

HOUSE BILL No. 4892

May 6, 2009, Introduced by Reps. Roberts, Miller, Tlaib, Switalski, Haase, Durhal, Young, Ebli, Bettie Scott, Gregory, Bauer, Smith, Warren, Donigan, Melton, Robert Jones, Valentine, Jackson, Lindberg and Slavens and referred to the Committee on Labor.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
(MCL 18.1101 to 18.1594) by adding sections 280, 280a, 280b, and
280c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 280. (1) BEFORE SEEKING APPROVAL FOR PRIVATIZING ANY
2 SERVICES THAT REPLACE SERVICES PERFORMED BY STATE EMPLOYEES, THE
3 DEPARTMENT OR AGENCY SHALL SUBMIT A DETAILED PREPRIVATIZATION COST-
4 BENEFIT ANALYSIS TO THE APPROPRIATIONS COMMITTEES OF THE SENATE AND
5 HOUSE OF REPRESENTATIVES. THE ANALYSIS SHALL BE PREPARED UTILIZING
6 ACCURATE, RELIABLE, AND OBJECTIVE DATA AND SHALL USE THE SOUNDEST
7 ACTUARIAL TECHNIQUES THAT ARE AVAILABLE TO THE DEPARTMENT OR
8 AGENCY. THE ANALYSIS SHALL INCLUDE A DETAILED COMPARATIVE ESTIMATE

1 OF THE COSTS THAT THE STATE WOULD INCUR FOR THE PERIOD OF THE
2 PROPOSED CONTRACT UNDER THE FOLLOWING CIRCUMSTANCES:

3 (A) IF STATE EMPLOYEES WERE TO CONTINUE TO PROVIDE THE
4 SERVICES.

5 (B) IF A PRIVATE CONTRACTOR WERE TO PROVIDE THE SERVICES. THE
6 COST ANALYSIS OF PRIVATIZING THE SERVICES SHALL INCLUDE ALL OF THE
7 FOLLOWING COSTS:

8 (i) ALL NECESSARY MONITORING AND OVERSIGHT OF THE PRIVATE
9 ENTITY BY THE STATE.

10 (ii) UP-TO-DATE COST ESTIMATES FOR USING REPUTABLE COMPANIES
11 THAT HAVE A PREVIOUS HISTORY OR REPUTATION FOR PROVIDING QUALITY
12 SERVICES AND THAT WILL PROVIDE SERVICES COVERED BY PERFORMANCE
13 BONDS.

14 (2) A DEPARTMENT OR AGENCY SHALL NOT PROCEED WITH
15 PRIVATIZATION OF SERVICES UNDER THIS SECTION UNTIL IT RECEIVES
16 NOTICE OF APPROVAL FROM THE SENATE AND HOUSE APPROPRIATIONS
17 COMMITTEES INDICATING A COST SAVINGS OF AT LEAST 10% OF THE COST OF
18 USING STATE EMPLOYEES TO PROVIDE THE SERVICES.

19 (3) A DEPARTMENT OR AGENCY SHALL FOLLOW THE PROCEDURE SET
20 FORTH IN SUBSECTIONS (1) AND (2) FOR ANY EXPANSION OF A
21 PRIVATIZATION CONTRACT THAT WOULD FURTHER REPLACE SERVICES
22 PERFORMED BY STATE EMPLOYEES.

23 SEC. 280A. BEFORE RENEWING OR REBIDDING A CONTRACT FOR
24 PRIVATIZED SERVICES THAT REPLACED SERVICES PROVIDED BY STATE
25 EMPLOYEES, THE DEPARTMENT SHALL CONDUCT AN ANALYSIS TO DETERMINE
26 WHETHER THE CONTRACT ACTUALLY PROVIDED THE REQUIRED QUALITY OF
27 SERVICES AND PRODUCED THE SAVINGS THAT WERE PROJECTED IN THE

1 PREPRIVATIZATION ANALYSIS. IF THE ANALYSIS INDICATES THAT THE
2 PRIVATIZATION DID NOT PRODUCE THE SAVINGS OR PROVIDED SERVICES THAT
3 DID NOT MEET REQUIRED STANDARDS OF PERFORMANCE, THE DEPARTMENT OR
4 AGENCY SHALL REASSUME THE RESPONSIBILITY OF PROVIDING THE SERVICES
5 THROUGH STATE EMPLOYEES.

6 SEC. 280B. IF THE DEPARTMENT OF CIVIL SERVICE APPROVES THE
7 CONTRACTING FOR SERVICES TO REPLACE SERVICES PERFORMED BY STATE
8 EMPLOYEES, THE CONTRACT FOR PROCURING THOSE SERVICES SHALL INCLUDE
9 A REQUIREMENT THAT THE CONTRACTOR MAKE ITS RECORDS CONCERNING THE
10 PERFORMANCE OF THE CONTRACT AVAILABLE FOR INSPECTION OR COPYING ON
11 REQUEST OF THE DEPARTMENT AND THAT THOSE RECORDS SHALL BE
12 CONSIDERED RECORDS OF THE DEPARTMENT FOR PURPOSES OF DISCLOSURE
13 UPON A REQUEST MADE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA
14 442, MCL 15.231 TO 15.246. THE CONTRACTOR SHALL INCLUDE IN ANY
15 SUBCONTRACT IN RELATION TO THE CONTRACT THAT THE SUBCONTRACTOR HAS
16 A SIMILAR OBLIGATION TO DISCLOSE RECORDS CONCERNING PERFORMANCE OF
17 THE DUTIES REQUIRED UNDER THE SUBCONTRACT. THE CONTRACTOR AND ANY
18 SUBCONTRACTOR SHALL RETAIN RECORDS CONCERNING THE PERFORMANCE OF
19 THE CONTRACT FOR AT LEAST 3 YEARS AFTER THE COMPLETION OF THE
20 CONTRACT.

21 SEC. 280C. A PRIVATE CONTRACTOR WITH A CONTRACT WITH THIS
22 STATE THAT EXPENDS STATE OR FEDERAL TAX DOLLARS SHALL HAVE ALL
23 RECORDS CONCERNING STATE CONTRACTS AVAILABLE FOR A FULL AND
24 COMPREHENSIVE AUDIT UPON THE REQUEST OF ANY MEMBER OF THE SENATE OR
25 HOUSE APPROPRIATIONS COMMITTEE.