

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Bogdanoff offered the following:

**Amendment (with title amendment)**

Remove lines 65-77 and insert:

(9) "Lead agency" means an agency designated at least once every 6 ~~3~~ years by an area agency on aging as the result of a competitive procurement conducted through a request for proposal process to be in place no later than the state fiscal year 1996-1997. Any area agency on aging that is in litigation over a prior designation of a lead agency on the effective date of this act shall conduct this competitive procurement no later than December 31, 2009, to ensure that all lead agencies have been fairly selected before the maximum 6-year procurement cycle begins.

(a) The ~~guidelines for the~~ request for proposal must be developed by the ~~department in consultation with the~~ area agency  
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17 ~~agencies on aging and. Such guidelines must~~ include requirements  
18 for the assurance of quality and cost-efficiency of services,  
19 minimum personnel standards, and employee benefits. The  
20 department shall adopt a rule creating a dispute resolution  
21 mechanism. The rule, which shall be adopted no later than August  
22 1, 2009, and which all area agencies on aging shall be required  
23 to follow, shall create standards for a bid protest and a  
24 procedure for resolution. The dispute resolution mechanism  
25 established in the rule shall include a provision for a  
26 qualified, impartial decisionmaker who shall conduct a hearing  
27 to determine whether the area agency's proposed action is  
28 contrary to the area agency's governing statutes or rules or to  
29 the solicitation specifications. The standard of proof for the  
30 protestor shall be whether the area agency's action was clearly  
31 erroneous, contrary to competition, arbitrary, or capricious.  
32 The dispute resolution mechanism shall also provide a mechanism  
33 for review of the decisionmaker's determination by a qualified  
34 and impartial reviewer, if review is requested. The standards  
35 for the bid protest shall include:

36 1. A provision requiring notice of an area agency's  
37 proposed contract award and a clear point of entry for any  
38 substantially affected entity to challenge the proposed award.

39 2. A provision for an automatic stay of the contract award  
40 process upon the filing of a bid protest that shall not be  
41 lifted until the protest is resolved.

42 3. Provisions permitting all substantially affected  
43 entities to have an opportunity to participate in the hearing,  
44 to conduct discovery, to obtain subpoenas compelling the

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45 appearance of witnesses, to present evidence and argument on all  
46 issues involved, to conduct cross-examination, to submit  
47 rebuttal evidence, and to submit proposed findings of fact and  
48 conclusions of law.

49 4. Provisions for expeditious resolution of the bid  
50 protest, including a requirement that once the area agency on  
51 aging refers a bid protest petition to the decisionmaker, a  
52 hearing shall be conducted within 30 days, unless that timeframe  
53 is waived by all parties.

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58 **T I T L E A M E N D M E N T**

59 Remove lines 12-13 and insert:  
60 care for the elderly; providing competitive procurement  
61 procedure with respect to specified contested designation of a  
62 lead agency; requiring the Department of Elderly Affairs to  
63 create a dispute resolution mechanism by rule; providing  
64 requirements with respect to the dispute resolution mechanism;  
65 specifying required standards for a bid protest;

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