

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations and Military Affairs to which
3 was referred Senate Bill No. 96 entitled “An act relating to privatization
4 contracts” respectfully reports that it has considered the same and recommends
5 that the House propose to the Senate that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu 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 for services valued at
11 \$25,000.00 or more per year, which:

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

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

19 * * *

1 Notices regarding the bid opportunity may not be issued during the 35-day
2 discussion period. The continuation of discussions beyond the end of the 35-
3 day period shall not delay the issuance of notices.

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

16 * * *

17 (4) Every bid for a privatization contract shall include:

18 (A) the wage rate for each position, which shall not be less than the
19 prevailing wage rate contained in the statement described in subdivision (1)(B)
20 of this subsection (a); and

1 (B) whether health, dental, and vision insurance coverage is provided
2 to employees and, if applicable, the cost to employees for such coverage.

3 (5) The Agency and the Secretary of Administration shall each certify in
4 writing that:

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

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

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

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

18 (b) Each privatization contract shall include:

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

1 (2) a provision that the cost and coverage of the health, dental, and
2 vision insurance provided to employees is substantially similar to the cost and
3 coverage of the health, dental, and vision insurance provided to State
4 employees;

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~or perform the work with State employees~~ shall not renew the privatization
2 contract.

3 Sec. 3. FISCAL AND OPERATIONAL IMPACT OF PRIVATIZATION

4 CONTRACT CHANGES

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

9 (1) modifying the definition of "privatization contract" as set forth in
10 3 V.S.A. § 341, to include grants;

11 (2) increasing the required cost savings of a privatization contract from
12 10 percent to 20 percent; and

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

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

