



Senate

General Assembly

File No. 494

January Session, 2021

Substitute Senate Bill No. 1076

Senate, April 15, 2021

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING PUBLIC-PRIVATE PARTNERSHIPS AND
PRIVATIZATION OF STATE SERVICES AT THE UNIVERSITY OF
CONNECTICUT HEALTH CENTER.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2021*) (a) As used in this section, (1)
2 "Costs" means all reasonable, relevant and verifiable expenses,
3 including salary, materials, supplies, services, equipment, capital
4 depreciation, rent, maintenance, repairs, utilities, insurance, travel,
5 overhead, interim and final payments and the normal cost of fringe
6 benefits, as calculated by the State Comptroller; (2) "normal cost of
7 fringe benefits" means the amount of contributions required to fund the
8 fringe benefits allocated to the current year of service; (3) "privatization
9 contract" means an agreement or series of agreements between The
10 University of Connecticut Health Center and a person or entity, in
11 which such person or entity agrees to provide services that are
12 substantially similar to and in lieu of services provided, in whole or in
13 part, by The University of Connecticut Health Center employees; (4)

14 "public-private partnership" means the relationship established
15 between The University of Connecticut Health Center and a private
16 entity by contracting for the performance of any combination of
17 specified functions or responsibilities currently performed by The
18 University of Connecticut Health Center; and (5) "savings" means the
19 difference between the current annual direct and indirect costs of
20 providing such services and the projected, annual direct and indirect
21 costs of contracting to provide such services in any succeeding state
22 fiscal year during the term of such proposed privatization contract.

23 (b) (1) In lieu of complying with the provisions of section 4e-16 of the
24 general statutes, The University of Connecticut Health Center shall
25 obtain the approval of the General Assembly under this section prior to
26 soliciting bids or issuing a request for proposals for any proposed
27 privatization contract or public-private partnership contract that is
28 estimated to cost in excess of one million dollars annually. The
29 University of Connecticut Health Center shall file (A) any such bid
30 solicitation or request for proposals with the clerks of the House of
31 Representatives and Senate, and (B) a copy of such solicitation or
32 request for proposals with the joint standing committees of the General
33 Assembly having cognizance of matters relating to higher education
34 and government administration, in accordance with the provisions of
35 section 11-4a of the general statutes. As part of such filing, the chief
36 executive officer of The University of Connecticut Health Center shall
37 certify that, based on the data and information, all projected costs,
38 savings and benefits are valid and achievable. Any filing made under
39 this subsection may be electronic.

40 (2) The General Assembly shall approve such bid solicitation or
41 request for proposals as a whole, by a majority vote of each house or
42 may reject such bid solicitation or request for proposals as a whole, by a
43 majority vote of either house. If the General Assembly is in session, it
44 shall vote to approve or reject such bid solicitation or request for
45 proposals not later than thirty days after The University of Connecticut
46 Health Center files such bid solicitation or request with the General
47 Assembly. Such thirty-day period shall not begin or expire unless the

48 General Assembly is in regular session. If the General Assembly is not
 49 in session when such bid solicitation or request for proposals is filed, it
 50 shall be submitted to the General Assembly not later than ten days after
 51 the first day of the next regular session or special session called for such
 52 purpose. For the purposes of this subsection, any bid solicitation or
 53 request for proposals filed with the clerks of the House of
 54 Representatives and Senate within thirty days before the
 55 commencement of a regular session of the General Assembly shall be
 56 deemed to be filed on the first day of such session.

57 (c) The filing of any proposed bid solicitation or request for proposals
 58 by a state contracting agency in accordance with subsection (b) of this
 59 section shall be deemed to satisfy all requirements of subsections (c) and
 60 (d) of section 4e-16 of the general statutes.

61 Sec. 2. Subdivision (28) of section 4e-1 of the general statutes is
 62 repealed and the following is substituted in lieu thereof (*Effective July 1,*
 63 *2021*):

64 (28) "State contracting agency" means any executive branch agency,
 65 board, commission, department, office, institution or council. "State
 66 contracting agency" does not include the judicial branch, the legislative
 67 branch, the offices of the Secretary of the State, the State Comptroller,
 68 the Attorney General, the State Treasurer, with respect to their
 69 constitutional functions, any state agency with respect to contracts
 70 specific to the constitutional and statutory functions of the office of the
 71 State Treasurer. For the purposes of section 4e-16, "state contracting
 72 agency" includes any constituent unit of the state system of higher
 73 education, [and] for the purposes of section 4e-19, "state contracting
 74 agency" includes the State Education Resource Center, established
 75 under section 10-4q, and for the purposes of section 1 of this act, "state
 76 contracting agency" includes The University of Connecticut Health
 77 Center;

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	July 1, 2021	New section
Sec. 2	July 1, 2021	4e-1(28)

Statement of Legislative Commissioners:

In Section 1(a)(4), "Health Center" was added for consistency with the rest of the section, in Section 1(b)(1) and (c), "submission" was changed to "filing" for consistency and in section 1(b)(2), "contract" was changed to "bid solicitation or request" for accuracy.

GAE *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
UConn Health Ctr.	Various - See Below	Potential Significant	Potential Significant

Note: Various=Various

Municipal Impact: None

Explanation

The bill may prevent or delay for up to approximately eight months any savings, costs, or revenue generated to UConn Health Center that would be anticipated to result from an effort to engage in a public-private partnership or a privatization contract. The bill may affect numerous such efforts and if so, will have significant impacts on UConn Health's finances and daily operations, depending on the interpretation of various provisions.

The bill requires: (1) UConn Health to file with the General Assembly any bid solicitation or request for proposals (RFP) regarding a public-private partnership or a privatization contract that involves costs exceeding \$1 million annually, and (2) the General Assembly to vote to approve or reject every qualifying solicitation or RFP.

The fiscal impact of the bill depends in large part on the scope of UConn Health public-private partnerships that would qualify for legislative review, which is unclear in the bill language and could potentially be broad, with significant impacts to finances and daily operations. Under a broad interpretation, "public-private partnerships"

involving at least \$1 million annually may encompass many current or potential UConn Health services contracts that the health system uses for daily operations. Current or recent examples of these contracts include:

- private contracted nurse and other medical staff who temporarily fill shifts when UConn Health employees resign and refill hiring is underway,
- contracts with outside surgery groups to allow UConn Health to fully meet patient demand in a timely way, and
- supplementary lab testing capacity (e.g., during COVID-19 when volume substantially increased beyond the capacity of UConn Health's lab).

The fiscal impact also depends on whether the bill's requirements extend to renewals of public-private partnership contracts and to new contracts for services previously provided by a different company.

The process created by the bill delays any costs or savings, or revenue generated, that could be anticipated to result from any bid solicitation or RFP covered by the bill. The length of the delay would be equal to the amount of time between the General Assembly receiving the UConn Health Center's filing, and the date of an affirmative vote or rejection. The vote must occur within a specified timeframe that is equal to 30 days if the legislature is in session, or up to approximately eight months if not, in order for the effort to proceed. If one chamber of the General Assembly rejects the filing, the bid solicitation or RFP will be halted, which prevents the realization of any savings or costs that would have resulted.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future. The fiscal impact depends on the interpretation of the bill's scope, length of delay described above, and the amount of any one-time or annual savings, costs, or revenue anticipated to result

from a bid solicitation or request for proposals regarding public-private partnerships or a privatization contract.

OLR Bill Analysis**sSB 1076*****AN ACT CONCERNING PUBLIC-PRIVATE PARTNERSHIPS AND PRIVATIZATION OF STATE SERVICES AT THE UNIVERSITY OF CONNECTICUT HEALTH CENTER.*****SUMMARY**

This bill requires the UConn Health Center (UCHC) to obtain the legislature's approval before soliciting bids or issuing a request for proposals (RFP) for any proposed privatization contract or public-private partnership (P3) estimated to cost more than \$1 million annually. It requires a majority vote in both houses to approve the solicitation or RFP; the legislature may reject it by a majority vote in either house.

The bill specifies that UCHC's compliance with the bill satisfies existing law's requirements for state agency privatization contracts (see BACKGROUND).

EFFECTIVE DATE: July 1, 2021

REQUIREMENTS FOR PRIVATIZATION CONTRACTS AND P3 AGREEMENTS***Privatization and P3 Components***

Under the bill, a privatization contract is an agreement or series of agreements between UCHC and a person or entity to provide services substantially similar to and in place of (in whole or in part) those provided by UCHC employees. A P3 is the relationship between UCHC and a private entity established by contracting for the performance of any combination of specified functions or responsibilities currently performed by UCHC.

As part of the submission to the legislature (see below), the bill requires the health center's chief executive officer to certify that all

projected costs, savings, and benefits are valid and achievable based on the data and information. (The bill does not specify what data and information this refers to.) Under the bill, savings refers to the difference between the services' current annual direct and indirect costs and the projected annual direct and indirect costs of contracting to provide them in any succeeding state fiscal year during the proposed contract's term.

Under the bill, costs refers to all reasonable, relevant, and verifiable expenses. They include salary, materials, supplies, services, equipment, capital depreciation, rent, maintenance, repairs, utilities, insurance, travel, overhead, interim and final payments, and the normal cost of fringe benefits (i.e., the amount of contributions calculated by the state comptroller that is required to fund the fringe benefits allocated to the current year of service).

Submission to Legislature

The bill requires UCHC to submit the bid solicitation or RFP to the House and Senate clerks with a copy to the Government Administration and Elections and Higher Education and Employment Advancement committees. It allows the submission to be electronic. If the legislature is in session, it must vote on the proposal within 30 days after its submission. The bill specifies that the 30-day period cannot begin or end if the legislature is not in regular session.

Under the bill, if the legislature is out of session when a solicitation or RFP is filed with the clerks, then it must be submitted to the legislature within 10 days after the start of the next regular session, or a special session called for that purpose. However, the bill deems any solicitation or RFP filed with the clerks within 30 days before a regular session as being filed on the first day of session.

Legislative Approval

The bill requires a majority vote in both houses to approve the solicitation or RFP; the legislature may reject it by a majority vote in either house. (The bill does not specify what happens if the legislature does not act within the 30-day timeframe.)

BACKGROUND***Privatization Law***

By law, if a state contracting agency seeks to enter into a contract that privatizes services performed by state employees, it generally must conduct a cost-benefit analysis and submit a business case to the State Contracting Standards Board for its approval. The business case must include, among other things, the cost-benefit analysis and 11 other analyses relating to the privatized service, such as its goals and their rationale, and options for achieving them (CGS § 4e-16(d)).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 18 Nay 0 (03/29/2021)