

5128

2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

Introduced by M. of A. BRONSON -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to the cost effectiveness of consultant contracts by state agencies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 163 of the state finance law is amended by adding a
2 new subdivision 15 to read as follows:
3 15. A. BEFORE A STATE AGENCY ENTERS INTO A CONTRACT FOR CONSULTANT
4 SERVICES WHICH IS ANTICIPATED TO COST MORE THAN FIVE HUNDRED THOUSAND
5 DOLLARS IN A TWELVE MONTH PERIOD THE STATE AGENCY SHALL CONDUCT A COST
6 COMPARISON REVIEW TO DETERMINE WHETHER THE SERVICES TO BE PROVIDED BY
7 THE CONSULTANT CAN BE PERFORMED AT EQUAL OR LOWER COST BY UTILIZING
8 STATE EMPLOYEES, UNLESS THE CONTRACT MEETS ONE OF THE EXCEPTIONS SET
9 FORTH IN PARAGRAPH B OF THIS SUBDIVISION. AS USED IN THIS SECTION THE
10 TERM "CONSULTANT SERVICES" SHALL MEAN ANY CONTRACT ENTERED INTO BY A
11 STATE AGENCY FOR ANALYSIS, EVALUATION, RESEARCH, TRAINING, DATA PROCESS-
12 ING, COMPUTER PROGRAMMING, ENGINEERING, ARCHITECTURE, ENVIRONMENTAL,
13 HEALTH SERVICES, MENTAL HEALTH SERVICES, ACCOUNTING, AUDITING, OR SIMI-
14 LAR SERVICES, BUT SHALL NOT INCLUDE LEGAL SERVICES OR SERVICES IN
15 CONNECTION WITH LITIGATION INCLUDING EXPERT WITNESSES AND SHALL NOT
16 INCLUDE CONTRACTS FOR CONSTRUCTION OR PUBLIC WORKS. THE COST COMPARISON
17 SHALL COMPARE THE ANTICIPATED COST OF CONSULTANT SERVICES WITH THE
18 ANTICIPATED COST OF PROVIDING SIMILAR SERVICES BY STATE EMPLOYEES
19 INCLUDING THE COST OF SALARIES AND BENEFITS OF ANY ADDITIONAL STATE
20 EMPLOYEES THAT WOULD BE REQUIRED TO PERFORM THE SERVICES. THE ANTIC-
21 IPATED COST OF CONSULTANT SERVICES SHALL INCLUDE ALL COSTS ASSOCIATED
22 WITH THE CONTRACT INCLUDING THE COST TO THE STATE AGENCY OF ADMINISTER-
23 ING THE CONTRACT.
24 B. A COST COMPARISON SHALL NOT BE REQUIRED IF:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (I) THE SERVICES ARE INCIDENTAL TO THE PURCHASE OF REAL OR PERSONAL
2 PROPERTY; OR

3 (II) THE CONTRACT IS NECESSARY IN ORDER TO AVOID A CONFLICT OF INTER-
4 EST ON THE PART OF THE AGENCY OR ITS EMPLOYEES; OR

5 (III) THE SERVICES ARE OF SUCH A HIGHLY SPECIALIZED NATURE THAT IT IS
6 NOT FEASIBLE TO UTILIZE STATE EMPLOYEES TO PERFORM THEM OR REQUIRE
7 SPECIAL EQUIPMENT THAT IS NOT FEASIBLE FOR THE STATE TO PURCHASE OR
8 LEASE; OR

9 (IV) THE SERVICES ARE OF SUCH AN URGENT NATURE THAT IT IS NOT FEASIBLE
10 TO UTILIZE STATE EMPLOYEES; OR

11 (V) THE SERVICES ARE ANTICIPATED TO BE SHORT-TERM AND ARE NOT LIKELY
12 TO BE EXTENDED OR REPEATED AFTER THE CONTRACT IS COMPLETED.

13 C. NOTHING IN THIS SECTION SHALL BE DEEMED TO AUTHORIZE A STATE AGENCY
14 TO ENTER INTO A CONTRACT WHICH IS OTHERWISE PROHIBITED BY LAW.

15 D. ALL DOCUMENTS RELATED TO THE COST COMPARISON REQUIRED BY THIS
16 SUBDIVISION SHALL BE PUBLIC RECORDS SUBJECT TO DISCLOSURE PURSUANT TO
17 ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

18 S 2. This act shall take effect on the ninetieth day after it shall
19 have become a law; provided, however, that the amendments to section 163
20 of the state finance law made by section one of this act shall not
21 affect the repeal of such section and shall be deemed to repeal there-
22 with.