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February 28, 2018

AS AMENDED

SENATE BILL NO. 925

By: Thompson

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[ state government - cost analysis reports - amount
for contracts - actions required to be taken prior to
privatization - Oklahoma Privatization of State
Functions Act - effective date ]
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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 Thousand Dollars (\$100,000.00)~~ One Million Dollars (\$1,000,000.00) or more, the agency must perform a cost analysis and provide a copy of the cost analysis report to the Office of Management and Enterprise Services.

B. The Office of Management and Enterprise Services shall review the cost analysis report and make a finding as to whether it fulfills the content requirements of the Oklahoma Privatization of State Functions Act and the rules of the Office. If the cost analysis report is found not to meet the requirements of the

1 Oklahoma Privatization of State Functions Act or the rules of the
2 Office, the Office shall return the cost analysis report to the
3 agency with instructions.

4 C. The Director of the Office of Management and Enterprise
5 Services shall promulgate rules necessary to implement the
6 provisions of the Oklahoma Privatization of State Functions Act.

7 SECTION 2. AMENDATORY 74 O.S. 2011, Section 589, as
8 amended by Section 864, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
9 2017, Section 589), is amended to read as follows:

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

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

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

22 2. ~~A specific statement that employees have an opportunity to~~
23 ~~submit proposals to the agency~~ Notification to affected employees
24 that they will have the opportunity to submit cost savings

1 recommendations for improving the operations, efficiency, or
2 organization of the entity being considered for privatization; and

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

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

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

21 ~~E. D.~~ After an agency has ~~decided to privatize a function,~~
22 ~~program, service, unit or division and has met the requirements of~~
23 subsection ~~D~~ A of this section, the agency shall notify the Director
24 of the Office of Management and Enterprise Services ~~of its intent to~~

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

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

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

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

20 2. Detail how the vendor will perform the contract, including
21 staffing and equipment information.

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

1 ~~F.~~ H. Any contract with a vendor to privatize a function,
2 program, service, unit, or division shall require that the payment
3 to the contractor be linked to performance. The contract shall
4 provide that the amount agreed upon in the contract may be reduced
5 if the agency experiences a budget shortfall.

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
14 February 28, 2018 - DO PASS AS AMENDED
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