

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB925 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Mike Osburn

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

PROPOSED
COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 925

By: Thompson of the Senate

and

Osburn (Mike) of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to state government; amending 74 O.S. 2011, Section 588.1, as amended by Section 863, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section 588.1), which relates to cost analysis reports; increasing amount for contracts requiring certain analysis; providing for protection of third-party revenues; amending 74 O.S. 2011, Section 589, as amended by Section 864, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section 589), which relates to actions required to be taken prior to privatization; modifying responsibilities of agency under the Oklahoma Privatization of State Functions Act; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 588.1, as amended by Section 863, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section 588.1), is amended to read as follows:

Section 588.1 A. Before any agency contracts to privatize a function, program, service, unit, or division valued at ~~One Hundred~~

1 ~~Thousand Dollars (\$100,000.00)~~ One Million Dollars (\$1,000,000.00)

2 or more, the agency must perform a cost analysis and provide a copy
3 of the cost analysis report to the Office of Management and
4 Enterprise Services.

5 B. The cost analysis shall include a provision for the
6 protection and retention of third-party revenues currently being
7 received for the performance of the function, program, service, unit
8 or division sought to be privatized. Such protected third-party
9 revenues shall include, but not be limited to, grants, contracts,
10 federal matching programs, federal pass-through payments, sponsored
11 programs and payment incentives currently being received as a result
12 of the performance of the function, program, service, unit or
13 division sought to be privatized.

14 C. The Office of Management and Enterprise Services shall
15 review the cost analysis report and make a finding as to whether it
16 fulfills the content requirements of the Oklahoma Privatization of
17 State Functions Act and the rules of the Office. If the cost
18 analysis report is found not to meet the requirements of the
19 Oklahoma Privatization of State Functions Act or the rules of the
20 Office, the Office shall return the cost analysis report to the
21 agency with instructions.

22 ~~C.~~ D. The Director of the Office of Management and Enterprise
23 Services shall promulgate rules necessary to implement the
24 provisions of the Oklahoma Privatization of State Functions Act.

1 SECTION 2. AMENDATORY 74 O.S. 2011, Section 589, as
2 amended by Section 864, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
3 2017, Section 589), is amended to read as follows:

4 Section 589. A. Upon a finding by the Office of Management and
5 Enterprise Services pursuant to Section 588.1 of this title that the
6 agency has complied with the requirements of the Oklahoma
7 Privatization of State Functions Act, and before any agency can
8 contract to privatize a function, program, service, unit or
9 division, the agency must ~~allow its employees the opportunity to~~
10 ~~submit proposals for improving the operations, efficiency or~~
11 ~~organization of the entity being considered for privatization.~~

12 ~~B. The privatization process shall begin with~~ provide:

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

16 2. ~~A specific statement that employees have an opportunity to~~
17 ~~submit proposals to the agency~~ Notification to affected employees
18 that they will have the opportunity to submit cost-savings
19 recommendations for improving the operations, efficiency or
20 organization of the entity being considered for privatization; and

21 3. Notification by the agency simultaneously with the notice
22 required pursuant to paragraph 1 of this subsection, to the Director
23 of the Office of Management and Enterprise Services of the intent of
24 the agency to privatize a state function.

1 ~~C. The~~ B. Upon a request by the affected employees, the agency
2 shall provide information about the delivery of services to its
3 employees as they develop ~~proposals~~ recommendations to be
4 considered. This information shall include revenue expenditure
5 data, wage and salary data, an inventory of the supplies, equipment,
6 and facilities associated with the program being privatized, and the
7 cost analysis performed by the agency.

8 ~~D. Proposals~~ C. Any recommendations submitted by agency
9 employees shall ~~remain confidential and be considered simultaneously~~
10 ~~in the bid or proposal process with nonemployee bids~~ be considered
11 by the agency, separate and apart from the bid process, with
12 nonemployee bids. The agency shall make the final determination
13 whether to accept the winning nonemployee bid or accept the employee
14 recommendations in lieu of the winning bid.

15 ~~E. D.~~ D. After an agency has ~~decided to privatize a function,~~
16 ~~program, service, unit or division and has~~ met the requirements of
17 subsection ~~D~~ A of this section, the agency shall notify the Director
18 of the Office of Management and Enterprise Services ~~of its intent to~~
19 ~~solicit bids by interested parties. Prior to solicitation of bids~~
20 ~~from other interested parties, the agency shall notify,~~ the
21 Governor, the President Pro Tempore of the Senate, and the Speaker
22 of the House of Representatives of the intent of the agency to
23 solicit bids ~~and a statement that the agency has given the~~
24 ~~opportunity to its employees to submit proposals pursuant to this~~

1 ~~section prior to the decision to privatize~~ in accordance with this
2 section.

3 ~~F.~~ E. The agency shall provide a comprehensive written analysis
4 of the contract cost based upon the designated bid, specifically
5 including the costs of transition from public to private operation,
6 severance payments to agency employees, and monitoring and otherwise
7 administering contract performance.

8 ~~G.~~ F. The agency shall require the following information prior
9 to entering into a contract to privatize a function, program,
10 service, unit, or division:

11 1. Financial stability of the vendor, past and present
12 litigation, and references related to past government contract
13 performance information; and

14 2. Detail how the vendor will perform the contract, including
15 staffing and equipment information.

16 ~~H.~~ G. The agency shall establish a plan and cost analysis on
17 how to return the privatized function, program, service, unit, or
18 division to the state if there is a contract cancellation.

19 ~~I.~~ H. Any contract with a vendor to privatize a function,
20 program, service, unit, or division shall require that the payment
21 to the contractor be linked to performance. The contract shall
22 provide that the amount agreed upon in the contract may be reduced
23 if the agency experiences a budget shortfall.

1 ~~J.~~ I. Each privatization contract shall contain provisions
2 requiring the contractor to offer available employee positions
3 pursuant to the contract to qualified regular employees of the
4 agency whose state employment is terminated because of the
5 privatization contract and who satisfy the hiring criteria of the
6 contractor.

7 SECTION 3. This act shall become effective November 1, 2018.

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9 56-2-10338 LRB 04/09/18
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