

# SENATE BILL No. 293

April 30, 1991, Introduced by Senators CARL, DUNASKISS, DI NELLO, N. SMITH, VAN REGENMORTER, ARTHURHULTZ and WELBORN and referred to the Committee on Government Operations.

A bill to amend sections 141 and 261 of Act No. 431 of the Public Acts of 1984, entitled as amended

"The management and budget act,"

section 261 as amended by Act No. 504 of the Public Acts of 1988, being sections 18.1141 and 18.1261 of the Michigan Compiled Laws; and to add section 142.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 141 and 261 of Act No. 431 of the  
2 Public Acts of 1984, section 261 as amended by Act No. 504 of the  
3 Public Acts of 1988, being sections 18.1141 and 18.1261 of the  
4 Michigan Compiled Laws, are amended and section 142 is added to  
5 read as follows:

6       Sec. 141. (1) The department shall do all of the  
7 following:

1 (a) Survey and examine the administrative organization and  
2 operations of state agencies to secure greater administrative and  
3 program efficiency and economy, to ~~minimize~~ ELIMINATE the  
4 duplication of activities BOTH among state agencies and between  
5 state agencies and PRIVATE SECTOR businesses BY ENCOURAGEMENT AND  
6 DEVELOPMENT OF PRIVATE SECTOR BUSINESSES, and to effect a better  
7 organization and consolidation of functions among state  
8 agencies. The findings of the surveys shall be incorporated and  
9 separately identified in the executive budget that is transmitted  
10 to the legislature. Through the executive budget process, the  
11 director ~~may~~ SHALL require state agencies to assist the depart-  
12 ment in making its surveys.

13 (b) Provide for expert and uniform conduct in state opera-  
14 tions applicable to all state agencies.

15 (c) Provide centralized management AIMED AT THE ELIMINATION  
16 of ~~auxiliary services when advantageous to state government,~~  
17 ~~after consultation with any affected state agency~~ ACTIVITIES IN  
18 COMPETITION WITH PRIVATE ENTERPRISE.

19 (d) Establish a comprehensive system of internal controls in  
20 the management of the state's financial affairs and record the  
21 transactions both in accordance with generally accepted account-  
22 ing principles and as required by law.

23 (E) PROVIDE FOR THE SALE OF STATE OWNED BUILDINGS WHERE LESS  
24 THAN 75% OF THE USABLE SPACE IS NOT BEING USED BY STATE AGENCIES.

25 (F) ~~-(e)-~~ Plan, prepare, and execute a comprehensive state  
26 budget pursuant to the state constitution of 1963.

1           (2) IN AN EFFORT TO ELIMINATE ACTIVITIES IN COMPETITION WITH  
2 PRIVATE ENTERPRISE, THE DIRECTOR ANNUALLY SHALL CONDUCT A SURVEY  
3 OF PRODUCTS AND SERVICES PROVIDED BY STATE AGENCIES THAT ARE THE  
4 SAME AS OR SIMILAR TO PRODUCTS OR SERVICES PROVIDED BY PRIVATE  
5 SECTOR BUSINESSES. THE DEPARTMENT SHALL HOLD PUBLIC HEARINGS AND  
6 ENCOURAGE PARTICIPATION BY REPRESENTATIVES OF PRIVATE SECTOR  
7 BUSINESSES. A REPORT OF THE RESULTS OF THE SURVEY SHALL BE DIS-  
8 TRIBUTED TO EACH MEMBER OF THE LEGISLATURE AND MADE AVAILABLE TO  
9 THE PUBLIC.

10           (3) AS USED IN THIS SECTION, "ACTIVITIES IN COMPETITION WITH  
11 PRIVATE ENTERPRISE" MEANS ACTIVITIES UNDERTAKEN BY A STATE AGENCY  
12 THAT CAN BE PERFORMED BY A PRIVATE SECTOR BUSINESS.

13           SEC. 142. (1) THERE IS CREATED IN THE DEPARTMENT A GRIEV-  
14 ANCE BOARD, WHICH SHALL BE AN INDEPENDENT ENTITY, WHOSE MEMBERS  
15 ARE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE  
16 SENATE.

17           (2) THE GRIEVANCE BOARD SHALL DO ALL OF THE FOLLOWING:

18           (A) REVIEW AUDITS OF THE DEPARTMENT IN AN EFFORT TO DETER-  
19 MINE WHETHER THOSE AUDITS WERE PERFORMED PROPERLY.

20           (B) OVERSEE AND MONITOR THE PROCESS BY WHICH THE DEPARTMENT  
21 AWARDS CONTRACTS FOR GOODS AND SERVICES IN AN EFFORT TO DETERMINE  
22 WHETHER THE PROCESS COMPLIES WITH THIS ACT.

23           (C) ACT AS A FACT FINDER AND ARBITRATOR RELATIVE TO COM-  
24 PLAINTS REGARDING THE FUNCTIONS DESCRIBED IN SUBDIVISIONS (A) AND  
25 (B).

26           (3) MEMBERSHIP ON THE GRIEVANCE BOARD SHALL INCLUDE ALL OF  
27 THE FOLLOWING:

1 (A) ONE MEMBER OF THE SENATE AND 1 MEMBER OF THE HOUSE OF  
2 REPRESENTATIVES AS NONVOTING ADVISORY MEMBERS.

3 (B) ONE MEMBER FROM THE GOVERNOR'S OFFICE.

4 (C) ONE MEMBER FROM A RECOGNIZED TRADE ASSOCIATION OF THE  
5 COMPUTER AND SOFTWARE INDUSTRY.

6 (D) ONE MEMBER FROM A RECOGNIZED TRADE ASSOCIATION DEALING  
7 IN REAL ESTATE DEVELOPMENT.

8 (E) ONE MEMBER FROM A RECOGNIZED STATEWIDE CHAPTER OF AN  
9 ASSOCIATION DEALING WITH RETAIL BUSINESSES.

10 (F) ONE MEMBER FROM A RECOGNIZED STATEWIDE ASSOCIATION DEAL-  
11 ING WITH MANUFACTURERS IN THIS STATE.

12 (G) TWO MEMBERS FROM NONPROFIT ASSOCIATIONS DEALING WITH THE  
13 PROMOTION OF PRIVATE ENTERPRISE IN THIS STATE.

14 (4) THE TERMS OF THE MEMBERS ON THE GRIEVANCE BOARD SHALL BE  
15 4 YEARS. OF THE MEMBERS REPRESENTING THE LEGISLATURE AND THE  
16 GOVERNOR'S OFFICE, THE INITIAL TERMS SHALL INCLUDE A TERM OF 4  
17 YEARS FOR THE MEMBER REPRESENTING THE SENATE, 3 YEARS FOR THE  
18 MEMBER REPRESENTING THE GOVERNOR'S OFFICE, AND 2 YEARS FOR THE  
19 MEMBER REPRESENTING THE HOUSE OF REPRESENTATIVES. OF THE 6 MEM-  
20 BERS REPRESENTING THE PRIVATE SECTOR, THE INITIAL TERMS SHALL  
21 INCLUDE 2 MEMBERS, 1 OF WHOM REPRESENTS A NONPROFIT ASSOCIATION  
22 DEALING WITH THE PROMOTION OF PRIVATE ENTERPRISE, WHO SHALL BE  
23 APPOINTED FOR A TERM OF 2 YEARS; 2 MEMBERS WHO SHALL BE APPOINTED  
24 FOR A TERM OF 3 YEARS; AND 2 MEMBERS WHO SHALL BE APPOINTED FOR A  
25 TERM OF 4 YEARS. A VACANCY SHALL BE FILLED BY THE GOVERNOR FROM  
26 THE GROUPS DESCRIBED IN SUBSECTION (3), WITH THE ADVICE AND  
27 CONSENT OF THE SENATE, FOR THE BALANCE OF THE UNEXPIRED TERM.

1 (5) THE MEMBERS SHALL ELECT AMONG THEMSELVES A CHAIRPERSON  
2 AND A SECRETARY TO KEEP THE MINUTES OF THE MEETINGS. OTHER OFFI-  
3 CERS MAY BE ELECTED AS CONSIDERED APPROPRIATE AND NECESSARY BY  
4 THE MEMBERS.

5 (6) FIVE VOTING MEMBERS CONSTITUTE A QUORUM.

6 (7) THE BUSINESS THAT THE GRIEVANCE BOARD MAY PERFORM SHALL  
7 BE CONDUCTED AT A PUBLIC MEETING HELD IN COMPLIANCE WITH THE OPEN  
8 MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976, BEING SEC-  
9 TIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS. PUBLIC  
10 NOTICE OF THE TIME, DATE, AND PLACE OF THE MEETINGS SHALL BE  
11 GIVEN IN THE MANNER REQUIRED BY ACT NO. 267 OF THE PUBLIC ACTS OF  
12 1976. A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR  
13 RETAINED BY THE GRIEVANCE BOARD IN THE PERFORMANCE OF AN OFFICIAL  
14 FUNCTION SHALL BE MADE AVAILABLE TO THE PUBLIC IN COMPLIANCE WITH  
15 THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF  
16 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED  
17 LAWS.

18 Sec. 261. (1) The department shall provide for the purchase  
19 of, ~~or~~ the contracting for, AND the providing of supplies,  
20 materials, services, insurance, utilities, third party financing,  
21 equipment, printing, and all other items as needed by state agen-  
22 cies for which the legislature has not otherwise expressly  
23 provided. In all purchases made by the department, all other  
24 things being equal, preference shall be given to products manu-  
25 factured or services offered by Michigan-based ~~firms~~ PRIVATE  
26 SECTOR BUSINESSES, where consistent with federal statutes. The  
27 department shall solicit competitive bids from the private sector

1 ~~whenever practicable to efficiently and effectively meet the~~  
2 ~~state's needs. The department shall first determine that compet-~~  
3 ~~itive solicitation of bids in the private sector is not appropri-~~  
4 ~~ate before it shall use any other procurement method for an~~  
5 ~~acquisition.~~ UNLESS THE DIRECTOR DEMONSTRATES THAT THERE IS AN  
6 OVERRIDING AND COMPELLING PUBLIC INTEREST FOR NOT DOING SO.

7 (2) The department, SUBJECT TO SECTION 142, shall make all  
8 discretionary decisions concerning the solicitation, award,  
9 amendment, cancellation, and appeal of state contracts.

10 ~~-(3) The department shall utilize competitive bidding for~~  
11 ~~all purchases authorized pursuant to subsection (1) unless the~~  
12 ~~department has determined that another procurement method is in~~  
13 ~~the state's best interests.~~

14 (3) ~~-(4)~~ The department may delegate its procurement  
15 authority to other state agencies within dollar limitations and  
16 for designated types of procurements EXCEPT THAT THIS DELEGATION  
17 DOES NOT ALLOW PURCHASES OF GOODS AND SERVICES BETWEEN STATE  
18 AGENCIES. The department ~~may~~ SHALL withdraw delegated author-  
19 ity upon a finding that a state agency did not comply with  
20 departmental procurement directives.

21 (4) ~~-(5)~~ The department may enter into lease purchases or  
22 installment purchases for periods not exceeding the anticipated  
23 useful life of the items purchased unless otherwise prohibited by  
24 law.

25 ~~-(6) The department shall issue directives for the procure-~~  
26 ~~ment, receipt, inspection, and storage of supplies, materials,~~

~~1 and equipment, and for printing and services needed by state  
2 agencies.—~~

3       (5) The department shall provide standard specifications and  
4 standards of performance applicable to purchases AND MAKE THOSE  
5 SPECIFICATIONS AND STANDARDS AVAILABLE TO PRIVATE SECTOR BUSI-  
6 NESSES NOT LESS THAN 60 DAYS BEFORE THE INTENDED DATE OF  
7 PURCHASE.

8       (6) THE DEPARTMENT SHALL ISSUE DIRECTIVES FOR ALL OF THE  
9 FOLLOWING:

10       (A) THE PROCUREMENT, RECEIPT, INSPECTION, AND STORAGE OF  
11 SUPPLIES, MATERIALS, AND EQUIPMENT.

12       (B) PRINTING SERVICES NEEDED BY STATE AGENCIES.

13       (C) THE ELIMINATION OF SERVICES OR PRODUCTS PROVIDED BY  
14 STATE AGENCIES THAT, AS A RESULT OF THE SURVEY CONDUCTED UNDER  
15 SECTION 141, ARE THE SAME AS OR SIMILAR TO SERVICES OR PRODUCTS  
16 PROVIDED BY PRIVATE SECTOR BUSINESSES.

17       (7) THE DEPARTMENT SHALL MAKE AVAILABLE TO THE PUBLIC THE  
18 DIRECTIVES ISSUED PURSUANT TO SUBSECTION (6).