

By Representatives Jennings, Richardson, McGriff,
Peterman, Greenstein, Ausley and Kendrick

1 A bill to be entitled
2 An act relating to state government; creating
3 s. 14.204, F.S.; creating the State Council on
4 Competitive Government; providing for
5 appointment of members, powers, and duties;
6 providing for review of government services and
7 functions in relation to the performance of
8 those services and functions by nongovernment
9 providers; providing criteria for review;
10 providing for contract recommendations;
11 providing limitations on contracts for services
12 under certain circumstances; repealing s.
13 14.203, F.S., which provides for a State
14 Council on Competitive Government; providing an
15 effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Section 14.204, Florida Statutes, is
20 created to read:

21 14.204 State Council on Competitive Government.--

22 (1) DEFINITIONS.--As used in this section, the term:

23 (a) "Commercial activity" means an activity that
24 provides a product or service that is commonly available from
25 a private source.

26 (b) "Council" means the State Council on Competitive
27 Government.

28 (c) "Identified state service" means a service
29 provided by the state which the council has identified as a
30 commercially available service and which the council has

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1 brought under study to determine whether the service may be
2 provided by private sources through competition.

3 (d) "Privatization" means the transfer of government
4 functions, assets, agencies, management, products or
5 productive capacity, financing, or service delivery from the
6 government sector to the nongovernment sector.

7 (2) STATE COUNCIL ON COMPETITIVE GOVERNMENT.--The
8 State Council on Competitive Government is established within
9 the legislative branch of government. Staff shall be provided
10 by the Office of Program Policy Analysis and Government
11 Accountability which shall also provide direction to the
12 council. It is the policy of this state that all state
13 services be performed in the most effective and efficient
14 manner in order to provide the best value to the public. The
15 state recognizes that competition among service providers may
16 improve the quality of services provided. The council shall
17 encourage competition, innovation, and creativity among
18 service providers and within the public sector.

19 (3) MEMBERSHIP.--The council shall consist of nine
20 members appointed as follows: two members appointed by the
21 Governor, one of whom must be from the government sector; two
22 appointees of the Governor and Cabinet, one of whom must be
23 from the government sector; the director of the Legislature's
24 Office of Program Policy Analysis and Government
25 Accountability; two members appointed by the President of the
26 Senate; and two members appointed by the Speaker of the House
27 of Representatives. The council shall select its presiding
28 officer from its membership. The council shall meet as often
29 as necessary to perform its duties.

30 (4) DUTIES.--
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1 (a) The council shall identify commercially available
2 services currently being performed by state agencies and, if
3 the council finds that any services of an agency can be better
4 provided through competition with private sources or other
5 state agency service providers, the council may recommend that
6 the state agency engage in any process, including competitive
7 bidding, which is recommended by the council to provide the
8 service through competition among private sources or with
9 other state agency service providers.

10 (b) The council shall review and comment on all
11 requests for proposals, invitations to bid, invitations to
12 negotiate, or contracts issued by state agencies which propose
13 privatization of funded government services. Each state agency
14 shall submit all of its privatization proposals costing
15 \$100,000 or more to the council for its review before any
16 action is taken by the agency.

17 (c) The council shall review all existing instances in
18 which state government funded services have been privatized in
19 order to comment on whether the services are being performed
20 in the most effective and efficient manner to provide the best
21 value to the public.

22 (5) POWERS.--In performing its duties under this
23 section, the council may:

24 (a) Adopt rules governing any aspect of the council's
25 duties or responsibilities.

26 (b) Hold public hearings or conduct studies.

27 (c) Consult with private sources or state agencies
28 that provide services.

29 (d) Recommend that a state agency conduct an in-house
30 cost estimate, a management study, or any other hearing,
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1 study, review, or cost estimate concerning any aspect of an
2 identified state service.

3 (e) Develop for use by state agencies methods to
4 accurately and fairly estimate and account for the cost of
5 providing an identified state service.

6 (f) Recommend that an identified state service be
7 submitted to competitive bidding or another process that
8 creates competition among private sources.

9 (g) Suggest, in consultation with affected state
10 agencies, the specifications and conditions of purchase
11 procedures that should be followed by a state agency or a
12 private source engaged in competitive bidding to provide an
13 identified state service.

14 (h) Recommend the award of a contract to a state
15 agency currently providing the service, another state agency,
16 a private source, or any combination of those entities if the
17 bidder presents the best and most reasonable bid, which is not
18 necessarily the lowest bid.

19 (i) Suggest the terms and conditions of a contract for
20 service or an interagency contract to provide an identified
21 state service or other commercially available service.

22 (j) Recommend a minimum level of contractor health
23 insurance coverage for employees, including optional family
24 coverage, whether employer paid or employee paid or a
25 combination thereof.

26 (k) Encourage state employees to organize and submit a
27 bid for the identified service.

28 (6) COST COMPARISON AND CONTRACT CONSIDERATIONS.--In
29 comparing the cost of providing a service, the council must
30 consider the cost of supervising the work of any private
31 contractor, including an analysis of whether health-care

1 benefits, retirement, and workers' compensation insurance for
2 employees of the contractor are reasonably comparable to
3 benefits provided by the state. The council must also consider
4 the total cost to the agency of that agency's performance of a
5 service, such total cost to include all indirect costs related
6 to that agency and the costs of agencies such as the
7 Comptroller, the Treasurer, the Attorney General, and other
8 support agencies. In reviewing proposals submitted by state
9 agencies or in making recommendations for actions to be
10 undertaken by state agencies in privatization or in making
11 recommendations for investments in productive improvements to
12 public-sector agencies, the council shall consider the
13 following:

14 (a) Whether two or more state agencies provide an
15 essentially similar service to a like population with little
16 or no value added by multiple jurisdictions.

17 (b) Whether the public-sector service has been created
18 in response to a short-term need or abuse, and any subsequent
19 actions that have satisfactorily addressed the need or
20 remedied the abuse with sufficient protection to the affected
21 public.

22 (c) Whether the program, service, or deployment of
23 resources exists because of a commitment to job-based tasks
24 that prove unnecessary in light of alternative
25 technology-based processes.

26 (d) Whether market forces can address the program or
27 service for its satisfactory operation in a nongovernment
28 context.

29 (e) Whether the program or service is peripheral to
30 the core mission of state government regardless of the
31 efficiency of the state agency operation.

1 (f) Whether the service or program provides a subsidy
2 that the general population can obtain from a nongovernment
3 provider without loss of integrity or unreasonable cost.

4 (g) Whether the selected program or service unduly
5 affects economically or geographically disadvantaged segments
6 of the workforce from receiving subsequent employment.

7 (h) Whether the nongovernment provider has made
8 satisfactory provisions to avoid service interruption,
9 provisions for employment by displaced public-sector
10 employees, and provisions for maintenance of the quality and
11 accessibility of the contracted service.

12 (i) Whether privatization of the program or service
13 would impair the integrity of the regulatory powers of state
14 government or its sworn enforcement of functions conferred on
15 it by law.

16 (j) Whether the alternative method of providing
17 government services adds value. For the purposes of this
18 section, an alternative method adds value if it achieves one
19 or more government-sector objectives with improvement outcomes
20 irrespective of cost; achieves more outcomes within a fixed
21 amount of appropriation; improves accuracy, timeliness, or
22 responsiveness by employees on behalf of customers, clients,
23 or the public; reduces unit costs; or reduces the cost of
24 sales and general administrative expenses.

25 (7) DUTIES OF AFFECTED STATE AGENCIES.--A state agency
26 shall cooperate with the council in the performance of its
27 duties under this section.

28 (8) EXEMPTION.--Any contract entered into pursuant to
29 council recommendations and decisions regarding whether an
30 agency will engage in competitive bidding with respect to such
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1 a contract is exempt from all laws of the state regulating or
2 limiting state purchasing and purchasing decisions.

3 (9) CONTRACT RECOMMENDATIONS; APPROPRIATIONS.--A
4 contract entered into under this section constitutes an
5 executive branch recommendation only and does not take effect
6 until a specific appropriation to fund the contract is
7 provided by law. In addition, any contract entered into by an
8 executive-branch agency under this section must state in its
9 text that its effect is contingent upon a specific
10 appropriation by law. However, a contract entered into
11 pursuant to this section may not impair the actions of any
12 executive branch agency whose powers are derived directly from
13 the State Constitution or impair any contractual or statutory
14 obligations imposed by state or federal law or a grant-in-aid
15 program.

16 (10) OPEN MEETINGS AND OPEN RECORDS LAWS.--The
17 meetings and records of the council are subject to the
18 provisions of ss. 119.07 and 286.011.

19 (11) REIMBURSEMENT FOR EXPENSES.--Members of the
20 council are not entitled to receive a salary but may be
21 reimbursed for expenses under s. 112.061.

22 Section 2. Any other provision of law to the contrary
23 notwithstanding, no contract for services, request for
24 proposals, or invitation to bid between an agency of the State
25 of Florida and a contract vendor succeeding to the operation
26 of a program or function of a State of Florida agency shall be
27 executed unless the vendor shall be a domiciled Florida
28 corporation or shall have a significant business presence in
29 the state for the duration of the contract. For the purposes
30 of this provision, the term "significant business presence"
31 shall mean a retention of substantially all of the filled

1 positions previously assigned the state agency at
2 substantially the same total cash equivalent of salaries and
3 benefits.

4 Section 3. Section 14.203, Florida Statutes, is
5 repealed.

6 Section 4. This act shall take effect July 1, 2001.

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9 HOUSE SUMMARY

10 Creates a new State Council on Competitive Government
11 within the legislative branch and under the direction of
12 the Office of Program Policy Analysis and Government
13 Accountability and provides for its membership, powers,
14 and duties. Provides for review of government services
15 and functions in relation to the performance of those
16 services and functions by nongovernment providers.
17 Repeals the existing Council on Competitive Government.

18 Provides limitations on contracts for services, requests
19 for proposals, or invitations to bid between an agency of
20 the state and a contract vendor succeeding to the
21 operation of a program or function of a state agency. See
22 bill for details.
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