is not a state employee agrees with an agency to provide services, valued at \$10,000.00 or more per year~~ a contract for services that is categorized as personal services in accordance with procedures developed by the Secretary of Administration and is consistent with subdivisions 342(1), (2), and (3) of this title.

(3) “Privatization contract” means a ~~personal services contract by which an entity or an individual who is not a state employee agrees with an agency to provide services,~~ for services valued at \$20,000.00 \$25,000.00 or more per year, which are is the same or substantially similar to and in lieu of services previously provided, in whole or in part, by permanent, classified

~~state~~ State employees, and which ~~result~~ results in a reduction in force of at least one permanent, classified employee, or the elimination of a vacant position of an employee covered by a collective bargaining agreement.

(4) "Contract for services" means an agreement or combination or series of agreements by which an entity or individual agrees with an agency to provide services as a contractor, rather than as an employee.

Sec. 3. 3 V.S.A. § 342 is amended to read:

§ 342. CONTRACTING STANDARDS; ~~PERSONAL SERVICES~~

CONTRACTS FOR SERVICES

Each contract for services valued at \$25,000.00 or more per year shall require certification by the Office of the Attorney General to the Secretary of Administration that such contract for services is not contrary to the spirit and intent of the classification plan and merit system and standards of this title. A ~~personal services~~ contract for services is contrary to the spirit and intent of the classification plan and merit system and standards of this title, and shall not be certified by the Office of the Attorney General ~~under subdivision 311(a)(10) of this title~~ as provided in this subsection, unless the provisions of subdivisions (1), (2), and (3) of this subsection are met, or one or more of the exceptions described in subdivision (4) of this subsection apply.

* * *

Sec. 4. 3 V.S.A. § 344 is amended to read:

§ 344. *CONTRACT ADMINISTRATION*

(a) *The Secretary of Administration shall maintain a database with information about contracts for services, including approved privatization contracts and approved personal services contracts. The Secretary shall also maintain a database with information about privatization contracts which are rejected because they fail to qualify under subdivision 343(2) of this title. Contracts maintained in the database shall be public record to the extent provided under 1 V.S.A. chapter 5, and shall be located at the agency of origin, including information about names of contractors, summaries of work to be performed, costs, and duration.*

(b) *The information on contracts maintained in the database shall be reported to the General Assembly in the annual workforce report required under subdivision 309(a)(19) of this title. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.*

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2016.