

SENATE, No. 2017

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 5, 2020

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

SYNOPSIS

Requires State Auditor review of certain Department of Corrections privatization contracts.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning Department of Corrections privatization
2 contracts and supplementing chapter 24 of Title 52 of the
3 Revised Statutes.

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

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8 1. As used in this act:

9 "Aggregate cost savings" with respect to a privatization contract
10 means the amount by which the net reduction of in-house costs
11 exceeds the entire cost of the privatization contract.

12 "Entire cost of the privatization contract" means a detailed
13 accounting of all costs borne by the State under a privatization
14 contract, or pro-rata share of the costs, and all costs resulting from
15 the contract, including:

16 (1) Costs of labor;

17 (2) Costs of fringe benefits;

18 (3) Costs of equipment or materials, whether supplied by the
19 State or a private contractor;

20 (4) All other costs directly or indirectly attributable to
21 transferring the work being performed by State employees to a
22 private business entity under the contract, including, but not limited
23 to, the costs of preparing and bidding the contract, the costs of
24 training the new workforce, bonding costs, insurance liability costs,
25 costs to the public of delayed or reduced services, and recovery
26 costs of returning the work to the agency if required by future
27 decision makers;

28 (5) Costs in the maintenance of any publicly supplied property,
29 equipment or materials;

30 (6) Costs of administering, inspecting or monitoring the
31 subcontracted service, including, but not limited to, the use of
32 consultant services for this purpose;

33 (7) Costs of any anticipated unemployment compensation or
34 other benefits, including retraining expenses, for State employees
35 who are displaced as a result of the contracted service; and

36 (8) Costs of lost income tax revenue and other tax revenue to the
37 State through the elimination of agency employees if the contractor
38 performs functions outside of the State.

39 "Fringe benefits" means all employer-provided fringe benefits
40 including health, dental, vision care, prescription, holidays,
41 vacations, sick and administrative leave, pensions and other
42 retirement benefits.

43 "Net reduction of in-house costs" means the net reduction of cost
44 to the Department of Corrections caused by the State not providing
45 or performing a service which is instead performed or provided by a
46 private business entity under a privatization contract.

47 "Private business entity" means a non-governmental person or
48 entity.

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2. The State Auditor shall, as part of his responsibility under R.S.52:24-4, conduct a post audit of each privatization contract with a total value of more than \$100,000 between the Department of Corrections and a private business entity. The State Auditor shall issue an annual report to the Governor and the Legislature regarding the contract, the first of which shall be issued not more than 90 days after the end of the first year that the contract is in effect, or, in the case of a contract entered into prior to the effective date of this act, not more than six months after the effective date of this act or more than 90 days after the end of the first year that the contract is in effect, whichever is later. The report shall include an evaluation of the actual net reduction of in-house costs, the actual entire cost of the privatization contract, and the actual aggregate cost savings of the contract. For the purposes of paragraph 6 of section 1 of Article 7 of the State Constitution, the duties assigned to the State Auditor by section 2 of this act are duties related to post-audits required pursuant to this section and make an essential contribution to the conduct of those post-audits. Any malfeasance, misfeasance or nonfeasance of the Department of Corrections or any officer of the Department of Corrections in connection with a privatization contract which is disclosed by any audit or investigation conducted pursuant to this act shall be subject to the provisions of R.S.52:24-7.

25 3. If the State Auditor finds that the privatization contract
26 yielded no actual net reduction of in-house costs, the Commissioner
27 of Corrections shall refrain from contracting with a private business
28 entity for substantially similar services in the future and instead use
29 State employees to perform the service.

31 4. This act shall take effect immediately.

STATEMENT

36 This bill requires the State Auditor to conduct a post audit of
37 each privatization contract of more than \$100,000 between the
38 Department of Corrections and a private business entity and issue
39 an annual report to the Governor and the Legislature regarding the
40 contract. The report will include an evaluation of the actual net
41 reduction of in-house costs, the actual entire cost of the contract,
42 and the actual aggregate cost savings of the contract. If the State
43 Auditor finds that the contract yielded no actual net reduction of in-
44 house costs, the Commissioner of Corrections will refrain from
45 contracting with a private business entity for the provision of such
46 services in the future and instead use State employees to perform
47 the services.

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1 The bill also requires the State Auditor to report any
2 malfeasance, misfeasance or nonfeasance of the Department of
3 Corrections or any officer of the Department of Corrections in
4 connection with a contract which is disclosed by any audit or
5 investigation.

6 The bill takes effect immediately upon enactment.