

The Agency of Administration proposes the following statutory changes consistent with the movement of the Division of Purchasing and Contracting from the Department of Buildings and General Services.

PROPOSAL 1. PROPOSE STRIKING THE FOLLOWING SECTIONS FROM TITLE 29, CHAPTER 49 §§901-928 AND INSERTING WITH PROPOSED AMENDMENTS INTO TITLE 3, CHAPTER 45 §2222 BY ADDING TO THE DUTIES OF THE SECRETARY OF ADMINISTRATION.

§ 902. Duties of Commissioner of Buildings and General Services Centralized Purchasing and Contracting

(a) The Agency of Administration shall be responsible for coordination of all contracting and purchasing, and shall ensure that those Executive Branch agencies, departments and offices responsible for the procurement of services do so in a manner that is compliant with Vermont Statutes and conduct all competitive procurements for the purchase of services in accordance with policies, bulletins and directives.

~~(a)~~ (b) The ~~Commissioner of Buildings and General Services~~ Secretary of Administration shall contract for and make all purchases, including but not limited to all fuel, supplies, materials, equipment, for all departments, offices, institutions, and other agencies of the State and counties. However, he or she may delegate authority to those governmental agencies to purchase directly individually approved types and classes of items when the interest of the State is best served thereby. He or she shall also contract for and purchase materials for the repair and for the construction and equipment of new buildings to be erected by the State, unless otherwise provided. He or she may purchase such supplies, materials, and equipment as are requisitioned by the supervisors of the natural resources conservation districts. He or she may also cooperate with and advise officials of any political subdivision of the State or any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education in their purchase of any of the supplies, materials, and equipment needed by the political subdivision or institution of higher education, and may act as the agent of the political subdivision at the request of the authorized officials or agent thereof in the purchase of supplies, materials, and equipment.

~~(b) [Repealed.]~~

(c) The ~~Commissioner of Buildings and General Services~~ Secretary of Administration may establish, in consultation with the heads of the governmental agencies, quality standards for all items specified in subsection (a) of this section.

(d) The Secretary of Administration may prescribe forms to be used in all purchasing functions set forth in this section; and when he or she so prescribes, the forms shall be used by all departments and agencies affected by this section.

~~(g)~~ (f) The ~~Commissioner of Buildings and General Services~~ Agency of Administration may establish substitute practices and exceptions from practices in requisitioning and purchasing that do not violate the spirit and intent of the general procedures; and he or she may direct, subject to the right of appeal by the head of the governmental agency to the ~~Governor~~ Secretary of Administration, the purchase of specified items to be made under the substitute practices and exceptions from practices.

~~§ 903.~~ Requisition for supplies and materials

(a) When any governmental agency is in need of any of the items mentioned in this chapter, the responsible officer thereof shall requisition therefor upon the ~~Commissioner of Buildings and General Services~~ Agency of Administration, which and the Commissioner of Buildings and General Services shall purchase the items by either advertising for bids or by letters of inquiry and the contract for those items shall be awarded to the person whose bid or quotation is in the best interest of the State. Subject to the provisions of subsections (b) and (c) of this section, the ~~Commissioner of Buildings and General Services~~ Agency of Administration may reject any or all bids or quotations and with the approval of the Secretary of Administration, procure items in such manner as may be in the best interest of the State.

(b) When purchasing any items mentioned in this chapter, the ~~Commissioner of Buildings and General Services~~ Agency of Administration, in any determination of the best interest of the State shall consider (1) specified quality; (2) price; (3) ease of access of supply; (4) incidental administrative costs; (5) proven reliability of bidder; (6) use of recycled materials or products; (7) minimizing the creation, by the State, of solid waste; (8) the extent to which the usage of the item involves the generation of pollutants; (9) life cycle costs, if required under the State Agency Energy Plan, as implemented; (10) the interests of the State relating to the proximity of the supplier and the costs of transportation, and relating to the economy of the State and the need to maintain and create jobs in the State; and (11) the use of railroads and the increased revenues returning to the State from its railroad leasing program. The ~~Commissioner~~ Secretary, in the ~~Commissioner's~~ Secretary's discretion, may spend up to 10 percent more for comparable products that are made of recycled materials. If products made of recycled materials are to cost more than 10 percent more than comparable products, the Commissioner shall receive consent of State entities that are to use the product, before completing the order for the materials in question.

(c) Whenever any business or industry located in Vermont and employing citizens of this State has submitted a bid and the item has not been purchased from them, the ~~Commissioner of Buildings and General Services~~ Secretary of Administration shall record his or her reason for assigning the order as he or she did and his or her report shall be a public record available to any interested person. All bids or quotations shall be kept on file in his or her office and open to public inspection.

~~§ 903a.~~ Alternative purchasing sources

(a) As an alternative to the procedures set forth in § 903 of this title, the ~~commissioner~~ Secretary may elect to purchase any of the items mentioned in this chapter through a program established by the federal general services administration to supply federal agencies with supplies and materials, or may choose to participate in cooperative purchases with other states, provided that the ~~commissioner~~ secretary first determines that purchasing through the general services administration or cooperative agreements with other states is in the best interest of the state as provided in subsection 903(b) of this title.

~~§ 905.~~ Centralized purchasing of school equipment and supplies

(a) The ~~Commissioner of Buildings and General Services~~ Secretary of Administration and the Secretary of Education, or their designees, shall develop and promote a program of centralized

purchasing of equipment and supplies for public schools in Vermont, by which purchases may be combined in order to obtain volume purchasing discounts and other purchasing benefits.

(b) Establishment of a revolving fund is authorized for the purposes of this section to be administered by the ~~Commissioner of Buildings and General Services~~ Secretary of Administration. All expenses of the program shall be paid out of the revolving fund. Costs shall be prorated according to rules established by the Commissioner of Buildings and General Services, and charged to users of the program. At his or her discretion the Commissioner of Finance and Management may anticipate receipts to be paid into the fund based upon assurances from participants in the program and may issue warrants thereon for the purposes of this section.

~~§ 907.~~ Manner of payment of bills for purchases

(a) The ~~commissioner of buildings and general services~~ Secretary of Administration shall furnish to suppliers at the expense of the state the forms for all proposals and contracts. The ~~commissioner~~ Secretary shall make all contracts in duplicate and shall forward forthwith one copy to the commissioner of finance and management. An item of expense for any article mentioned in this chapter shall not be allowed by the commissioner of finance and management in the settlement of any account except when the purchase of the article is authorized and approved by the ~~commissioner of buildings and general services~~ Secretary of Administration.

(b) The ~~commissioner of buildings and general services~~ Secretary of Administration may establish a purchasing card program for the purpose of authorizing all spending units of the state to use a purchasing card as an alternative payment method for official state purchases. The commissioner may contract with one or more financial institutions, card-issuing banks, credit card companies, charge card companies, debit card companies, or third-party merchant banks to provide state purchasing cards. The ~~commissioner~~ Secretary may accept receipts from the purchasing card program. The ~~commissioner~~ Secretary is authorized to establish policies for participation in the program and use of the purchasing card

~~§ 908.~~ Price-fixing illegal; penalty

Every contract, combination or conspiracy, providing for the establishment or maintenance of minimum prices in the sale of any commodity to the state or any municipality or agency thereof, between manufacturers, producers, wholesalers, factors, retailers or persons, firms or corporations in competition with each other is hereby declared illegal. A person who makes such a contract or engages in such a combination or conspiracy shall be fined not more than \$5,000.00 or be imprisoned not more than one year, or both.

~~§ 909.~~ State purchase of food and agricultural products

(a) When procuring food and agricultural products for the State, its agencies, departments, instrumentalities, and institutions, the ~~Commissioner of Buildings and General Services~~ Secretary of Administration shall consider the interests of the State relating to the proximity of the supplier and the costs of transportation, and relating to the economy of the State and the need to maintain and create jobs in the State.

(b) When making purchases pursuant to this section, the Secretary of Administration, ~~the Commissioner of Buildings and General Services~~, and any State-funded institutions shall, other

considerations being equal and considering the results of any econometric analysis conducted, purchase products grown or produced in Vermont when available.

~~§ 910. 910. [Reserved for future use.]~~

Subchapter 2: State Purchasing Of Apparel, Footwear, Or Textiles

~~§ 921. Application of subchapter; definitions~~

(a) This subchapter applies to competitive bids for sale of apparel, footwear, or textiles pursuant to subchapter 1 of this chapter.

(b) As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings:

(1) "~~Commissioner~~ Secretary" means the ~~commissioner of buildings and general services~~ Secretary of Administration.

(2) "Independent monitor" means a nonprofit organization that is neither funded nor controlled, in whole or in part, by businesses that sell or manufacture apparel, footwear, or textiles.

~~§922. Bids for the sale of apparel, footwear, or textiles~~

(a) The ~~commissioner~~ secretary shall require that a bidder for the sale of apparel, footwear, or textiles provide certification from each supplier that the supplier at the point of assembly of the goods:

(1) complies with all applicable wage, health, labor, environmental, and safety laws, legal guarantees of freedom of association, building and fire codes, and laws relating to discrimination in hiring, promotion, and compensation on the basis of race, disability, national origin, gender, sexual orientation, and affiliation with any political, nongovernmental, and civic group except when federal law precludes the state from attaching the procurement conditions provided in this subchapter; and

(2) complies with all human and labor rights treaty obligations that are shared by the United States and the country in which the goods are assembled, including obligations with regard to forced labor, indentured labor, slave labor, child labor, involuntary prison labor, physical and sexual abuse, and freedom of association.

(b) Prior to the awarding of a contract, a bidder for the sale of apparel, footwear, or textiles shall submit a list of the names and addresses of suppliers at the point of assembly of goods subject to the bid process.

(c) If, after complying with the filing requirements of this section, a bidder is awarded a contract, that contractor shall, during the term of the contract, promptly inform the ~~commissioner~~ secretary of any change in the information furnished to the ~~commissioner~~ secretary pursuant to this section.

~~§ 923. Exception~~

The ~~commissioner~~ Secretary may accept a bid from and award a contract to a supplier who has not met the requirements provided in section 922 of this title if, after reasonable investigation by the ~~commissioner~~ Secretary, it appears that the required unit or item of supply or brand of that unit or item is procurable by the state from only that supplier or under other extraordinary circumstances. The approval of an exception pursuant to this section shall be documented in writing, signed by the ~~commissioner~~ secretary, and retained as part of the contract file.

~~§ 924. Repealed. 2011, No. 139 (Adj. Sess.), § 51, eff. May 14, 2012.~~

~~§ 925. Complaints of noncompliance with subchapter; investigations of complaints~~

(a) The ~~commissioner~~ secretary shall initiate an investigation to determine whether a violation of this subchapter has occurred if:

(1) The ~~commissioner~~ secretary has knowledge that a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with this subchapter.

(2) The contractor informs the ~~commissioner~~ secretary that the contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with this subchapter.

(3) A worker for a contractor or for a supplier at the point of assembly of goods subject to a contract files a written complaint directly with the ~~commissioner~~ secretary stating that the contractor or supplier, to the best of the worker's knowledge, is not in compliance with this subchapter.

(4) A third party established and based in the United States, on behalf of or on the basis of information from a worker or workers, files directly with the ~~commissioner~~ secretary a written complaint, signed and dated under oath before an official authorized by applicable law to administer oaths, stating that, to the best of the third party's knowledge, a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with this subchapter.

(5) A third party established and based outside the United States, on behalf of or on the basis of information from a worker or workers, files directly with the ~~commissioner~~ secretary a signed and dated written complaint stating that, to the best of the third party's knowledge, a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with this subchapter.

(b) After receiving a complaint alleging noncompliance with this subchapter, the ~~commissioner~~ secretary shall contact in a timely manner, in writing and by certified letter, the contractor that is the subject of the complaint or whose supplier is the subject of the complaint.

~~§ 926. Determinations of noncompliance with subchapter~~

(a) In making a determination of whether a violation of this subchapter has occurred, the ~~commissioner~~ secretary may take into account any factors, information, sources of information, and materials determined reliable and relevant by the ~~commissioner~~ secretary, as determined on a case-by-case basis. The ~~commissioner~~ secretary has specific authority and discretion to employ an independent monitor to investigate a complaint.

(b) The determination of whether a party subject to a complaint is in compliance with this subchapter is solely that of the ~~commissioner~~ secretary.

(c) After rendering a determination under this section, the ~~commissioner~~ secretary promptly shall inform the complainant and contractor in writing

~~§ 927.~~ Consequences of noncompliance with subchapter

If, in the opinion of the ~~commissioner~~ secretary, a contractor that has been determined to be not in compliance with this subchapter does not make good-faith efforts to change its practices or use its bargaining position with an offending supplier to change the supplier's practices, the ~~commissioner~~ secretary may take appropriate remedial action, including barring the contractor from bidding on future state contracts or terminating the state's contract with the contractor. Reference to the authority given in this section shall be specifically referenced in state contracts with contractors that are subject to this subchapter.

~~§ 928.~~ Coordination with other jurisdictions

The ~~commissioner~~ secretary shall coordinate with other jurisdictions of the United States of America with those jurisdictions' efforts to develop an effective strategy to monitor vendor compliance with the requirements of this subchapter or similar requirements of those jurisdictions.

PROPOSAL 2. PROPOSE STRIKING THE FOLLOWING SUBSECTIONS FROM TITLE 29, CHAPTER 5 §161 AND INSERTING WITH PROPOSED AMENDMENTS INTO TITLE 3, CHAPTER 45 BY CREATING A NEW SUBCHAPTER 6.

~~§161~~ Requirements on State construction projects

Subsection ~~(b)~~ (a) effective until July 1, 2017; see also subsection (b) effective July 1, 2017 set out below.

~~(b)~~ (a) Each contract awarded under this section for any State project with a construction cost exceeding \$100,000.00 and which is authorized or funded in whole or in part by a capital construction act pursuant to 32 V.S.A. § 701a shall provide that all construction employees working on the project shall be paid no less than the mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey. As used in this section, "fringe benefits" means benefits, including paid vacations and holidays, sick leave, employer contributions and reimbursements to health insurance and retirement benefits, and similar benefits that are incidents of employment.

Subsection (b) effective July 1, 2017; see also subsection ~~(b)~~ (a) effective until July 1, 2017 set out above.

(b) Each contract awarded under this section for any State project with a construction cost exceeding \$100,000.00 or a construction project with a construction cost exceeding \$200,000.00 which is authorized and is at least 50 percent funded by a capital construction act pursuant to 32 V.S.A. § 701a shall provide that all construction employees working on the project shall be paid no less than the mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey. As used in this section, "fringe benefits"

means benefits, including paid vacations and holidays, sick leave, employer contributions and reimbursements to health insurance and retirement benefits, and similar benefits that are incidents of employment.

(c) In the construction of any State project, local capable labor shall be utilized whenever practicable, but this section shall not be construed to compel any person to discharge or lay off any regular employee.

(d) Subsections (a) through (c) of this section shall not apply to maintenance or construction projects carried out by the Agency of Transportation and by the Department of Forests, Parks and Recreation.

(e) The Agency of Administration shall ensure that the State and any of its subdivisions do not contract, directly or indirectly, with employers who are prohibited from contracting by the Commissioner of Labor pursuant to 21 V.S.A. §§ 692, 708, and 1314a or the Commissioner of Financial Regulation pursuant to 8 V.S.A. § 3661.

(f) The Agency of Administration shall maintain a current list of employers that have been prohibited from contracting with the State or any of its subdivisions, and the Agencies of Administration and of Transportation shall publish that list on their websites.

PROPOSAL 3. PROPOSE AMENDING THE FOLLOWING SECTION OF TITLE 29, CHAPTER 5 §161 – DEPARTMENT OF BUILDINGS AND GENERAL SERVICES.

§ 161. Requirements on State construction projects

(a) Bids; selection.

(2) When using the design-build construction delivery process, the Commissioner of Buildings and General Services shall publicly advertise or invite three or more bids. The award of a design-build contract shall be to the bidder determined ~~by the Commissioner~~ to be most responsive to evaluation criteria established during the competitive procurement process by the Commissioner. Such criteria may include physical plant characteristics proposed, program response to space needs, ability of the design-build team, anticipated development schedule and overall cost considerations, including alternates, allowances, and schedule of values.

Repeal §161(2)(b)(c)(d)(e)(f)

PROPOSAL 4. PROPOSE AMENDING THE FOLLOWING SECTIONS OF TITLE 29, CHAPTER 49 §§901-928 – PUBLIC PROPERTY AND SUPPLIES

Subchapter 1: General Provisions

Amend § 902. Duties of Commissioner of Buildings and General Services

(a) The Commissioner of Buildings and General Services is authorized to ~~shall contract for and make all purchases, including but not limited to all fuel, supplies, materials, equipment, for all departments, offices, institutions, and other agencies of the State and counties. However, he or she may delegate~~

~~authority to those governmental agencies to purchase directly individually approved types and classes of items when the interest of the State is best served thereby. He or she shall also contract for and purchase materials for the repair and for the construction and equipment of new buildings to be erected by the State, unless otherwise provided. He or she may purchase such supplies, materials, and equipment as are requisitioned by the supervisors of the natural resources conservation districts. He or she may also cooperate with and advise officials of any political subdivision of the State or any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education in their purchase of any of the supplies, materials, and equipment needed by the political subdivision or institution of higher education, and may act as the agent of the political subdivision at the request of the authorized officials or agent thereof in the purchase of supplies, materials, and equipment.~~

Repeal (c) & (d)

(f) The Commissioner of Buildings and General Services may also:

~~(3) maintain and operate the office supply service;~~

Repeal (g)

Delete § 903. Requisition for supplies and materials

Repeal (a)(b) (c)

~~(d) (l)~~ The Commissioner of Buildings and General Services, with the assistance of all State agencies, shall cooperate with the generators and managers of waste materials which may be recycled and with the producers of products which use recycled materials to maximize the State's use of those materials and products, particularly where the added cost of using waste materials rather than virgin materials is less than the cost avoided by not having that waste in the waste stream. Proceeds from the sale of waste materials collected by the Department of Buildings and General Services shall be credited to a special fund and shall be available to the Department to offset the cost of recycling efforts. The goal for the purchase of recycled materials shall be at least 40 percent by the end of 2008. For purposes of this section, "recycled materials" include recycled paper products, retreaded automobile tires, re-refined lubricating oil, used automotive parts, reclaimed solvents, recycled asphalt, recycled concrete, and compost materials.

~~(g) (j)~~ The Commissioner of Buildings and General Services, when purchasing vehicles for State use shall consider vehicles using alternative fuels when the alternative fuel is suitable for the vehicle's operation, is available in the region where the vehicle will be used, and is competitively priced with traditional fuels.

Repeal § 903a. Alternative purchasing sources

Repeal § 905. Centralized purchasing of school equipment and supplies

Amend § 906. ~~Stationery and office supplies~~ Government Services; Central Supply and Duplicating

(a) The commissioner of buildings and general services shall manage a supply program in order to ensure the disbursement of equipment for use by state government, including but not limited to fleet vehicles, ~~office supplies, stationery, record books, and forms~~ purchased by the state. ~~The commissioner shall disburse them upon requisition to all state departments, institutions and within limits approved by~~

~~the commissioner of finance and management to county officers whose compensation and expenses are paid by the state or any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the state board of education. The form of the requisition shall be prescribed by the commissioner of buildings and general services.~~

Repeal § 907. Manner of payment of bills for purchases

Repeal § 908. Price-fixing illegal; penalty

Repeal § 909. State purchase of food and agricultural products

Repeal Subchapter 2: State Purchasing of Apparel, Footwear, or Textiles §921-928

PROPOSAL 5. PROPOSE AMENDING THE FOLLOWING SECTIONS OF TITLE 29, CHAPTER 53 - PUBLIC PRINTING

Amend § 1107. Bids

The commissioner of buildings and general services shall make contracts for all state printing by advertisement and bid or letters of inquiry, unless otherwise provided. He or she may reject any and all bids and readvertise or with the approval of the ~~governor~~ Secretary of Administration let such contract without further advertisement

§ 1108. Acceptance or rejection of bids; conditions of contracts

Further review of this subsection is needed to determine necessity, potential to repeal.

§ 1111. Stationery, forms and supplies

The commissioner of buildings and general services shall procure and cause to be printed and distributed all office stationery ~~and shall purchase and cause to be distributed all office supplies~~ required by the general assembly, the several state officers, departments, institutions, and boards and commissions. ~~, and such blank complaints, forms and record books as are necessary.~~

PROPOSAL 6. PROPOSE AMENDING THE FOLLOWING CHAPTERS OF TITLE 3: EXECUTIVE

1. Chapter 47: Commerce And Community Development

§2474. Administrative Services Division

(5) requisitioning from the ~~Department of Buildings and General Services~~ of the Agency of Administration, of supplies, equipment, and other requirements;

2. Chapter 51: Natural Resources

§ 2876. Administrative Services Division

(5) requisitioning from the ~~Department of Buildings and General Services~~ of the Agency of Administration, of supplies, equipment, and other requirements;

3. Chapter 53: Human Services

§ 3086. Operations Division

(5) requisitioning from the ~~Department of Buildings and General Services of the Agency of Administration~~, of supplies, equipment, and other requirements;

PROPOSAL 7. PROPOSE AMENDING THE FOLLOWING SECTIONS OF TITLE 7, CHAPTER 5: LIQUOR CONTROL

§ 107. Duties of Commissioner of Liquor Control

The Commissioner of Liquor Control shall:

(5) Purchase through the ~~Commissioner of Buildings and General Services Agency of Administration~~ spirituous liquors for and in behalf of the Liquor Control Board, supervise the storage thereof and the distribution to local agencies, druggists and licensees of the third class and make regulations subject to the approval of the Board regarding the sale and delivery from such central storage plant.

§ 110. Special brands; purchase by Commissioner of Liquor Control.

If any person shall desire to purchase any class, variety, or brand of spirits or fortified wine which any local agency or fortified wine permit holder does not have in stock, the Commissioner of Liquor Control shall order the same through the ~~Commissioner of Buildings and General Services Agency of Administration~~ upon the payment of a reasonable deposit by the purchaser in such proportion of the approximate cost of the order as shall be prescribed by the regulations of the Liquor Control Board.

PROPOSAL 8. PROPOSE AMENDING THE FOLLOWING SECTION OF TITLE 10, CHAPTER 15A: THE SUSTAINABLE JOBS FUND PROGRAM

§ 330. The Farm-to-Plate Investment Program; creation; goals; tasks; methods

(c) Tasks.

(B) Collaborating with the Agency of Agriculture, Food and Markets and the ~~Department of Buildings and General Services Agency of Administration~~ to increase procurement of local foods in accordance with 6 V.S.A. § 4601.

PROPOSAL 9. PROPOSE AMENDING THE FOLLOWING SECTIONS OF TITLE 12, CHAPTER 189: TORT CLAIMS AGAINST THE STATE

§ 5601. Liability of State

(f) The limitations in subsection (e) of this section do not apply to claims against the State of Vermont to the extent that there exists coverage under a policy of liability insurance purchased by the ~~Commissioner of Buildings and General Services~~ Secretary of Administration.

§ 5603. Settlement of claims

(a) The attorney general may consider, adjust, determine and settle any claim for damages against the state of Vermont resulting from the acts or omissions of an employee as provided under section 159 of Title 3. If the state elects to self insure the liability as defined in 12 V.S.A. § 5601, the attorney general shall consult with the ~~commissioner of buildings and general services~~ Secretary of Administration prior to exercising his or her authority under this subsection.

PROPOSAL 10. PROPOSE AMENDING THE FOLLOWING SECTION OF TITLE 16, CHAPTER 9: EDUCATION

§ 559. Public bids

(c) Contract award.

(6) nothing in this section shall require a school board to invite or advertise for bids if it elects to purchase goods, materials, or supplies through the ~~Commissioner of Buildings and General Services,~~ pursuant to ~~29 V.S.A. chapter 49~~ Agency of Administration pursuant to 3 V.S.A; and

**PROPOSAL 11. PROPOSE TO DELETE THESE AMENDMENTS DEPENDENT ON THE OUTCOME OF PROPOSED LABOR; WORKERS' COMPENSATION; UNEMPLOYMENT INSURANCE; INDEPENDENT CONTRACTORS BILL H.867
NOTE BOTH AMENDMENTS ARE INCLUDED IN REFERENCED BILL H.867.**

PROPOSE AMENDING THE FOLLOWING SECTIONS OF TITLE 21, CHAPTER 9 & CHAPTER 17: LABOR

§708. Penalty for false representation

(a) Action by the Commissioner of Labor. A person who willfully makes a false statement or representation, for the purpose of obtaining any benefit or payment under the provisions of this chapter, either for herself or himself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00, and shall forfeit all or a portion of any right to compensation under the provisions of this chapter, as determined to be appropriate by the Commissioner after a determination by the Commissioner that the person has willfully made a false statement or representation of a material fact. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have made a false statement or misrepresentation of a material fact, as determined by the Commissioner in consultation with the ~~Commissioner of Buildings and General Services~~ Secretary of Administration or the Secretary of Transportation, as appropriate. Either the Secretary of Administration or the Secretary of Transportation ~~or the Commissioner~~, as appropriate, shall be consulted in any contest relating to the prohibition of the employer from contracting with the State or its subdivisions.

§ 1314a. Quarterly wage reporting; misclassification; penalties

(B) Properly classify an individual regarding the status of employment is subject to a penalty of not more than \$5,000.00 for each improperly classified employee. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have failed to properly classify, as determined by the Commissioner in consultation with the ~~Commissioner of Buildings and General Services~~ Secretary of Administration or the Secretary of Transportation, as appropriate. Either the ~~Secretary or the Commissioner of Administration or Secretary of Transportation~~, as appropriate, shall be consulted in any appeal relating to prohibiting the employer from contracting with the State or its subdivisions.

PROPOSAL 12. PROPOSE AMENDING THE FOLLOWING SECTION OF TITLE 28, CHAPTER 3: ADMINISTRATION OF THE DEPARTMENT PUBLIC INSTITUTIONS AND CORRECTIONS

§ 102. Commissioner of Corrections; appointment; powers; responsibilities

(20) To ~~utilize~~ adhere to the ~~Department of Buildings and General Services'~~ State of Vermont's competitive bidding practices in order to determine the most effective and cost-effective alternatives for housing inmates in any out-of-state correctional facility.