

[First Reprint]

SENATE, No. 927

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED JANUARY 17, 2012

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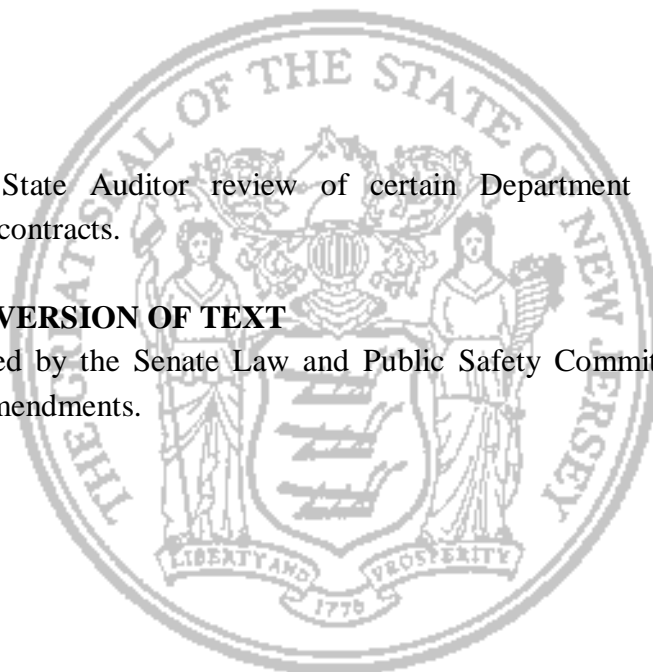
Senators Gordon, Greenstein and Assemblywoman Sumter

SYNOPSIS

Requires State Auditor review of certain Department of Corrections privatization contracts.

CURRENT VERSION OF TEXT

As reported by the Senate Law and Public Safety Committee on June 4, 2012, with amendments.



(Sponsorship Updated As Of: 6/26/2012)

1 AN ACT concerning Department of Corrections privatization
2 contracts and supplementing chapter 24 of Title 52 of the
3 Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. As used in this act:

9 "Aggregate cost savings" with respect to a privatization contract
10 means the amount by which the net reduction of in-house costs
11 exceeds the entire cost of the privatization contract.

12 "Entire cost of the privatization contract" means a detailed
13 accounting of all costs borne by the State under a privatization
14 contract, or pro-rata share of the costs, and all costs resulting from
15 the contract, including:

16 (1) Costs of labor;

17 (2) Costs of fringe benefits;

18 (3) Costs of equipment or materials, whether supplied by the
19 State or a private contractor;

20 (4) All other costs directly or indirectly attributable to
21 transferring the work being performed by State employees to a
22 private business entity under the contract, including, but not limited
23 to, the costs of preparing and bidding the contract, the costs of
24 training the new workforce, bonding costs, insurance liability costs,
25 costs to the public of delayed or reduced services, and recovery
26 costs of returning the work to the agency if required by future
27 decision makers;

28 (5) Costs in the maintenance of any publicly supplied property,
29 equipment, or materials;

30 (6) Costs of administering, inspecting or monitoring the
31 subcontracted service, including, but not limited to, the use of
32 consultant services for this purpose;

33 (7) Costs of any anticipated unemployment compensation or
34 other benefits, including retraining expenses, for State employees
35 who are displaced as a result of the contracted service; and

36 (8) Costs of lost income tax revenue and other tax revenue to the
37 State through the elimination of agency employees if the contractor
38 performs functions outside of the State.

39 "Fringe benefits" means all employer-provided fringe benefits
40 including health, dental, vision care, prescription, holidays,
41 vacations, sick and administrative leave, pensions and other
42 retirement benefits.

43 "Net reduction of in-house costs" means the net reduction of cost
44 to the Department of Corrections caused by the State not providing
45 or performing a service which is instead performed or provided by a

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLP committee amendments adopted June 4, 2012.

1 private business entity under a privatization contract.

2 "Private business entity" means a non-governmental person or
3 entity.

4
5 2. The State Auditor shall, as part of his responsibility under
6 R.S.52:24-4, conduct a post audit of each privatization contract with
7 a total value of more than \$100,000 between the Department of
8 Corrections and a private business entity. The State Auditor shall
9 issue an annual report to the Governor and the Legislature regarding
10 the contract, the first of which shall be issued not more than 90 days
11 after the end of the first year that the contract is in effect, or, in the
12 case of a contract entered into prior to the effective date of this act,
13 not more than six months after the effective date of this act or more
14 than 90 days after the end of the first year that the contract is in
15 effect, whichever is later. The report shall include an evaluation of
16 the actual net reduction of in-house costs, the actual entire cost of
17 the privatization contract, and the actual aggregate cost savings of
18 the contract. For the purposes of paragraph 6 ¹of section 1 of
19 Article 7, Article VII, Section I,¹ of the State Constitution, the
20 duties assigned to the State Auditor by section 2 of this act are
21 duties related to post-audits required pursuant to this section and
22 make an essential contribution to the conduct of those post-audits.
23 Any malfeasance, misfeasance or nonfeasance of the Department of
24 Corrections or any officer of the Department of Corrections in
25 connection with a privatization contract which is disclosed by any
26 audit or investigation conducted pursuant to this act shall be subject
27 to the provisions of R.S.52:24-7.

28
29 3. If the State Auditor finds that the privatization contract
30 yielded no actual net reduction of in-house costs, the Commissioner
31 of Corrections shall refrain from contracting with a private business
32 entity for substantially similar services in the future and instead use
33 State employees to perform the service.

34
35 4. This act shall take effect immediately.