

**SENATE BILL NO. 927**  
**(First Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 927 (First Reprint) with my recommendations for reconsideration.

This bill requires the State Auditor to conduct an audit of each privatization contract with a total value of more than \$100,000 between the Department of Corrections and a private business entity and to issue a report to the Governor and the Legislature regarding the contract not more than 90 days after the end of the first year that the contract is in effect, or, in the case of a contract entered into more than a year prior to the effective date of this act, not more than six months after the effective date of this act. The bill would prohibit the Commissioner of Corrections from contracting with a private business entity for substantially similar services in the future if the State Auditor finds that the privatization contract yielded no actual net reduction of in-house costs at the time the report is made, even if the term of the contract had not yet concluded.

I wholeheartedly support efforts to save taxpayer dollars, including through the privatization of certain government functions, and concur with the sponsors' intent that privatization contracts be monitored. Unfortunately, as presently drafted, this bill will frustrate those efforts as well as expand the authority of the State Auditor in a wholly inappropriate manner. First, by requiring the completion of an audit one year into privatization contracts, the sponsors ignore the reality that many of these contracts may not instantly produce savings. Transitional costs occurring at the beginning of a contract often tend to absorb early savings. This bill

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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fails to recognize that long-term and sustained savings are the real goal of privatization.

Second, this bill would also expand the power of the State Auditor in an improper manner. The State Auditor is appointed by the Legislature and has constitutional and statutory authority to conduct "post-audits" of all transactions and accounts kept by or for all departments, offices, and agencies of State government. The Auditor may also conduct performance reviews of any program of any accounting agency, independent authority, or public entity or grantee that receives State funds. At the conclusion of such audits the Auditor shall submit reports to the Legislature, the Governor, and the Executive Director of the Office of Legislative Services. The State Auditor, therefore, is appropriately tasked with evaluating the long-term success of State funding, and not the short-term mission of monitoring department programs not yet concluded. By injecting these types of audits into new corrections programs, this bill expands the power of the Office of the State Auditor into areas where it lacks expertise, and thus detracts from that office's traditional mission and function.

I recognize the Legislature's desire to ensure that privatization contracts properly serve not only the Department of Corrections but the taxpayers of New Jersey. We must be diligent in ensuring that privatization efforts save tax dollars and streamline government operations by contracting those functions to private entities when they can perform them at the same or better levels than the government can for less cost. Therefore, I propose that audits of Department of Corrections' privatization contracts be performed by private independent auditors at the conclusion of such contracts and provided to the

Commissioner of Corrections so that this vital information may be used as a tool to ensure the effectiveness and propriety of future contracts. Such audits, conducted by skilled and professional independent auditors, will better reflect the fiscal realities of the full term of the contracts.

Accordingly, I herewith return Senate Bill No. 927 (First Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 2: Delete "24" and insert "1B";  
delete "52" and insert "30"

Page 2, Section 1, Line 15: Delete ", including:" and  
insert ". "

Page 2, Section 1, Lines 16-42: Delete in their entirety

Page 3, Section 1, Line 4: Insert "Privatization contract" means an agreement or combination or series of agreements by which a private business entity agrees with the Department of Corrections to provide services expected to result in a fiscal year expenditure of at least \$100,000 (as of July 1 each year, the amount shall increase to reflect increases in the consumer price index calculated by the United States Bureau of Labor Statistics for all urban consumers nationally during the most recent 12 month period for which data are available or more), which would contract services which are substantially similar to and in replacement of work normally performed by an employee of the Department of Corrections as of June 30, 2012, excluding:

(1) Contracts resulting from an emergency procurement;

(2) Contracts with a term of one hundred eighty (180) days or less on a non-recurring basis;

(3) Contracts to provide highly specialized or technical services not normally provided by employees of the Department of Corrections;

(4) Contracts existing prior to June 30, 2012;

(5) Any subsequent contract which: (a) renews or rebids a prior privatization contract that existed before June 30, 2012; or (b) renews or rebids a privatization contract that was subject to the provisions of this statute after its enactment; and

(5) An agreement to provide legal services or management consulting services."

Page 3, Section 2, Line 5: Delete "The State Auditor" and insert "An independent auditor"

Page 3, Section 2, Lines 5-6: Delete ", as part of his responsibility under R.S.52:24-4," and insert "be retained to"

Page 3, Section 2, Line 6: After "audit" insert "within 90 days of the expiration of the initial term"

Page 3, Section 2, Line 6: Delete "with" and insert "."

Page 3, Section 2, Lines 7-14: Delete in their entirety

Page 3, Section 2, Line 15: Delete "effect, whichever is later." and insert "Upon completion of the audit, the auditor shall submit a report to the Commissioner of Corrections."

Page 3, Section 2, Line 18: Delete "For the purposes of paragraph 6<sup>1</sup> of section 1 of"

Page 3, Section 2, Lines 19-27: Delete in their entirety

Page 3, Section 3, Lines 29-33: Delete in their entirety

Page 3, Section 4 Line 35: Delete "4" and insert "3"  
Respectfully,

/s/ Chris Christie  
Governor

[seal]

Attest:

/s/ Charles B. McKenna  
Chief Counsel to the Governor