HOUSE BILL No. 4236

February 12, 2013, Introduced by Reps. Townsend, Switalski, Robinson, Cochran, Yanez, Cavanagh, Roberts, Driskell, Singh, Brinks, Zemke and Oakes and referred to the Committee on Oversight.

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 FROM THE CIVIL SERVICE

2 COMMISSION FOR PRIVATIZING ANY SERVICES THAT REPLACE SERVICES

3 PERFORMED BY STATE EMPLOYEES, A DEPARTMENT OR AGENCY SHALL SUBMIT A

4 DETAILED PREPRIVATIZATION COST-BENEFIT ANALYSIS TO THE

5 APPROPRIATIONS COMMITTEES OF THE SENATE AND HOUSE OF

6 REPRESENTATIVES. THE ANALYSIS SHALL BE PREPARED UTILIZING ACCURATE,

7 RELIABLE, AND OBJECTIVE DATA AND SHALL USE THE SOUNDEST ACTUARIAL

8 TECHNIQUES THAT ARE AVAILABLE TO THE DEPARTMENT OR AGENCY. THE

9 ANALYSIS SHALL INCLUDE A DETAILED COMPARATIVE ESTIMATE OF THE COSTS

1 THAT THE STATE WOULD INCUR FOR THE PERIOD OF THE PROPOSED CONTRACT

2 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 COMPANIES THAT HAVE A

11 PREVIOUS HISTORY OR REPUTATION FOR PROVIDING QUALITY SERVICES AND

12 THAT WILL PROVIDE SERVICES COVERED BY PERFORMANCE BONDS.

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

14 PRIVATIZATION OF SERVICES UNDER THIS SECTION UNTIL IT RECEIVES

15 NOTICE OF APPROVAL FROM THE SENATE AND HOUSE APPROPRIATIONS

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

17 USING STATE EMPLOYEES TO PROVIDE THE SERVICES.

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

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

20 PRIVATIZATION CONTRACT THAT WOULD FURTHER REPLACE SERVICES

21 PERFORMED BY STATE EMPLOYEES.

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

23 PRIVATIZED SERVICES THAT REPLACED SERVICES PROVIDED BY STATE

24 EMPLOYEES, THE DEPARTMENT SHALL CONDUCT AN ANALYSIS TO DETERMINE

25 WHETHER THE CONTRACT ACTUALLY PROVIDED THE REQUIRED QUALITY OF

26 SERVICES AND PRODUCED THE SAVINGS THAT WERE PROJECTED IN THE

27 PREPRIVATIZATION ANALYSIS. IF THE ANALYSIS INDICATES THAT THE

1   PRIVATIZATION DID NOT PRODUCE THE SAVINGS OR PROVIDED SERVICES THAT

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

3   AGENCY SHALL RESUME PROVIDING THE SERVICES THROUGH STATE EMPLOYEES.

4   SEC. 280B. IF THE CIVIL SERVICE COMMISSION APPROVES THE

5   CONTRACTING FOR SERVICES TO REPLACE SERVICES PERFORMED BY STATE

6   EMPLOYEES, THE CONTRACT FOR PROCURING THOSE SERVICES SHALL INCLUDE

7   A REQUIREMENT THAT THE CONTRACTOR MAKE ITS RECORDS CONCERNING THE

8   PERFORMANCE OF THE CONTRACT AVAILABLE FOR INSPECTION OR COPYING ON

9   REQUEST OF THE DEPARTMENT AND THAT THOSE RECORDS SHALL BE

10   CONSIDERED RECORDS OF THE DEPARTMENT FOR PURPOSES OF DISCLOSURE

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

12   442, MCL 15.231 TO 15.246. THE CONTRACTOR SHALL INCLUDE IN ANY

13   SUBCONTRACT IN RELATION TO THE CONTRACT THAT THE SUBCONTRACTOR HAS

14   A SIMILAR OBLIGATION TO DISCLOSE RECORDS CONCERNING PERFORMANCE OF

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

16   SUBCONTRACTOR SHALL RETAIN RECORDS CONCERNING THE PERFORMANCE OF

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

18   CONTRACT.

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

20   STATE THAT EXPENDS STATE OR FEDERAL TAX DOLLARS SHALL MAKE ALL

21   RECORDS CONCERNING STATE CONTRACTS AVAILABLE FOR A FULL AND

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

23   HOUSE APPROPRIATIONS COMMITTEE.