HOUSE BILL No. 6111

May 13, 2008, Introduced by Reps. Miller, Johnson, Donigan, Valentine, Hopgood, Constan, Polidori, Simpson, Condino and Cushingberry and referred to the Committee on Appropriations.

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

1 AGENCY. THE ANALYSIS SHALL INCLUDE A DETAILED COMPARATIVE ESTIMATE

2 OF THE COSTS THAT THE STATE WOULD INCUR FOR THE PERIOD OF THE

3 PROPOSED CONTRACT UNDER THE FOLLOWING CIRCUMSTANCES:

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

5 SERVICES.

6   (B) IF A PRIVATE CONTRACTOR WERE TO PROVIDE THE SERVICES. THE

7 COST ANALYSIS OF PRIVATIZING THE SERVICES SHALL INCLUDE ALL OF THE

8 FOLLOWING COSTS:

9   (*i*) ALL NECESSARY MONITORING AND OVERSIGHT OF THE PRIVATE

10 ENTITY BY THE STATE.

11   (*ii*) UP-TO-DATE COST ESTIMATES FOR USING REPUTABLE COMPANIES

12 THAT HAVE A PREVIOUS HISTORY OR REPUTATION FOR PROVIDING QUALITY

13 SERVICES AND THAT WILL PROVIDE SERVICES COVERED BY PERFORMANCE

14 BONDS.

15   (2) A DEPARTMENT OR AGENCY SHALL NOT PROCEED WITH

16 PRIVATIZATION OF SERVICES UNDER THIS SECTION UNTIL IT RECEIVES

17 NOTICE OF APPROVAL FROM THE SENATE AND HOUSE APPROPRIATIONS

18 COMMITTEES INDICATING A COST SAVINGS OF AT LEAST 10% OF THE COST OF

19 USING STATE EMPLOYEES TO PROVIDE THE SERVICES.

20   (3) A DEPARTMENT OR AGENCY SHALL FOLLOW THE PROCEDURE SET

21 FORTH IN SUBSECTIONS (1) AND (2) FOR ANY EXPANSION OF A

22 PRIVATIZATION CONTRACT THAT WOULD FURTHER REPLACE SERVICES

23 PERFORMED BY STATE EMPLOYEES.

24   SEC. 280A. BEFORE RENEWING OR REBIDDING A CONTRACT FOR

25 PRIVATIZED SERVICES THAT REPLACED SERVICES PROVIDED BY STATE

26 EMPLOYEES, THE DEPARTMENT SHALL CONDUCT AN ANALYSIS TO DETERMINE

27 WHETHER THE CONTRACT ACTUALLY PROVIDED THE REQUIRED QUALITY OF

1   SERVICES AND PRODUCED THE SAVINGS THAT WERE PROJECTED IN THE

2   PREPRIVATIZATION ANALYSIS. IF THE ANALYSIS INDICATES THAT THE

3   PRIVATIZATION DID NOT PRODUCE THE SAVINGS OR PROVIDED SERVICES THAT

4   DID NOT MEET REQUIRED STANDARDS OF PERFORMANCE, THE DEPARTMENT OR

5   AGENCY SHALL REASSUME THE RESPONSIBILITY OF PROVIDING THE SERVICES

6   THROUGH STATE EMPLOYEES.

7   SEC. 280B. IF THE DEPARTMENT OF CIVIL SERVICE APPROVES THE

8   CONTRACTING FOR SERVICES TO REPLACE SERVICES PERFORMED BY STATE

9   EMPLOYEES, THE CONTRACT FOR PROCURING THOSE SERVICES SHALL INCLUDE

10 A REQUIREMENT THAT THE CONTRACTOR MAKE ITS RECORDS CONCERNING THE

11 PERFORMANCE OF THE CONTRACT AVAILABLE FOR INSPECTION OR COPYING ON

12 REQUEST OF THE DEPARTMENT AND THAT THOSE RECORDS SHALL BE

13 CONSIDERED RECORDS OF THE DEPARTMENT FOR PURPOSES OF DISCLOSURE

14 UPON A REQUEST MADE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA

15 442, MCL 15.231 TO 15.246. THE CONTRACTOR SHALL INCLUDE IN ANY

16 SUBCONTRACT IN RELATION TO THE CONTRACT THAT THE SUBCONTRACTOR HAS

17 A SIMILAR OBLIGATION TO DISCLOSE RECORDS CONCERNING PERFORMANCE OF

18 THE DUTIES REQUIRED UNDER THE SUBCONTRACT. THE CONTRACTOR AND ANY

19 SUBCONTRACTOR SHALL RETAIN RECORDS CONCERNING THE PERFORMANCE OF

20 THE CONTRACT FOR AT LEAST 3 YEARS AFTER THE COMPLETION OF THE

21 CONTRACT.

22   SEC. 280C. A PRIVATE CONTRACTOR WITH A CONTRACT WITH THIS

23 STATE THAT EXPENDS STATE OR FEDERAL TAX DOLLARS SHALL HAVE ALL

24 RECORDS CONCERNING STATE CONTRACTS BE SUBJECT TO A FULL AND

25 COMPREHENSIVE AUDIT UPON THE REQUEST OF ANY MEMBER OF THE SENATE OR

26 HOUSE APPROPRIATIONS COMMITTEE.