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JAN 1 8 2012

A BILL FOR AN ACT

RELATING TO PRIVATIZATION OF GOVERNMENT SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by 2 adding a new chapter to be appropriately designated and to read 3 as follows: 4 "CHAPTER 5 PRIVATIZATION 6 -1 Scope and application. This chapter preempts and 7 supersedes all other state law with regard to determining 8 whether services, including services obtained in conjunction 9 with the procurement of goods and construction, funded by the 10 State or any of its counties, should be provided exclusively by 11 government or obtained through government contracts from the 12 private sector. Procurement laws shall be applied, as 13 appropriate, if a determination is made pursuant to this chapter 14 that a service should be obtained by contract from the private 15 sector. 16 -2 Determination; standards. (a) Notwithstanding any

law to the contrary, including but not limited to chapters 46,

76, 77, 78, 89, and 89A, any other applicable civil service law,

- 1 customary or historical past practices, or the fact that the
- 2 services hereinafter described may have been performed by
- 3 persons or positions in civil service, any state or county
- 4 official in whom procurement authority is vested by law may
- 5 enter into a contract financed by public funds, with a private
- 6 entity to obtain services, including services provided in
- 7 conjunction with the procurement of goods or construction, from
- 8 a private entity, when there is reasonable basis to believe that
- 9 the service of equivalent or better quality than that which
- 10 could be provided by a government agency can be provided at
- 11 lower cost.
- 12 (b) For purposes of this chapter, a "private entity" is
- 13 any individual, company, or organization that is not an employee
- 14 or agency within the federal, state, or county government.
- 15 (c) In the determination made pursuant to this chapter,
- 16 the state or county official shall consider whether contracting
- 17 with the private entity will:
- 18 (1) Jeopardize the government's ability to provide the
- 19 service if the private entity fails to perform, or the
- 20 contract becomes unprofitable or impossible for a
- 21 private entity to perform;

1	(2)	Impa	ct on any employee covered by civil service laws;
2		prov	ided that the impact shall not prevent the
3		proci	urement of services pursuant to this chapter;
4	(3)	Affe	ct the nature of the service the agency needs,
5		incl	uding whether:
6		(A)	The service is self-contained or part of a larger
7			service delivery system;
8		(B)	The service is geographically dispersed;
9		(C)	The service is a core or ancillary government
10			service and if in-house resources are available
11			or needed;
12		(D)	Government control is necessary;
13		(E)	Government accountability can be shared; and
14		(F)	Governmental authority will be diluted;
15	(4)	Incr	ease the potential for achieving cost savings,
16		including:	
17		(A)	The need to abandon or repurchase capital
18			improvements or equipment that are not fully
19			depreciated;
20		(B)	The extent to which the service is available in
21			the private sector marketplace; and

1		(C) The extent to which federal or state restrictions
2		may reduce private sector interest in providing
3		or performing the needed or required service; and
4	(5)	Affect the extent to which the services are needed or
5		required, and how the criteria to select a service
6		provider can be described in objective specifications.
7	(d)	Any employee displacements shall be subject to section
8	46- or 8	9A-1(e) as appropriate.
9	§ -	3 Annual reports. Each state and county department
10	and agency	that uses the contracting process set out in this
11	chapter, s	hall submit a report to the legislature no later than
12	twenty day	s prior to the convening of the regular session of
13	each year	beginning with 2013. The report shall include:
14	(1)	An itemization of all services that were outsourced or
15		subjected to the processes set out in this chapter;
16	(2)	The agency's or department's justification that
17		standards for determination were met;
18	(3)	The cost of services obtained through the process set
19		out in this chapter;
20	(4)	A copy of all contracts entered into under this
21		chapter; and

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1	(5) An accounting of civil service employees displaced as
2	a consequence of this chapter."
3	SECTION 2. This Act shall take effect upon its approval.
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	INTRODUCED BY:
	RV RECITET

Report Title:

Government Agencies; Procurement; City and County of Honolulu Package

Description:

Allows the State and counties to contract services from private entities or to allow those services to be performed in house as appropriate.

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