

[First Reprint]  
SENATE, No. 694

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Senators SINAGRA, INVERSO, Ewing, Ciesla, Casey,  
Zane, McGreevey and Adler

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

3

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

6

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.

22

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 <sup>1</sup>[usually] presently<sup>1</sup> performed by <sup>1</sup>salaried or hourly<sup>1</sup> employees of  
26 a State department, the department shall prepare a cost analysis of the  
27 work to be performed. The cost analysis shall determine whether it is  
28 more cost effective to use employees of the private business entity  
29 than to use existing or additional departmental employees to perform  
30 the work required. The department shall apply that determination to

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SSG committee amendments adopted November 18, 1996.

1 the contract or agreement in the form of a certification. The cost  
2 analysis shall be accompanied by a resource analysis and an analysis of  
3 the ability of the State to reassume the contracted service if  
4 contracting of the service is not in the public interest. Except as  
5 otherwise provided, no contract or agreement that decreases the  
6 amount of work assigned to State employees shall be entered into  
7 unless the cost analysis determines that the contract or agreement will  
8 result in a substantial cost savings to the State and that the potential  
9 cost savings of contracting of services is not outweighed by the  
10 public's interest in having a particular function performed directly by  
11 the State.

12 b. In no instance shall a department enter into any contract with a  
13 private business entity for work which is being performed by  
14 departmental employees if a principal of the contractor, including  
15 management employees, has, in the preceding two years, worked for  
16 the State department which is entering into the contract in any  
17 capacity which affects the work to be performed by the contractor.

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

23

24 3. The cost analysis required by this act shall be filed with the  
25 Office of Management and Budget in the Department of the Treasury  
26 and shall be available for inspection by the public during regular  
27 business hours upon request. At the time the cost analysis is filed with  
28 the Office of Management and Budget, a copy thereof shall be  
29 transmitted by the department to the Senate State Government  
30 Committee and the Assembly State Government Committee, or the  
31 respective successor committees, and the representatives of bargaining  
32 units whose members would be affected by the contract or agreement.

33

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

42

43 5. If the resource analysis of the department's finances and  
44 personnel concludes that the department cannot perform the work with  
45 existing or additional departmental employees because such employees  
46 lack the expertise, skill or access to appropriate technology or because

1 the work would be of such an intermittent nature as to be likely to  
2 cause regular periods of unemployment for departmental employees,  
3 then, even though the cost analysis indicates that it would be more  
4 cost effective to use departmental employees, the department may  
5 enter into a contract with a private business entity for the performance  
6 of the work<sup>1</sup>, except that this provision shall not be construed or  
7 applied to authorize the privatization of work that has been regularly  
8 performed by permanent intermittent employees<sup>1</sup>. <sup>1</sup>[However,] In no  
9 case shall<sup>1</sup> such a contract <sup>1</sup>[shall not]<sup>1</sup> be entered into until 30  
10 business days after receipt of the copy of the cost analysis by the  
11 respective Senate and Assembly State Government committees. If  
12 during that time the Legislature acts to remove the constraints  
13 preventing the use of departmental employees, the contract or  
14 agreement shall not be entered into.

15

16 6. This act shall take effect immediately.

17

18

19

20

---

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