

1 STATE OF OKLAHOMA

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

3 SENATE BILL 925

By: Thompson

6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.  
8 2011, Section 588.1, as amended by Section 863,  
Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section  
9 588.1), which relates to cost analysis reports;  
increasing amount for contracts requiring certain  
10 analysis; amending 74 O.S. 2011, Section 589, as  
amended by Section 864, Chapter 304, O.S.L. 2012 (74  
11 O.S. Supp. 2017, Section 589), which relates to  
actions required to be taken prior to privatization;  
12 modifying responsibilities of agency under the  
Oklahoma Privatization of State Functions Act; and  
13 providing an effective date.

14  
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 74 O.S. 2011, Section 588.1, as  
17 amended by Section 863, Chapter 304, O.S.L. 2012 (74 O.S. Supp.  
18 2017, Section 588.1), is amended to read as follows:

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

1 B. The Office of Management and Enterprise Services shall  
2 review the cost analysis report and make a finding as to whether it  
3 fulfills the content requirements of the Oklahoma Privatization of  
4 State Functions Act and the rules of the Office. If the cost  
5 analysis report is found not to meet the requirements of the  
6 Oklahoma Privatization of State Functions Act or the rules of the  
7 Office, the Office shall return the cost analysis report to the  
8 agency with instructions.

9 C. The Director of the Office of Management and Enterprise  
10 Services shall promulgate rules necessary to implement the  
11 provisions of the Oklahoma Privatization of State Functions Act.

12 SECTION 2. AMENDATORY 74 O.S. 2011, Section 589, as  
13 amended by Section 864, Chapter 304, O.S.L. 2012 (74 O.S. Supp.  
14 2017, Section 589), is amended to read as follows:

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

23 B. ~~The privatization process shall begin with~~ provide:  
24

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~~ Notification to affected employees  
6 that they will have the opportunity to submit cost savings  
7 recommendations for improving the operations, efficiency, or  
8 organization of the entity being considered for privatization; and

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

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

20 ~~D. Proposals~~ C. Any recommendations submitted by agency  
21 employees shall ~~remain confidential and be considered simultaneously~~  
22 ~~in the bid or proposal process with nonemployee bids~~ be considered  
23 by the agency, separate and apart from the bid process, with  
24 nonemployee bids. The agency shall make the final determination

1 whether to accept the winning nonemployee bid or accept the employee  
2 recommendations in lieu of the winning bid.

3 ~~E. D.~~ After an agency has ~~decided to privatize a function,~~  
4 ~~program, service, unit or division~~ and has met the requirements of  
5 subsection ~~D~~ A of this section, the agency shall notify the Director  
6 of the Office of Management and Enterprise Services ~~of its intent to~~  
7 ~~solicit bids by interested parties. Prior to solicitation of bids~~  
8 ~~from other interested parties, the agency shall notify,~~ the  
9 Governor, the President Pro Tempore of the Senate, and the Speaker  
10 of the House of Representatives of the intent of the agency to  
11 solicit bids ~~and a statement that the agency has given the~~  
12 ~~opportunity to its employees to submit proposals pursuant to this~~  
13 ~~section prior to the decision to privatize~~ in accordance with this  
14 section.

15 ~~F. E.~~ The agency shall provide a comprehensive written analysis  
16 of the contract cost based upon the designated bid, specifically  
17 including the costs of transition from public to private operation,  
18 severance payments to agency employees, and monitoring and otherwise  
19 administering contract performance.

20 ~~G. F.~~ The agency shall require the following information prior  
21 to entering into a contract to privatize a function, program,  
22 service, unit, or division:  
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24

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

4 2. Detail how the vendor will perform the contract, including  
5 staffing and equipment information.

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

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

14 ~~J.~~ I. Each privatization contract shall contain provisions  
15 requiring the contractor to offer available employee positions  
16 pursuant to the contract to qualified regular employees of the  
17 agency whose state employment is terminated because of the  
18 privatization contract and who satisfy the hiring criteria of the  
19 contractor.

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