



# HOUSE BILL 976: Enhance Oversight of Service Contracts/PED.

**This Bill Analysis  
reflects the  
contents of the bill  
as it was presented  
in committee.**

2016-2017 General Assembly

<b>Committee:</b>	House Regulatory Reform	<b>Date:</b>	June 13, 2016
<b>Introduced by:</b>	Reps. Horn, Davis, Hurley, Dollar	<b>Prepared by:</b>	Karen Cochrane-Brown Committee Co-Counsel
<b>Analysis of:</b>	First Edition		

**SUMMARY:** *House Bill 976 would require State agencies to document the business case for changing the provider of an agency service and to obtain certain approvals before changing the provider of the service. The bill would also require the development and implementation of a plan to determine whether services provided by State agencies could be more effectively provided by private providers and would require the operation of a contract management system for State agency service contracts.*

[As introduced, this bill was identical to S789, as introduced by Sens. Randleman, Hartsell, Krawiec, which is currently in Senate Rules and Operations of the Senate.]

**CURRENT LAW:** The Department of Administration is the State agency primarily responsible for oversight of State agency procurement of service contracts. G.S. 143-49(3) provides that the Secretary of Administration is to procure service contracts for State agencies "by sealed, competitive bidding or other suitable means authorized by the Secretary."

**BILL ANALYSIS:** Section 1 of the bill adds a new section to the law to provide greater oversight of certain service contracts.

Subsection (a) the new statute requires the Secretary of the Department of Administration, in consultation with the Office of State Budget and Management, to develop a business case justification template to be used by State agencies to document the business case for changing the provider of an agency service.

Subsection (b) prohibits an agency from changing the provider of an agency service until it has done all of the following:

- Documented the business case for changing the provider of the service on the business case justification template developed by the Secretary, in consultation with the Office of State Budget and Management.
- Obtained written approvals from the following officials upon a determination that there is an adequate business case for making the change:
  - ▶ For services with a total cost of \$5,000,000 or less, the State Purchasing Officer. The State Purchasing Officer may delegate this authority to the appropriate agency head if certain findings are made.

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578

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- ▶ For services with a total cost exceeding \$5,000,000, the State Purchasing Officer and the Office of State Budget and Management.
- Consulted with the Joint Legislative Commission on Governmental Operations regarding the change.

Subsection (c) of the new statute creates exceptions to the requirements described above. Specifically, those requirements do not apply if:

- The proposed new provider of the agency service is a county, municipality, or some other governmental entity (other than the State agency required or authorized to provide the service).
- The total cost of providing the agency service does not exceed one million dollars (\$1,000,000).
- The procurement of a contract to obtain the service would not be subject to the Secretary's authority to purchase or contract for services under G.S. 143-49(3).

Subsection (d) of the statute defines various terms that are used elsewhere in the new statute.

**Section 2** of the bill requires the Office of State Budget and Management to develop and implement a plan to determine whether services provided by State agencies could be more effectively provided by private providers. The Office is required to report the plan to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division by December 1, 2016. The plan is required to include an examination of each service provided by each State agency and State agencies are required to cooperate with the Office of State Budget and Management in the development of the plan.

**Section 3(a)** of the bill requires the State Purchasing Officer to operate a contract management system and to require all State agencies to use the system to manage all service contracts entered by the agency. The system is required to include the capacity to ensure (i) that payments are made in accordance with applicable contract terms and conditions; (ii) that key documents related to contracts can be stored, searched, and retrieved from the system; and (iii) that customizable management reports can be generated by State agencies that are parties to contracts or that have contract oversight responsibilities.

This section also requires the State Purchasing Officer to report annually to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on service contracts entered into by State agencies.

**Section 3(b)** of the bill clarifies that State agencies are not required to use the new contract management system until notified that it is operational.

**Sections 4 and 5** make conforming statutory changes.

**EFFECTIVE DATE:** **Section 1** of the bill would become effective October 1, 2016, the remainder of the bill would become effective when it becomes law.

**BACKGROUND:** The bill is based on the Program Evaluation Division report entitled *Enhanced Oversight of Service Contracts Can Help Ensure Cost-Effective Performance*, Report Number 2016-01 (January 2016).

*Ben Stanley, Staff Attorney in the Bill Drafting Division, substantially contributed to this summary.*