

HB1091/404733/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO HOUSE BILL 1091
(Third Reading File Bill)

AMENDMENT NO. 1

On page 2, in lines 16 and 43, in each instance, strike “Governor’s”; in line 24, after “approved;” insert “requiring a procurement officer to evaluate a certain contractor’s ability to perform the requirements of an emergency procurement based on certain criteria under certain circumstances; requiring a procurement officer to execute a certain written contract for an emergency procurement under certain circumstances; prohibiting a unit from paying more than a certain amount in advance of or concurrent with the execution of a certain emergency procurement contract; prohibiting a unit from making certain additional payments under a certain emergency procurement contract for a certain period of time unless authorized by the Board of Public Works; requiring a unit to submit a copy of a certain emergency procurement contract to the Board within a certain period of time; authorizing the Board to review a certain emergency procurement contract at a certain meeting and to direct a unit or the appropriate control agency to take certain actions; altering certain reporting requirements related to emergency procurement contracts; adding certain reporting requirements for certain emergency procurement contracts; requiring an emergency procurement contract to include provisions addressing the contractor’s ability to perform the requirements of the contract within a certain time frame;”; in line 26, strike “of Public Works”; in line 32, after “circumstances;” insert “reducing the number of days after the end of each fiscal year that a primary procurement unit has to submit a certain report concerning certain procurement contracts;”; and in line 40, after “Act;” insert “requiring a certain report to be submitted by the Department of General Services instead of the Department of Budget and Management;”.

AMENDMENT NO. 2

On page 7, in line 28, strike “GOVERNOR’S”.

(Over)

**HB1091/404733/1 Education, Health, and Environmental Affairs Committee
Amendments to HB 1091
Page 2 of 5**

On page 8, in line 29, after “circumstances” insert “, INCLUDING BY MAKING REASONABLE EFFORTS TO SOLICIT AT LEAST THREE ORAL QUOTES”; in line 32, strike “and”; after line 32, insert:

“(III) BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR’S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:

1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN BUSINESS;

2. THE CONTRACTOR’S LEVEL OF EXPERIENCE PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION-RELATED SERVICES REQUIRED UNDER THE CONTRACT; AND

3. THE CONTRACTOR’S HISTORY OF SUCCESSFUL PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;

(IV) EXECUTE A WRITTEN CONTRACT WITH THE SUCCESSFUL CONTRACTOR WHICH INCLUDES THE TERMS OF THE EMERGENCY PROCUREMENT; AND”;

and in line 33, strike “(iii)” and substitute “(V)”.

On page 9, in line 3, after “(4)” insert “**(I) THIS PARAGRAPH APPLIES ONLY TO AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE.**”

(II) 1. IN ADVANCE OF OR CONCURRENT WITH THE EXECUTION OF AN EMERGENCY PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS PARAGRAPH, A UNIT MAY NOT PAY AN AMOUNT THAT EXCEEDS \$2,000,000, PLUS 30% OF THE CONTRACT VALUE IN EXCESS OF \$2,000,000.

2. UNLESS AUTHORIZED BY THE BOARD, THE UNIT MAY NOT MAKE ANY ADDITIONAL PAYMENT UNDER THE CONTRACT UNTIL AT LEAST 30 DAYS AFTER THE EXECUTION OF THE CONTRACT.

(III) NOT LATER THAN 7 DAYS AFTER AWARDING AN EMERGENCY PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS PARAGRAPH, A UNIT SHALL SUBMIT A COPY OF THE CONTRACT TO THE BOARD.

(IV) THE BOARD MAY:

1. REVIEW AN EMERGENCY PROCUREMENT CONTRACT SUBMITTED UNDER THIS PARAGRAPH AT A REGULARLY SCHEDULED MEETING OF THE BOARD OR AT AN EMERGENCY MEETING CALLED FOR THAT PURPOSE; AND

2. DIRECT THE UNIT OR THE APPROPRIATE CONTROL AGENCY TO TAKE ANY ACTION, INCLUDING CANCELING OR RESCINDING THE CONTRACT, THAT THE BOARD DEEMS APPROPRIATE.

(5) IF SUPPLIES OR COMMODITIES PROCURED UNDER AN EMERGENCY PROCUREMENT CONTRACT ARE NOT DELIVERED AND USED WITHIN 1 MONTH AFTER THE DATE THE CONTRACT IS AWARDED, THE UNIT SHALL:

(Over)

HB1091/404733/1 Education, Health, and Environmental Affairs Committee
Amendments to HB 1091
Page 4 of 5

(I) PREPARE A REPORT DESCRIBING THE DELIVERY AND USE STATUS OF SUPPLIES AND COMMODITIES PROCURED UNDER THE CONTRACT AT LEAST ONCE PER MONTH UNTIL ALL SUPPLIES AND COMMODITIES HAVE BEEN DELIVERED AND USED; AND

(II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE.

(6) A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS ADDRESSING THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT WITHIN THE EMERGENCY TIME FRAME.

(7);

and in line 7, strike "(5)" and substitute "(8)".

On page 10, in line 32, strike "(B)(4)" and substitute "(B)(7)".

On page 11, in line 5, strike "Governor's".

AMENDMENT NO. 3

On page 12, in line 23, strike the second "AND" and substitute "THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE,"; and in line

**HB1091/404733/1 Education, Health, and Environmental Affairs Committee
Amendments to HB 1091
Page 5 of 5**

24, after “COMMITTEE” insert “, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE”.

On page 13, in line 4, strike “Governor’s”; in line 6, strike “and” and substitute “the Senate Education, Health, and Environmental Affairs Committee,”; and in the same line, after the second “Committee” insert “, the House Health and Government Operations Committee, and the Joint Audit and Evaluation Committee”.