
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
17 law to the contrary, including but not limited to chapters 46,
18 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) Impact on any employee covered by civil service laws;
2 provided that the impact shall not prevent the
3 procurement of services pursuant to this chapter;
- 4 (3) Affect the nature of the service the agency needs,
5 including 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) Increase 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 89A-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, shall submit a report to the legislature no later than
12 twenty days 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.

4

INTRODUCED BY:

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BY REQUEST

JAN 13 2012



H.B. NO. 1761

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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