



General
Assembly

Substitute Bill No. 501

***February
Session,
2004***

* _____SB00501LAB____041904_____*

AN ACT CONCERNING THE RETENTION OF JOBS IN CONNECTICUT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) (a) For purposes of this section:

- (1) "State agency" means an executive office, department, division, board, commission or other office or officer in the executive branch of the state government; and
- (2) "Privatization contract" means an agreement between a state agency and a nongovernmental person or entity, in which such person or entity agrees to provide services valued at one hundred thousand dollars or more over the life of the contract that are substantially similar to and in lieu of services provided, in whole or part, by employees of such agency or by employees of another state agency for such state agency; but does not mean an agreement to provide legal services, litigation support or management consulting only.

(b) Notwithstanding any provision of the general statutes, every privatization contract to which the state, a state agency or any political subdivision of the state other than a municipality is a party shall contain the following provisions: (1) The contractor agrees and warrants that in the performance of the contract such contractor will not originate or provide such services at a location outside of the United States; and (2) failure by the contractor to comply with the requirement that such services not originate or be provided outside of the United States shall constitute a material breach of such contract, making the contract void, and, in the case of such breach, the contractor shall be liable for damages in an amount equal to the amount paid by the state, state agency or political subdivision of the state other than a municipality, for the percentage of work originated or

provided outside of the United States, plus attorney's fees and costs incurred in enforcing this provision of such contract.

Sec. 2. Subsection (c) of section 4a-59 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) All open market orders or contracts shall be awarded to (1) the lowest responsible qualified bidder, the qualities of the articles to be supplied, their conformity with the specifications, their suitability to the requirements of the state government and the delivery terms being taken into consideration and, at the discretion of the Commissioner of Administrative Services, life-cycle costs and trade-in or resale value of the articles may be considered where it appears to be in the best interest of the state, (2) the highest scoring bidder in a multiple criteria bid, in accordance with the criteria set forth in the bid solicitation for the contract, or (3) the proposer whose proposal is deemed by the awarding authority to be the most advantageous to the state, in accordance with the criteria set forth in the request for proposals, including price and evaluation factors. Notwithstanding any provision of the general statutes to the contrary, each state agency awarding a contract through competitive negotiation shall include price as an explicit factor in the criteria in the request for proposals and for the contract award. In considering past performance of a bidder for the purpose of determining the "lowest responsible qualified bidder" or the "highest scoring bidder in a multiple criteria bid", the commissioner shall evaluate the skill, ability and integrity of the bidder in terms of the bidder's fulfillment of past contract obligations and the bidder's experience or lack of experience in delivering supplies, materials, equipment or contractual services of the size or amount for which bids have been solicited. In determining the lowest responsible qualified bidder for the purposes of this section, the commissioner may give a price preference of up to ten per cent for (A) the purchase of goods made with recycled materials or the purchase of recyclable or remanufactured products if the commissioner determines that such preference would promote recycling or remanufacturing. As used in this subsection, "recyclable" means able to be collected, separated or otherwise recovered from the solid waste stream for reuse, or for use in the manufacture or assembly of another package or product, by means of a recycling program which is reasonably available to at least seventy-five per cent of the state's population, "remanufactured" means restored to its original function and thereby diverted from the solid waste stream by retaining the bulk of components that have been used at least once and by replacing consumable components and "remanufacturing" means any process by which a product is remanufactured; (B) the purchase of motor vehicles powered by a clean alternative fuel; or (C) the purchase of motor vehicles powered by fuel other than a clean alternative fuel and conversion equipment to convert such motor vehicles allowing the vehicles to be powered by either the exclusive use of

clean alternative fuel or dual use of a clean alternative fuel and a fuel other than a clean alternative fuel. As used in this subsection, "clean alternative fuel" shall mean natural gas or electricity when used as a motor vehicle fuel. All other factors being equal, preference shall be given to supplies, materials and equipment produced, assembled or manufactured in the state and services originating and provided in the state, [provided in no instance shall such services originate or be performed outside of the United States](#). If any such bidder refuses to accept, within ten days, a contract awarded to such bidder, such contract may be awarded to the next lowest responsible qualified bidder or the next highest scoring bidder in a multiple criteria bid, whichever is applicable, and so on until such contract is awarded and accepted. If any such proposer refuses to accept, within ten days, a contract awarded to such proposer, such contract shall be awarded to the next most advantageous proposer, and so on until the contract is awarded and accepted. There shall be a written evaluation made of each bid. This evaluation shall identify the vendors and their respective costs and prices, document the reason why any vendor is deemed to be nonresponsive and recommend a vendor for award. A contract valued at one million dollars or more shall be awarded to a bidder other than the lowest responsible qualified bidder or the highest scoring bidder in a multiple criteria bid, whichever is applicable, only with written approval signed by the Commissioner of Administrative Services and by the Comptroller. The commissioner shall submit to the joint standing committee of the General Assembly having cognizance of matters relating to government administration, the State Auditors and the Comptroller, an annual report of all awards made pursuant to the provisions of this section.

Sec. 3. (NEW) (*Effective from passage*) (a) As used in this section:

(1) "Covered establishment" means any industrial, commercial, service or other entity located in the state that employs one hundred or more persons;

(2) "Employer" means any person who, directly or indirectly, owns, operates or has a controlling interest in a covered establishment, including the state or any political subdivision thereof but does not mean any agriculture enterprise or construction enterprise;

(3) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons; and

(4) "Employment relocation" means the removal of twenty-five per cent or more of all the employees or the work performed by such employees in a covered establishment to a location outside the state of Connecticut.

(b) The employer for a covered establishment proposing an employment relocation shall provide at least six months written notice prior to such action to the employees to be affected by the relocation and to the Labor Commissioner and the Commissioner of Economic and Community Development.

(c) An employer failing to provide required notification pursuant to this section shall pay to the state a fine in the amount of one thousand dollars for each day of such failure, provided that all such funds received by the state shall be credited to the Labor Department for purposes of employment retraining, placement and other assistance.

(d) The provisions of this section shall not apply to those employees who, following an employment relocation, continue their employment with the employer.

Sec. 4. (NEW) (*Effective from passage*) Every contract to which the state or any quasi-public agency is a party shall include the following provision: The contractor agrees and warrants that in the performance of the contract, the contractor shall not enter into an agreement or otherwise engage the services of any subcontractor, person or group of persons at a site located outside the United States or transfer any of the work or services to a location outside the United States, unless the purpose of such contract is work or services to be performed incident to a proceeding or other event that occurs outside the United States or unless such service or work is otherwise unavailable within the United States.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>

CE *Joint Favorable Subst.*

GAE *Joint Favorable*

LAB *Joint Favorable*