

5128--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 14, 2011

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Introduced by M. of A. BRONSON, LUPARDO -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. CONSULTANT SERVICES. A. BEFORE A STATE AGENCY ENTERS INTO A  
4     CONTRACT FOR CONSULTANT SERVICES WHICH IS ANTICIPATED TO COST MORE THAN  
5     FIVE HUNDRED THOUSAND DOLLARS IN A TWELVE MONTH PERIOD THE STATE AGENCY  
6     SHALL CONDUCT A COST COMPARISON REVIEW TO DETERMINE WHETHER THE SERVICES  
7     TO BE PROVIDED BY THE CONSULTANT CAN BE PERFORMED AT EQUAL OR LOWER COST  
8     BY UTILIZING STATE EMPLOYEES, UNLESS THE CONTRACT MEETS ONE OF THE  
9     EXCEPTIONS SET FORTH IN PARAGRAPH B OF THIS SUBDIVISION. AS USED IN  
10    THIS SECTION, THE TERM "CONSULTANT SERVICES" SHALL MEAN ANY CONTRACT  
11    ENTERED INTO BY A STATE AGENCY FOR ANALYSIS, EVALUATION, RESEARCH,  
12    TRAINING, DATA PROCESSING, COMPUTER PROGRAMMING, ENGINEERING, ARCHITECT-  
13    TURE, ENVIRONMENTAL, HEALTH SERVICES, MENTAL HEALTH SERVICES, ACCOUNT-  
14    ING, AUDITING, OR SIMILAR SERVICES, BUT SHALL NOT INCLUDE LEGAL SERVICES  
15    OR SERVICES IN CONNECTION WITH LITIGATION INCLUDING EXPERT WITNESSES AND  
16    SHALL NOT INCLUDE CONTRACTS FOR CONSTRUCTION OF PUBLIC WORKS. THE COST  
17    COMPARISON SHALL COMPARE THE ANTICIPATED COST OF CONSULTANT SERVICES  
18    WITH THE ANTICIPATED COST OF PROVIDING SIMILAR SERVICES BY STATE EMPLOY-  
19    EES 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.

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

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1 B. A COST COMPARISON SHALL NOT BE REQUIRED IF:

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

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

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

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

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

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

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

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