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H.359

Introduced by Representative Hooper of Burlington
Referred to Committee on
Date:
Subject: Executive; contracts; privatization contracts
Statement of purpose of bill as introduced: This bill proposes to amend the requirements for the Executive Branch to enter into privatization contracts.

An act relating to privatization contracts

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

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

§ 341. DEFINITIONS

As used in this chapter:

* * *

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

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

1 representative of the intent to seek to enter a privatization contract. During
2 those 35 days, the collective bargaining representative shall have the
3 opportunity to discuss alternatives to contracting. Such alternatives may
4 include amendments to the contract if mutually agreed upon by the parties.
5 Notices regarding the bid opportunity may not be issued during the 35-day
6 discussion period. The continuation of discussions beyond the end of the 35-
7 day period shall not delay the issuance of notices.

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

20 * * *

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

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

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

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

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

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

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

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

1 (b) Each privatization contract shall include:

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

5 (2) a provision that the cost and coverage of the health, dental, and
6 vision insurance provided to employees is substantially similar to the cost and
7 coverage of the health, dental, and vision insurance provided to State
8 employees;

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

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

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

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

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

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

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

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

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

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

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

20 (2) If the Auditor of Accounts finds that a privatization contract has not
21 achieved the cost savings required under subdivision (a)(2) of this section or

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

8 Sec. 4. FISCAL AND OPERATIONAL IMPACT OF PRIVATIZATION
9 CONTRACT CHANGES

10 (a) The Agency of Administration, in consultation with the Joint Fiscal
11 Office, the State Auditor, the Vermont State Employees' Association, and the
12 Office of the Attorney General, shall assess the fiscal and operational impacts
13 of:

14 (1) modifying the definition of "privatization contract" as set forth in
15 3 V.S.A. § 341 to include grants;

16 (2) increasing the required cost savings of a privatization contract from
17 10 percent to 20 percent; and

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

1 (b) The Agency shall submit a written report to the House Committees on
2 Appropriations and on Government Operations and Military Affairs and the
3 Senate Committees on Appropriations and on Government Operations with its
4 analysis conducted pursuant to this section on or before February 1, 2026.

5 Sec. 5. LEGISLATIVE INTENT; PRIVATIZATION CONTRACTS

6 It is the intent of the General Assembly that a privatization contract shall
7 not be required for a contract for services when there is no permanent,
8 classified State employee position to perform the equivalent of such proposed
9 contracted services, which includes health services and capital construction.

10 Sec. 6. EFFECTIVE DATES

11 This act shall take effect on passage, except that Sec. 1 shall take effect on
12 July 1, 2026.