

SB1602



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1602

Introduced 2/19/2009, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

New Act

Creates the Public Service Accountability Act. Specifies the conditions under which a State executive branch agency may enter into a contract with a private entity for the performance of services currently performed by public employees.

LRB096 10304 JAM 20474 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Public
5 Service Accountability Act.

6 Section 5. Definitions. For purposes of this Act:

7 "State agency" or "agency" means an executive office,
8 department, division, board, commission, or other office or
9 officer in the executive branch of State government.

10 "Services" means, with respect to a third-party
11 contractor, all aspects of the provision of services provided
12 by a private contractor pursuant to a third-party contract, or
13 any services provided by a subcontractor of a third-party
14 contractor.

15 "Person" means an individual, institution, federal, State,
16 or local governmental entity, or any other public or private
17 entity.

18 "Third-party contract" means an agreement or combination
19 or series of agreements by which a non-governmental person or
20 entity agrees with a State agency to provide services valued at
21 \$50,000 or more that are substantially similar to and in lieu
22 of services that have been provided or that could have been
23 provided, in whole or in part, by regular employees of an

1 agency.

2 "Private contractor" means any entity that enters into a
3 third-party contract as that term is defined in this Section.

4 "Public employee" means an employee of any State department
5 or agency.

6 Section 10. Third-party contracts; requirements.

7 (a) A State agency may enter into a contract with a third
8 party for services currently performed by public employees upon
9 90 days written notice to the affected employees and any
10 collective bargaining agent they may have; provided that:

11 (1) a contract must not be entered into and become
12 effective during the term of a collective bargaining
13 agreement, affecting any employees who currently perform
14 the services;

15 (2) a contract may take effect only upon the expiration
16 of an existing collective bargaining agreement;

17 (3) any third party that submits a bid to perform the
18 services shall provide the following:

19 (A) evidence of liability insurance of adequate
20 scope and amount;

21 (B) a benefits package for the third party's
22 employees who will perform the services comparable to
23 the benefits package provided to employees who perform
24 those services;

25 (C) a list of the number of employees who will

1 provide the services, the job classifications of those
2 employees, and the wages the third party will pay those
3 employees;

4 (D) a minimum 3-year cost projection, using
5 generally accepted accounting principles and which the
6 third party is prohibited from increasing if the bid is
7 accepted by the State agency, for each and every
8 expenditure category and account for performing the
9 services;

10 (E) composite information about the criminal and
11 disciplinary records, including alcohol or other
12 substance abuse, Department of Children and Family
13 Services complaints and investigations, traffic
14 violations, and license revocations or any other
15 licensure problems, of any employees who may perform
16 the services, provided that the individual names and
17 other identifying information of employees need not be
18 provided with the submission of the bid, but must be
19 made available upon request of the State agency; and

20 (F) an affidavit, notarized by the president or
21 chief executive officer of the third party, that each
22 of its employees has completed a criminal background
23 check within 3 months prior to submission of the bid,
24 provided that the results of those background checks
25 need not be provided with the submission of the bid,
26 but must be made available upon request of the State

1 agency.

2 (4) a contract must not be entered into unless the
3 State agency provides a cost comparison, using generally
4 accepted accounting principles, of each and every
5 expenditure category and account that the State agency
6 projects it would incur over the term of the contract if it
7 continued to perform the services using its own employees
8 with each and every expenditure category and account that
9 is projected a third party would incur if a third party
10 performed the services;

11 (5) review and consideration of all bids by third
12 parties to perform the services shall take place in open
13 session of a meeting announced and scheduled in accordance
14 with the guidelines normally followed for meetings covered
15 by the Open Meetings Act;

16 (6) a minimum of 2 public hearings to discuss the State
17 agency's proposal to contract with a third party to perform
18 services must be held before the State agency may enter
19 into such a contract; the State agency must provide notice
20 to the public of the date, time, and location of the first
21 public hearing on or before the initial date that bids to
22 provide the services are solicited or a minimum of 30 days
23 prior to entering into such a contract, whichever provides
24 a greater period of notice;

25 (7) a contract shall contain provisions requiring the
26 contractor to offer available employee positions pursuant

1 to the contract to qualified employees who are laid off
2 because of the contract; and

3 (8) a contract shall contain provisions requiring the
4 contractor to comply with a policy of nondiscrimination and
5 equal employment opportunity for all persons and to take
6 affirmative steps to provide equal opportunity for all
7 persons.

8 (b) Notwithstanding subsection (a) of this Section, the
9 State agency may enter into a contract, of no longer than 3
10 months in duration, with a third party for services currently
11 performed by an employee for the purpose of augmenting the
12 current workforce in an emergency situation that threatens the
13 safety or health of the employees or the direct recipients of
14 services, provided that the State agency meets all of its
15 obligations under the Illinois Public Labor Relations Act.

16 (c) For purposes of this Section, "third-party contract"
17 does not include an agreement with the Department of Human
18 Services to provide services under a rate structure that
19 defines wage rates.