

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 925

By: Thompson of the Senate

and

Osburn (Mike) of the House

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10                               COMMITTEE SUBSTITUTE

11           An Act relating to state government; amending 74 O.S.  
12           2011, Section 588.1, as amended by Section 863,  
13           Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section  
14           588.1), which relates to cost analysis reports;  
15           increasing amount for contracts requiring certain  
16           analysis; providing for protection of third-party  
17           revenues; amending 74 O.S. 2011, Section 589, as  
18           amended by Section 864, Chapter 304, O.S.L. 2012 (74  
19           O.S. Supp. 2017, Section 589), which relates to  
20           actions required to be taken prior to privatization;  
21           modifying responsibilities of agency under the  
22           Oklahoma Privatization of State Functions Act; and  
23           providing an effective date.

24  
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:

1       Section 588.1   A.   Before any agency contracts to privatize a  
2   function, program, service, unit, or division valued at ~~One Hundred~~  
3   ~~Thousand Dollars (\$100,000.00)~~ One Million Dollars (\$1,000,000.00)  
4   or more, the agency must perform a cost analysis and provide a copy  
5   of the cost analysis report to the Office of Management and  
6   Enterprise Services.

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

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

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

4        SECTION 2.        AMENDATORY        74 O.S. 2011, Section 589, as  
5 amended by Section 864, Chapter 304, O.S.L. 2012 (74 O.S. Supp.  
6 2017, Section 589), is amended to read as follows:

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

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

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

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

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

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

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

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

1 Governor, the President Pro Tempore of the Senate, and the Speaker  
2 of the House of Representatives of the intent of the agency to  
3 solicit bids ~~and a statement that the agency has given the~~  
4 ~~opportunity to its employees to submit proposals pursuant to this~~  
5 ~~section prior to the decision to privatize~~ in accordance with this  
6 section.

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

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

15 1. Financial stability of the vendor, past and present  
16 litigation, and references related to past government contract  
17 performance information; and

18 2. Detail how the vendor will perform the contract, including  
19 staffing and equipment information.

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

23 ~~I.~~ H. Any contract with a vendor to privatize a function,  
24 program, service, unit, or division shall require that the payment

1 to the contractor be linked to performance. The contract shall  
2 provide that the amount agreed upon in the contract may be reduced  
3 if the agency experiences a budget shortfall.

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

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

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12 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated  
13 04/11/2018 - DO PASS, As Amended.  
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