

SB 376

1 THE STATE SENATE
2 Monday, February 22, 1999

3 Senate Bill No. 376
4 As Amended

5 SENATE BILL NO. 376 - By: LEFTWICH of the Senate and PAULK of the
6 House.

7 An Act relating to state government; enacting the Oklahoma
8 Privatization of State Functions Act; citing act; stating
9 purpose; defining terms; requiring state agencies to perform
10 certain duties prior to privatization; providing for
11 notification; requiring assistance; providing for compliance
12 monitoring; giving consideration to agency employee
13 proposals; providing for notice of intent to seek requests
14 for proposals; prohibiting certain activity; prohibiting
15 certain conduct; providing that certain persons or entities
16 are ineligible to contract based upon conviction of offenses
17 or certain breaches of contract; requiring certification of
18 certain information in writing; providing for codification;
19 providing an effective date; and declaring an emergency.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 595 of Title 74, unless there is
23 created a duplication in numbering, reads as follows:

24 This act shall be known and may be cited as the "Oklahoma
25 Privatization of State Functions Act".

26 SECTION 2. NEW LAW A new section of law to be codified
27 in the Oklahoma Statutes as Section 595.1 of Title 74, unless there
28 is created a duplication in numbering, reads as follows:

29 It is hereby declared that the purpose of the Oklahoma
30 Privatization of State Functions Act is to set guidelines for the

1 privatization of state services in order to ensure that, if
2 approved, the privatization of state services is cost effective and
3 in the best interest of the citizens of this state.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 595.2 of Title 74, unless there
6 is created a duplication in numbering, reads as follows:

7 As used in this act:

- 8 1. "Agency" means an agency, board, commission or other entity
9 of state government.
- 10 2. "Privatize" means to enter into contract for the performance
11 of a duty or function imposed upon the agency by law or which the
12 agency is authorized to perform.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 595.3 of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Before any agency can contract to privatize a function,
17 program, service, unit or division, the agency must allow its
18 employees the opportunity to submit proposals for improving the
19 operations, efficiency or organization of the entity being
20 considered for privatization.

21 B. The privatization process shall begin with:

1 1. Notification to employees impacted by the proposed
2 privatization by the agency of its intent to privatize a function,
3 program, service, unit or division of the agency;

4 2. A specific statement that employees have an opportunity to
5 submit proposals to the agency; and

6 3. Notification by the agency simultaneously with the notice
7 required pursuant to paragraph 1 of this subsection, to the
8 Governor's Office and the Director of the Office of State Finance of
9 the agency's intent to privatize a state function.

10 C. The agency shall provide reasonable assistance to its
11 employees as they develop proposals to be considered.

12 D. The Director of the Office of State Finance shall be
13 responsible for monitoring compliance by state agencies of the
14 requirements of this section.

15 E. Proposals submitted by agency employees to the agency shall
16 be considered **when** a determination is made on seeking nonemployee
17 bids to privatize a function, program, service, unit or division of
18 the agency.

19 F. After an agency has decided to privatize a function,
20 program, service, unit or division and has met the requirements of
21 subsection E of this section, the agency shall notify the Director
22 of State Finance of its intent to solicit bids by interested
23 parties. Prior to solicitation of bids from other interested

1 parties, the agency shall notify the Governor, President Pro Tempore
2 of the Senate, and Speaker of the House of Representatives of the
3 agency's intent to solicit bids and a statement that the agency has
4 given the opportunity to its employees to submit proposals pursuant
5 to this section prior to the decision to privatize.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 595.4 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 Any state officer or employee who exercises discretionary or
10 decision-making authority in awarding a privatization contract shall
11 be prohibited for a period of two (2) years from the date that the
12 privatization contract is awarded from becoming an officer or
13 employee of a business organization which is a party to any
14 privatization contract with the state agency in which the state
15 officer or employee exercised such discretionary or decision-making
16 authority.

17 SECTION 6. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 595.5 of Title 74, unless there
19 is created a duplication in numbering, reads as follows:

20 No person who has been convicted of any criminal offense for the
21 misuse of public funds, fraud or other misrepresentation or who has
22 breached a contract for the performance of a service or delivery of
23 goods to any public entity or agency of government shall be eligible

1 to contract with any state agency, board, commission, department or
2 other entity of state government for privatization of a governmental
3 function. No legal entity owned or controlled by a person
4 disqualified pursuant to this section shall be eligible to contract
5 with such entities.

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 595.6 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Each agency deciding to privatize an agency function,
10 program, service, unit or division shall certify in writing to the
11 Governor that:

12 1. The provisions of this act and all other applicable laws
13 regarding the privatization of the respective state functions have
14 been complied with;

15 2. The quality and cost of the services to be provided by the
16 selected bidder are likely to exceed the quality and cost benefit
17 standards for the state function as formerly delivered by regular
18 agency employees or, if applicable, compared to proposals from
19 agency employees; and

20 3. The proposed privatization contract is otherwise in the best
21 interest of the public.

1 B. A copy of the proposed privatization contract shall be
2 available at the Department of Central Services for public
3 inspection.

4 SECTION 8. This act shall become effective July 1, 1999.

5 SECTION 9. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

9 COMMITTEE REPORT BY: COMMITTEE ON DEREGULATION, dated 2-16-99 - DO
10 PASS, As Amended and Coauthored.