

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 694

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 18, 1996

The Senate State Government Committee reports favorably and with committee amendments Senate, No. 694.

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

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

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

The cost analysis is to be filed with the Office of Management and Budget in the Department of the Treasury and is to be available for

inspection by the public during regular business hours upon request. At the time the cost analysis is filed with the Office of Management and Budget, a copy of the analysis is to be transmitted by the department to the Senate State Government Committee and the Assembly State Government Committee, or the respective successor committees, and the representatives of bargaining units whose members would be affected by the contract or agreement.

A representative of a bargaining unit receiving a copy of the cost analysis would have 20 business days from receipt thereof to file a response in writing with the Office of Management and Budget. The contract or agreement that is the subject of the cost analysis could not be entered into by the department until the expiration of the 20-day period or until the response is filed, whichever occurs first, unless the provisions set forth below, requiring the expiration of a 30-day period before a contract or agreement may be entered into, are applicable.

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

COMMITTEE AMENDMENTS

The committee amended the bill to provide that its provisions would apply only to work presently performed by hourly or salaried employees. As a result, if hourly or salaried employees are affected, a cost analysis would be prepared. The amendments also clarify that a provision in the bill authorizing a department to enter into a privatization contract (notwithstanding the cost effectiveness of using public employees to perform the services) if the work is of an intermittent nature should not be construed as allowing the privatization of work that has been regularly performed by permanent intermittent employees.