

ASSEMBLY, No. 1614

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 29, 1996

By Assemblywoman TURNER and Assemblyman GEIST

1 AN ACT concerning certain State contracts or agreements and
2 supplementing Title 52 of the Revised Statutes.

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

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7 1. As used in this act:

8 "cost analysis" means a detailed description of the costs, or pro-rata
9 share of costs, of the following:

10 a. costs of labor;

11 b. costs of employer-provided fringe benefits;

12 c. costs of equipment or materials, whether supplied by the State
13 or a private contractor;

14 d. costs directly attributable to transferring the work being
15 performed by State employees to a private business entity;

16 e. costs of administering and inspecting the contracted service; and

17 f. costs of any anticipated unemployment compensation or other
18 benefits which are likely to be paid to State employees who are
19 displaced as a result of the contracted service; and

20 "resource analysis" means an analysis of a State department's
21 finances and personnel.

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23 2. a. Prior to entering into any contract or agreement in excess of
24 \$100,000 with a private business entity for the performance of work
25 usually performed by employees of a State department, the department
26 shall prepare a cost analysis of the work to be performed. The cost
27 analysis shall determine whether it is more cost effective to use
28 employees of the private business entity than to use existing or
29 additional departmental employees to perform the work required. The
30 department shall apply that determination to the contract or agreement
31 in the form of a certification. The cost analysis shall be accompanied
32 by a resource analysis and an analysis of the ability of the State to
33 reassume the contracted service if contracting of the service is not in
34 the public interest. Except as otherwise provided, no contract or
35 agreement that decreases the amount of work assigned to State
36 employees shall be entered into unless the cost analysis determines that
37 the contract or agreement will result in a substantial cost savings to

1 the State and that the potential cost savings of contracting of services
2 is not outweighed by the public's interest in having a particular
3 function performed directly by the State.

4 b. In no instance shall a department enter into any contract with a
5 private business entity for work which is being performed by
6 departmental employees if a principal of the contractor, including
7 management employees, has, in the preceding two years, worked for
8 the State department which is entering into the contract in any
9 capacity which affects the work to be performed by the contractor.

10 c. For a particular type of work that has not previously been
11 performed by the State, the department shall be permitted to designate
12 a contract or an agreement as a pilot project for the purpose of
13 determining whether contracting a particular type of work can result
14 in cost savings to the State.

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16 3. The cost analysis required by this act shall be filed with the
17 Office of Management and Budget in the Department of the Treasury
18 and shall be available for inspection by the public during regular
19 business hours upon request. At the time the cost analysis is filed with
20 the Office of Management and Budget, a copy thereof shall be
21 transmitted by the department to the Senate State Government
22 Committee and the Assembly State Government Committee, or the
23 respective successor committees, and the representatives of bargaining
24 units whose members would be affected by the contract or agreement.

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26 4. A representative of a bargaining unit receiving a copy of the cost
27 analysis shall have 20 business days from receipt thereof to file a
28 response in writing to the Office of Management and Budget. The
29 contract or agreement which is the subject of the cost analysis may not
30 be entered into by the department until the expiration of the 20-day
31 period or until the response is filed, whichever is first, unless the
32 provisions of section 5 of this act shall apply requiring the expiration
33 of a 30-day period before a contract or agreement may be entered into.

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35 5. If the resource analysis of the department's finances and
36 personnel concludes that the department cannot perform the work with
37 existing or additional departmental employees because such employees
38 lack the expertise, skill or access to appropriate technology or because
39 the work would be of such an intermittent nature as to be likely to
40 cause regular periods of unemployment for departmental employees,
41 then, even though the cost analysis indicates that it would be more
42 cost effective to use departmental employees, the department may
43 enter into a contract with a private business entity for the performance
44 of the work. However, such a contract shall not be entered into until
45 30 business days after receipt of the copy of the cost analysis by the
46 respective Senate and Assembly State Government committees. If

1 during that time the Legislature acts to remove the constraints
2 preventing the use of departmental employees, the contract or
3 agreement shall not be entered into.

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5 6. This act shall take effect immediately.

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8 STATEMENT

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10 This bill provides that prior to entering into any contract or
11 agreement in excess of \$100,000 with a private business entity for the
12 performance of work usually performed by employees of a State
13 department, the department shall prepare a cost analysis of the work
14 to be performed. The cost analysis shall determine whether it is more
15 cost effective to use employees of the private business entity than to
16 use existing or additional departmental employees to perform the work
17 required. The department shall apply that determination to the
18 contract or agreement in the form of a certification. The cost analysis
19 shall be accompanied by a resource analysis and an analysis of the
20 ability of the State to reassume the contracted service if contracting of
21 the service is not in the public interest. Except as otherwise provided,
22 no contract or agreement that decreases the amount of work assigned
23 to State employees shall be entered into unless the cost analysis
24 determines that the contract or agreement will result in a substantial
25 cost savings to the State and that the potential cost savings of
26 contracting of services is not outweighed by the public's interest in
27 having a particular function performed directly by the State.

28 In no instance shall a department enter into any contract with a
29 private business entity for work which is being performed by
30 departmental employees if a principal of the contractor, including
31 management employees, has, in the preceding two years, worked for
32 the State department which is entering into the contract in any
33 capacity which affects the work to be performed by the contractor.

34 For a particular type of work that has not previously been
35 performed by the State, the department shall be permitted to designate
36 a contract or an agreement as a pilot project for the purpose of
37 determining whether contracting a particular type of work can result
38 in cost savings to the State.

39 The cost analysis shall be filed with the Office of Management and
40 Budget in the Department of the Treasury and shall be available for
41 inspection by the public during regular business hours upon request.
42 At the time the cost analysis is filed with the Office of Management
43 and Budget, a copy thereof shall be transmitted by the department to
44 the Senate State Government Committee and the Assembly State
45 Government Committee, or the respective successor committees, and
46 the representatives of bargaining units whose members would be

1 affected by the contract or agreement.

2 A representative of a bargaining unit receiving a copy of the cost
3 analysis shall have 20 business days from receipt thereof to file a
4 response in writing to the Office of Management and Budget. The
5 contract or agreement which is the subject of the cost analysis may not
6 be entered into by the department until the expiration of the 20-day
7 period or until the response is filed, whichever is first, unless the
8 provisions of section 5 of this act shall apply requiring the expiration
9 of a 30-day period before a contract or agreement may be entered into.

10 If the resource analysis of the department's finances and personnel
11 concludes that the department cannot perform the work with existing
12 or additional departmental employees because such employees lack the
13 expertise, skill or access to appropriate technology or because the
14 work would be of such an intermittent nature as to be likely to cause
15 regular periods of unemployment for departmental employees, then,
16 even though the cost analysis indicates that it would be more cost
17 effective to use departmental employees, the department may enter
18 into a contract with a private business entity for the performance of
19 the work. However, such a contract shall not be entered into until 30
20 business days after receipt of the copy of the cost analysis by the
21 respective Senate and Assembly State Government committees. If
22 during that time the Legislature acts to remove the constraints
23 preventing the use of departmental employees, the contract or
24 agreement shall not be entered into.

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30 Requires a cost analysis in certain cases when a State department
contracts out work.