

1 S.96

2 An act relating to privatization contracts

3 The House proposes to the Senate to amend the bill by striking out all after
4 the enacting clause and inserting in lieu thereof the following:

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

6 § 341. DEFINITIONS

7 * * *

8 (3) "Privatization contract" means a contract for services valued at
9 \$25,000.00 or more per year, which:

10 (A) is the same or substantially similar to and in lieu of services
11 ~~previously~~ currently provided, in whole or in part, by permanent, classified
12 State employees; or

13 (B) will substantially replace the duties of a vacant position in State
14 government, and which results in a reduction in force of at least one
15 permanent, classified employee, or the elimination of a vacant position of an
16 employee covered by a collective bargaining agreement.

17 * * *

18 Sec. 2. 3 V.S.A. §§ 342 and 343 are amended to read:

19 § 342. CONTRACTING STANDARDS; CONTRACTS FOR SERVICES

20 Each contract for services valued at \$25,000.00 or more per year shall
21 require certification by the Office of the Attorney General to the Secretary of

1 Administration that such contract for services is not contrary to the ~~spirit and~~
2 intent of the classification plan and merit system and standards of this title. A
3 contract for services is contrary to the ~~spirit and~~ intent of the classification plan
4 and merit system and standards of this title, and shall not be certified by the
5 Office of the Attorney General as provided in this section, unless the
6 provisions of subdivisions (1), (2), and (3) of this section are met, or one or
7 more of the exceptions described in subdivision (4) of this section apply.

8 * * *

9 § 343. PRIVATIZATION CONTRACTS; PROCEDURE

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

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

1 (A) they have complied with all provisions of this section and with
2 all other applicable laws;

3 (B) the quality of the services to be provided by the designated bidder
4 is likely to satisfy the quality requirements of the statement prepared pursuant
5 to subdivision (1) of this subsection (a);

6 (C) the designated bidder and its supervisory employees, while in the
7 employ of the designated bidder, have no record of substantial or repeated
8 willful noncompliance with any relevant federal or State regulatory statute,
9 including statutes concerning labor relations, occupational safety and health,
10 nondiscrimination and affirmative action, environmental protection, and
11 conflicts of interest; and

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

14 (b) Each privatization contract shall include:

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

18 (2) a provision that the cost and coverage of the health, dental, and
19 vision insurance provided to employees is substantially similar to the cost and
20 coverage of the health, dental, and vision insurance provided to State
21 employees;

1 (3) a provision that the contractor shall submit quarterly payroll records
2 to the agency that list the hours worked and the hourly wage paid for each
3 employee in the previous quarter;

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

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

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

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

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

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

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

4 ~~(e)~~(d)(1) Before an agency may renew a privatization contract for the first
5 time, the Auditor of Accounts shall review the privatization contract, along
6 with employer payroll and benefits records, analyzing whether it is achieving:

7 (A) the 10 percent cost-savings requirement set forth in subdivision
8 (a)(2) of this section; and

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

11 (2) If the Auditor of Accounts finds that a privatization contract has not
12 achieved the cost savings required under subdivision (a)(2) of this section or
13 complied with performance measures required under ~~subdivision (b)~~
14 subdivisions (c)(1) and (d)(1) of this section, the Auditor of Accounts shall file
15 a report with the agency and the House Committee on Government Operations
16 and Military Affairs and Senate ~~Committees~~ Committee on Government
17 Operations, and the agency ~~review whether to renew the privatization contract~~
18 ~~or perform the work with State employees~~ shall not renew the privatization
19 contract.

1 Sec. 3. FISCAL AND OPERATIONAL IMPACT OF PRIVATIZATION

2 CONTRACT CHANGES

3 (a) The Agency of Administration, in consultation with the Joint Fiscal
4 Office, the State Auditor, the Vermont State Employees' Association, and the
5 Office of the Attorney General, shall assess the fiscal and operational impacts
6 of:

7 (1) modifying the definition of "privatization contract" as set forth in
8 3 V.S.A. § 341, to include grants;

9 (2) increasing the required cost savings of a privatization contract from
10 10 percent to 20 percent; and

11 (3) removing exceptions set forth in 3 V.S.A. § 342(4) that, after review,
12 are used excessively or arbitrarily to certify contracts by the Office of the
13 Attorney General.

14 (b) The Agency shall submit a written report to the House Committees on
15 Appropriations and on Government Operations and Military Affairs and the
16 Senate Committees on Appropriations and on Government Operations with its
17 analysis conducted pursuant to this section on or before February 1, 2025.

18 Sec. 4. LEGISLATIVE INTENT; PRIVATIZATION CONTRACTS

19 It is the intent of the General Assembly that a privatization contract shall
20 not be required for a contract for services when there is no permanent,

1 classified State employee position to perform the equivalent of such proposed
2 contracted services, which includes health services and capital construction.

3 Sec. 5. EFFECTIVE DATES

4 This act shall take effect on passage, except that Sec. 1 shall take effect on
5 July 1, 2025.