

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SENATE BILL 1466

AN ACT

AMENDING TITLE 41, CHAPTER 25, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3;
AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 41-3019.01; RELATING TO THE COUNCIL ON EFFICIENT GOVERNMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 25, Arizona Revised Statutes, is amended
3 by adding article 3, to read:

4 ARTICLE 3. COUNCIL ON EFFICIENT GOVERNMENT

5 41-2781. Council on efficient government: members: terms:
6 vacancies

7 A. THE COUNCIL ON EFFICIENT GOVERNMENT IS ESTABLISHED CONSISTING OF
8 THE FOLLOWING MEMBERS:

9 1. THE CHIEF EXECUTIVE OR ADMINISTRATIVE OFFICER OF A STATE AGENCY WHO
10 IS APPOINTED BY THE GOVERNOR.

11 2. THREE MEMBERS, NOT MORE THAN TWO OF WHOM ARE MEMBERS OF THE SAME
12 POLITICAL PARTY, WHO ARE ENGAGED IN PRIVATE ENTERPRISE AND WHO ARE APPOINTED
13 BY THE GOVERNOR.

14 3. TWO MEMBERS, REPRESENTING MORE THAN ONE POLITICAL PARTY, WHO ARE
15 ENGAGED IN PRIVATE ENTERPRISE AND WHO ARE APPOINTED BY THE PRESIDENT OF THE
16 SENATE.

17 4. TWO MEMBERS, REPRESENTING MORE THAN ONE POLITICAL PARTY, WHO ARE
18 ENGAGED IN PRIVATE ENTERPRISE AND WHO ARE APPOINTED BY THE SPEAKER OF THE
19 HOUSE OF REPRESENTATIVES.

20 B. THE TERMS OF APPOINTMENT TO THE COUNCIL ARE FOR TWO YEARS UNLESS
21 THE CHIEF EXECUTIVE OR ADMINISTRATIVE OFFICER OF A STATE AGENCY CEASES TO
22 HOLD OFFICE. THE GOVERNOR SHALL APPOINT A REPLACEMENT MEMBER FOR THE
23 REMAINDER OF THE UNEXPIRED TERM.

24 C. A MEMBER OF THE COUNCIL WHO IS ENGAGED IN PRIVATE ENTERPRISE IS NOT
25 ELIGIBLE TO RECEIVE COMPENSATION.

26 D. A MEMBER OF THE COUNCIL MAY NOT PARTICIPATE IN A COUNCIL REVIEW OF
27 A BUSINESS CASE TO OUTSOURCE IF THE STATE AGENCY IS CONDUCTING THE PROPOSED
28 OUTSOURCING OR, IN THE CASE OF A MEMBER ENGAGED IN PRIVATE ENTERPRISE, IF THE
29 MEMBER HAS A BUSINESS RELATIONSHIP WITH AN ENTITY THAT IS INVOLVED OR
30 POTENTIALLY COULD BE INVOLVED IN THE PROPOSED OUTSOURCING.

31 E. A MEMBER OF THE COUNCIL WHO IS ENGAGED IN PRIVATE ENTERPRISE MAY
32 NOT DELEGATE THE MEMBERSHIP TO A DESIGNEE.

33 F. A QUORUM SHALL CONSIST OF AT LEAST FIVE MEMBERS OF THE COUNCIL.

34 G. ANY VACANCY ON THE COUNCIL SHALL BE FILLED IN THE SAME MANNER AS
35 THE ORIGINAL APPOINTMENT, AND ANY MEMBER APPOINTED TO FILL A VACANCY
36 OCCURRING FOR A REASON OTHER THAN THE EXPIRATION OF A TERM SERVES ONLY FOR
37 THE UNEXPIRED TERM OF THE MEMBER'S PREDECESSOR.

38 H. THE COUNCIL SHALL SELECT A CHAIRPERSON FROM AMONG ITS MEMBERS.

39 41-2782. Powers and duties of the council; annual report

40 A. THE COUNCIL SHALL:

41 1. REVIEW WHETHER OR NOT A GOOD OR SERVICE PROVIDED BY A STATE AGENCY
42 COULD BE PRIVATIZED TO PROVIDE THE SAME TYPE AND QUALITY OF GOOD OR SERVICE
43 THAT WOULD RESULT IN COST SAVINGS OR BEST VALUE. THE COUNCIL MAY HOLD PUBLIC
44 HEARINGS AS PART OF ITS EVALUATION PROCESS AND SHALL REPORT ITS

1 RECOMMENDATIONS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER
2 OF THE HOUSE OF REPRESENTATIVES.

3 2. REVIEW PRIVATIZATION OF A GOOD OR SERVICE AT THE REQUEST OF A STATE
4 AGENCY OR A PRIVATE ENTERPRISE.

5 3. REVIEW ISSUES CONCERNING AGENCY COMPETITION WITH ONE OR MORE
6 PRIVATE ENTERPRISES TO DETERMINE WAYS TO ELIMINATE ANY UNFAIR COMPETITION
7 WITH A PRIVATE ENTERPRISE.

8 4. RECOMMEND PRIVATIZATION TO A STATE AGENCY IF A PROPOSED
9 PRIVATIZATION IS DEMONSTRATED TO PROVIDE A MORE COST EFFICIENT OR MORE
10 EFFECTIVE MANNER OF PROVIDING A GOOD OR SERVICE.

11 5. COMPLY WITH SECTIONS 41-2783 AND 41-2784.

12 6. EMPLOY A STANDARD PROCESS FOR REVIEWING BUSINESS CASES TO
13 OUTSOURCE.

14 7. REVIEW AND EVALUATE BUSINESS CASES TO OUTSOURCE AS REQUESTED BY THE
15 GOVERNOR OR THE STATE AGENCY HEAD WHOSE AGENCY IS PROPOSING TO OUTSOURCE.

16 8. NO LATER THAN THIRTY DAYS BEFORE A STATE AGENCY'S ISSUANCE OF A
17 SOLICITATION OF TEN MILLION DOLLARS OR MORE, PROVIDE TO THE STATE AGENCY
18 CONDUCTING THE PROCUREMENT, THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
19 SPEAKER OF THE HOUSE OF REPRESENTATIVES AN ADVISORY REPORT FOR EACH BUSINESS
20 CASE REVIEWED AND EVALUATED BY THE COUNCIL. THE REPORT MUST CONTAIN ALL
21 VERSIONS OF THE BUSINESS CASE, AN EVALUATION OF THE BUSINESS CASE, ANY
22 RELEVANT RECOMMENDATIONS AND SUFFICIENT INFORMATION TO ASSIST THE STATE
23 AGENCY PROPOSING TO OUTSOURCE IN DETERMINING WHETHER THE BUSINESS CASE TO
24 OUTSOURCE SHOULD BE INCLUDED WITH THE LEGISLATIVE BUDGET REQUEST.

25 9. RECOMMEND AND IMPLEMENT STANDARD PROCESSES FOR STATE AGENCY AND
26 COUNCIL REVIEW AND EVALUATE STATE AGENCY BUSINESS CASES TO OUTSOURCE,
27 INCLUDING TEMPLATES FOR USE BY STATE AGENCIES IN SUBMITTING BUSINESS CASES TO
28 THE COUNCIL.

29 10. RECOMMEND STANDARDS, PROCESSES AND GUIDELINES FOR USE BY STATE
30 AGENCIES IN DEVELOPING BUSINESS CASES TO OUTSOURCE.

31 11. INCORPORATE ANY LESSONS LEARNED FROM OUTSOURCING SERVICES AND
32 ACTIVITIES INTO COUNCIL STANDARDS, PROCEDURES AND GUIDELINES, AS APPROPRIATE,
33 AND IDENTIFY AND DISSEMINATE TO AGENCIES INFORMATION REGARDING BEST PRACTICES
34 IN OUTSOURCING EFFORTS.

35 12. DEVELOP GUIDELINES FOR ASSISTING STATE EMPLOYEES WHOSE JOBS ARE
36 ELIMINATED AS A RESULT OF OUTSOURCING.

37 13. RECEIVE COMPLAINTS OF VIOLATIONS OF THIS ARTICLE.

38 14. TRANSMIT COMPLAINTS RECEIVED UNDER THIS SECTION TO THE STATE AGENCY
39 ALLEGED TO BE IN VIOLATION.

40 15. HOLD PUBLIC HEARINGS ON COMPLAINTS AND DETERMINE WHETHER THE AGENCY
41 IS IN VIOLATION OF THIS ARTICLE.

1 16. ISSUE A WRITTEN REPORT OF ITS FINDINGS TO THE COMPLAINANT WITHIN
2 NINETY DAYS AFTER RECEIVING THE STATE AGENCY'S RESPONSE.

3 17. TRANSMIT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
4 SPEAKER OF THE HOUSE OF REPRESENTATIVES A COMPLETE REPORT OF EACH MEETING,
5 INCLUDING RECOMMENDATIONS TO CORRECT VIOLATIONS OF PROHIBITIONS ON
6 COMPETITION WITH PRIVATE ENTERPRISE AND FINDINGS ON NECESSARY EXCEPTIONS TO
7 THE PROHIBITIONS.

8 18. SOLICIT PETITIONS OF INTEREST FROM PRIVATE SECTOR SERVICE PROVIDERS
9 AS THE COUNCIL CONSIDERS APPROPRIATE. THE COUNCIL MAY EVALUATE AND REVIEW
10 THE PETITIONS AND MAY HOLD PUBLIC HEARINGS AS PART OF THE EVALUATION PROCESS.
11 THE COUNCIL MAY RECOMMEND SOME OR ALL OF THE PETITIONS TO THE GOVERNOR'S
12 OFFICE OF STRATEGIC PLANNING AND BUDGETING FOR FURTHER REVIEW PURSUANT TO
13 SECTION 41-2773. A PERSON DOES NOT HAVE A CAUSE OF ACTION BASED ON THE
14 FAILURE OF THE COUNCIL TO CONSIDER A PETITION OF INTEREST OR MAKE A
15 RECOMMENDATION.

16 B. THE COUNCIL MAY EVALUATE AND REVIEW ALL STATE AGENCY EXEMPTIONS AND
17 EXEMPTIONS TO THE RESTRICTIONS ON COMPETITION WITH PRIVATE ENTERPRISE IN THIS
18 ARTICLE AND MAY DETERMINE THAT ANY FUNCTION OR FUNCTIONS OF STATE AGENCY ARE
19 IN VIOLATION OF THIS ARTICLE. THE COUNCIL SHALL REPORT ITS FINDINGS AND
20 RECOMMENDATIONS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER
21 OF THE HOUSE OF REPRESENTATIVES.

22 C. THE COUNCIL SHALL PREPARE AN ANNUAL REPORT ON:

23 1. RECOMMENDATIONS ON INNOVATIVE METHODS OF DELIVERING GOVERNMENT
24 SERVICES THAT WOULD IMPROVE THE EFFICIENCY, EFFECTIVENESS OR COMPETITION IN
25 THE DELIVERY OF GOVERNMENT SERVICES, INCLUDING ENTERPRISEWIDE PROPOSALS.

26 2. OUTSOURCING EFFORTS OF EACH STATE AGENCY, INCLUDING THE NUMBER OF
27 OUTSOURCING BUSINESS CASES AND SOLICITATIONS, THE NUMBER AND DOLLAR VALUE OF
28 OUTSOURCING CONTRACTS, DESCRIPTIONS OF PERFORMANCE RESULTS AS APPLICABLE, ANY
29 CONTRACT VIOLATIONS OR PROJECT SLIPPAGES AND THE STATUS OF EXTENSIONS,
30 RENEWALS AND AMENDMENTS OF OUTSOURCING CONTRACTS.

31 3. INFORMATION ABOUT THE COUNCIL'S ACTIVITIES.

32 4. THE STATUS OF THE INVENTORY CREATED UNDER SECTION 41-2783.

33 D. THE COUNCIL SHALL SUBMIT THE ANNUAL REPORT PRESCRIBED BY SUBSECTION
34 C OF THIS SECTION TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
35 SPEAKER OF THE HOUSE OF REPRESENTATIVES NO LATER THAN JANUARY 15 IMMEDIATELY
36 FOLLOWING THE CALENDAR YEAR FOR WHICH THE REPORT IS MADE. THE COUNCIL SHALL
37 PROVIDE AN ORAL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE
38 GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING WHEN THE LEGISLATURE IS
39 NOT IN SESSION.

40 E. EACH STATE AGENCY SHALL SUBMIT TO THE COUNCIL ALL INFORMATION,
41 DOCUMENTS AND OTHER MATERIALS REQUIRED BY THE COUNCIL PURSUANT TO THIS
42 ARTICLE.

1 F. AT THE REQUEST OF THE COUNCIL AND ON APPROVAL OF THE JOINT
2 LEGISLATIVE AUDIT COMMITTEE, THE AUDITOR GENERAL IN CONSULTATION WITH THE
3 JOINT LEGISLATIVE BUDGET COMMITTEE SHALL PROVIDE PERFORMANCE AUDIT AND OTHER
4 REQUIRED INFORMATION RELATING TO STATE AGENCY BUDGETS AND FUNCTIONS.

5 G. IN ADDITION TO FILING A COPY OF RECOMMENDATIONS FOR PRIVATIZATION
6 WITH AN AGENCY HEAD, THE COUNCIL SHALL FILE A COPY OF ITS RECOMMENDATIONS FOR
7 PRIVATIZATION WITH THE GOVERNOR'S OFFICE, THE JOINT LEGISLATIVE BUDGET
8 COMMITTEE AND THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING FOR
9 SUBMISSION TO THE RELEVANT LEGISLATIVE APPROPRIATION SUBCOMMITTEE.

10 H. THE COUNCIL MAY APPOINT ADVISORY GROUPS TO CONDUCT STUDIES,
11 RESEARCH OR ANALYSES AND MAKE REPORTS AND RECOMMENDATIONS WITH RESPECT TO A
12 MATTER WITHIN THE JURISDICTION OF THE COUNCIL. AT LEAST ONE MEMBER OF THE
13 COUNCIL SHALL SERVE ON EACH ADVISORY GROUP.

14 I. SUBJECT TO SECTION 41-2784, SUBSECTION B, THIS ARTICLE DOES NOT
15 PRECLUDE A STATE AGENCY FROM PRIVATIZING THE PROVISION OF A GOOD OR SERVICE
16 INDEPENDENT OF THE COUNCIL.

17 J. EXCEPT AS PROVIDED BY SECTION 41-2752, SUBSECTION D, ANY AGGRIEVED
18 PERSON MAY ELECT TO DIRECTLY SEEK JUDICIAL RELIEF, INCLUDING RELIEF UNDER
19 TITLE 12, CHAPTER 11, ARTICLE 2.

20 41-2783. Commercial activities inventory and review

21 A. ON OR BEFORE JUNE 30, 2010, THE COUNCIL SHALL CREATE AN INVENTORY
22 OF ACTIVITIES OF STATE AGENCIES TO CLASSIFY WHETHER EACH ACTIVITY OR ELEMENTS
23 OF THE ACTIVITY ARE:

24 1. A COMMERCIAL ACTIVITY THAT CAN BE OBTAINED IN WHOLE OR IN PART FROM
25 A PRIVATE ENTERPRISE.

26 2. AN INHERENTLY GOVERNMENTAL ACTIVITY.

27 B. THE COUNCIL SHALL UPDATE THE INVENTORY CREATED UNDER THIS SECTION
28 AT LEAST EVERY TWO YEARS.

29 C. THE COUNCIL SHALL MAKE THE INVENTORY AVAILABLE TO THE PUBLIC
30 THROUGH ELECTRONIC MEANS.

31 D. STATE AGENCIES SHALL COOPERATE WITH INVENTORY REQUESTS MADE BY THE
32 COUNCIL.

33 41-2784. Business cases to outsource; review and analysis;
34 requirements

35 A. A PROPOSAL TO OUTSOURCE HAVING A PROJECTED COST OF MORE THAN TEN
36 MILLION DOLLARS IN ANY FISCAL YEAR SHALL REQUIRE:

37 1. AN INITIAL BUSINESS CASE ANALYSIS CONDUCTED BY THE STATE AGENCY AND
38 SUBMITTED TO THE COUNCIL, THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
39 SPEAKER OF THE HOUSE OF REPRESENTATIVES AT LEAST SIXTY DAYS BEFORE A
40 SOLICITATION IS ISSUED. THE COUNCIL SHALL EVALUATE THE BUSINESS CASE
41 ANALYSIS AND SUBMIT AN ADVISORY REPORT TO THE STATE AGENCY, THE GOVERNOR, THE
42 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES WHEN
43 THE ADVISORY REPORT IS COMPLETED, BUT AT LEAST THIRTY DAYS BEFORE THE AGENCY
44 ISSUES THE SOLICITATION.

1 2. A FINAL BUSINESS CASE ANALYSIS CONDUCTED BY THE STATE AGENCY AND
2 SUBMITTED AFTER THE CONCLUSION OF ANY NEGOTIATIONS, AT LEAST THIRTY DAYS
3 BEFORE EXECUTION OF A CONTRACT, TO THE COUNCIL, THE GOVERNOR, THE PRESIDENT
4 OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

5 B. A PROPOSAL TO OUTSOURCE HAVING A PROJECTED COST OF AT LEAST ONE
6 MILLION DOLLARS BUT NOT MORE THAN TEN MILLION DOLLARS IN ANY FISCAL YEAR
7 SHALL REQUIRE:

8 1. AN INITIAL BUSINESS CASE ANALYSIS CONDUCTED BY THE STATE AGENCY AND
9 SUBMISSION OF THE BUSINESS CASE, AT LEAST THIRTY DAYS BEFORE ISSUING A
10 SOLICITATION, TO THE COUNCIL, THE GOVERNOR, THE PRESIDENT OF THE SENATE AND
11 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

12 2. A FINAL BUSINESS CASE ANALYSIS CONDUCTED BY THE STATE AGENCY AND
13 SUBMITTED AFTER THE CONCLUSION OF ANY NEGOTIATIONS, AT LEAST THIRTY DAYS
14 BEFORE EXECUTION OF A CONTRACT, TO THE COUNCIL, THE GOVERNOR, THE PRESIDENT
15 OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

16 C. A BUSINESS CASE TO OUTSOURCE HAVING A PROJECTED COST OF LESS THAN
17 ONE MILLION DOLLARS IN ANY FISCAL YEAR SHALL REQUIRE A FINAL BUSINESS CASE
18 ANALYSIS CONDUCTED BY THE STATE AGENCY AFTER THE CONCLUSION OF ANY
19 NEGOTIATIONS AND PROVIDED TO THE COUNCIL AT LEAST THIRTY DAYS BEFORE
20 EXECUTION OF A CONTRACT. THE COUNCIL SHALL PROVIDE THE BUSINESS CASES IN ITS
21 ANNUAL REPORT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
22 REPRESENTATIVES.

23 D. FOR ANY PROPOSED OUTSOURCING, THE STATE AGENCY SHALL DEVELOP A
24 BUSINESS CASE THAT JUSTIFIES THE PROPOSAL TO OUTSOURCE. THE BUSINESS CASE IS
25 NOT SUBJECT TO CHALLENGE OR PROTEST. THE BUSINESS CASE MUST INCLUDE:

26 1. A DETAILED DESCRIPTION OF THE SERVICE OR ACTIVITY FOR WHICH THE
27 OUTSOURCING IS PROPOSED.

28 2. A DESCRIPTION AND ANALYSIS OF THE STATE AGENCY'S CURRENT
29 PERFORMANCE BASED ON EXISTING PERFORMANCE MEASURES IF THE STATE AGENCY IS
30 CURRENTLY PERFORMING THE SERVICE OR ACTIVITY.

31 3. THE GOALS DESIRED TO BE ACHIEVED THROUGH THE PROPOSED OUTSOURCING
32 AND THE RATIONALE FOR THE GOALS.

33 4. A CITATION TO THE EXISTING OR PROPOSED LEGAL AUTHORITY FOR
34 OUTSOURCING THE SERVICE OR ACTIVITY.

35 5. A DESCRIPTION OF AVAILABLE OPTIONS FOR ACHIEVING THE GOALS. IF
36 STATE EMPLOYEES ARE CURRENTLY PERFORMING THE SERVICE OR ACTIVITY, AT LEAST
37 ONE OPTION INVOLVING MAINTAINING STATE PROVISION OF THE SERVICE OR ACTIVITY
38 SHALL BE INCLUDED.

39 6. AN ANALYSIS OF THE ADVANTAGES AND DISADVANTAGES OF EACH OPTION,
40 INCLUDING, AT A MINIMUM, POTENTIAL PERFORMANCE IMPROVEMENTS AND RISKS.

41 7. A DESCRIPTION OF THE CURRENT MARKET FOR THE CONTRACTUAL SERVICES
42 THAT ARE UNDER CONSIDERATION FOR OUTSOURCING.

43 8. A COST BENEFIT ANALYSIS DOCUMENTING THE DIRECT AND INDIRECT
44 SPECIFIC BASELINE COSTS, SAVINGS AND QUALITATIVE AND QUANTITATIVE BENEFITS
45 INVOLVED IN OR RESULTING FROM THE IMPLEMENTATION OF THE RECOMMENDED OPTION OR

1 OPTIONS. THE ANALYSIS MUST SPECIFY THE SCHEDULE THAT, AT A MINIMUM, MUST BE
2 ADHERED TO IN ORDER TO ACHIEVE THE ESTIMATED SAVINGS. ALL ELEMENTS OF COST
3 MUST BE CLEARLY IDENTIFIED IN THE COST BENEFIT ANALYSIS, DESCRIBED IN THE
4 BUSINESS CASE AND SUPPORTED BY APPLICABLE RECORDS AND REPORTS. THE STATE
5 AGENCY HEAD SHALL ATTEST THAT BASED ON THE DATA AND INFORMATION UNDERLYING
6 THE BUSINESS CASE AND TO THE BEST OF THE STATE AGENCY HEAD'S KNOWLEDGE ALL
7 PROJECTED COSTS, SAVINGS AND BENEFITS ARE VALID AND ACHIEVABLE. FOR THE
8 PURPOSES OF THIS PARAGRAPH:

9 (a) "COST" MEANS THE REASONABLE, RELEVANT AND VERIFIABLE COST, WHICH
10 MAY INCLUDE ELEMENTS SUCH AS PERSONNEL, MATERIALS AND SUPPLIES, SERVICES,
11 EQUIPMENT, CAPITAL DEPRECIATION, RENT, MAINTENANCE AND REPAIRS, UTILITIES,
12 INSURANCE, PERSONNEL TRAVEL, OVERHEAD AND INTERIM AND FINAL PAYMENTS. THE
13 APPROPRIATE ELEMENTS SHALL DEPEND ON THE NATURE OF THE SPECIFIC INITIATIVE.

14 (b) "SAVINGS" MEANS THE DIFFERENCE BETWEEN THE DIRECT AND INDIRECT
15 ACTUAL ANNUAL BASELINE COSTS COMPARED TO THE PROJECTED ANNUAL COST FOR THE
16 CONTRACTED FUNCTIONS OR RESPONSIBILITIES IN ANY SUCCEEDING STATE FISCAL YEAR
17 DURING THE TERM OF THE CONTRACT.

18 9. A DESCRIPTION OF DIFFERENCES AMONG CURRENT STATE AGENCY POLICIES
19 AND PROCESSES AND, AS APPROPRIATE, A DISCUSSION OF OPTIONS FOR OR A PLAN TO
20 STANDARDIZE, CONSOLIDATE OR REVISE CURRENT POLICIES AND PROCESSES, IF ANY, TO
21 REDUCE THE CUSTOMIZATION OF ANY PROPOSED SOLUTION THAT WOULD OTHERWISE BE
22 REQUIRED.

23 10. A DESCRIPTION OF THE SPECIFIC PERFORMANCE STANDARDS THAT MUST, AT A
24 MINIMUM, BE MET TO ENSURE ADEQUATE PERFORMANCE.

25 11. THE PROJECTED TIME FRAME FOR KEY EVENTS FROM THE BEGINNING OF THE
26 PROCUREMENT PROCESS THROUGH THE EXPIRATION OF A CONTRACT.

27 12. A PLAN TO ENSURE COMPLIANCE WITH THE PUBLIC RECORDS LAW.

28 13. A SPECIFIC AND FEASIBLE CONTINGENCY PLAN ADDRESSING CONTRACTOR
29 NONPERFORMANCE AND A DESCRIPTION OF THE TASKS INVOLVED IN AND COSTS REQUIRED
30 FOR ITS IMPLEMENTATION.

31 14. A STATE AGENCY'S TRANSITION PLAN FOR ADDRESSING CHANGES IN THE
32 NUMBER OF AGENCY PERSONNEL, AFFECTED BUSINESS PROCESSES, EMPLOYEE TRANSITION
33 ISSUES AND COMMUNICATION WITH AFFECTED STAKEHOLDERS, SUCH AS AGENCY CLIENTS
34 AND THE PUBLIC. THE TRANSITION PLAN MUST CONTAIN A REEMPLOYMENT AND
35 RETRAINING ASSISTANCE PLAN FOR EMPLOYEES WHO ARE NOT RETAINED BY THE STATE
36 AGENCY OR EMPLOYED BY THE CONTRACTOR.

37 15. A PLAN FOR ENSURING ACCESS BY PERSONS WITH DISABILITIES IN
38 COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAW.

39 16. A DESCRIPTION OF LEGISLATIVE AND BUDGETARY ACTIONS NECESSARY TO
40 ACCOMPLISH THE PROPOSED OUTSOURCING.

41 E. EACH CONTRACT FOR A PROPOSED OUTSOURCING PURSUANT TO THIS SECTION
42 SHALL INCLUDE THE FOLLOWING:

43 1. A SCOPE-OF-WORK PROVISION THAT CLEARLY SPECIFIES EACH SERVICE OR
44 DELIVERABLE TO BE PROVIDED, INCLUDING A DESCRIPTION OF EACH DELIVERABLE OR
45 ACTIVITY THAT IS QUANTIFIABLE, MEASURABLE AND VERIFIABLE. THIS PROVISION

1 MUST INCLUDE A CLAUSE STATING THAT IF A PARTICULAR SERVICE OR DELIVERABLE IS
2 INADVERTENTLY OMITTED OR NOT CLEARLY SPECIFIED BUT DETERMINED TO BE
3 OPERATIONALLY NECESSARY AND VERIFIED TO HAVE BEEN PERFORMED BY THE AGENCY
4 WITHIN THE TWELVE MONTHS BEFORE THE EXECUTION OF THE CONTRACT, THE SERVICE OR
5 DELIVERABLE WILL BE PROVIDED BY THE CONTRACTOR THROUGH THE IDENTIFIED
6 CONTRACT AMENDMENT PROCESS.

7 2. A SERVICE LEVEL AGREEMENT PROVISION DESCRIBING ALL SERVICES TO BE
8 PROVIDED UNDER THE TERMS OF THE AGREEMENT, THE STATE AGENCY'S SERVICE
9 REQUIREMENTS AND PERFORMANCE OBJECTIVES, SPECIFIC RESPONSIBILITIES OF THE
10 STATE AGENCY AND THE CONTRACTOR AND THE PROCESS FOR AMENDING ANY PORTION OF
11 THE SERVICE LEVEL AGREEMENT. EACH SERVICE LEVEL AGREEMENT MUST CONTAIN AN
12 EXCLUSIVITY CLAUSE THAT ALLOWS THE STATE AGENCY TO RETAIN THE RIGHT TO
13 PERFORM THE SERVICE OR ACTIVITY, DIRECTLY OR WITH ANOTHER CONTRACTOR, IF
14 SERVICE LEVELS ARE NOT BEING ACHIEVED.

15 3. A PROVISION THAT IDENTIFIES ALL ASSOCIATED COSTS, SPECIFIC PAYMENT
16 TERMS AND PAYMENT SCHEDULES, INCLUDING PROVISIONS GOVERNING INCENTIVES AND
17 FINANCIAL DISINCENTIVES AND CRITERIA GOVERNING PAYMENT.

18 4. A PROVISION THAT IDENTIFIES A CLEAR AND SPECIFIC TRANSITION PLAN
19 THAT WILL BE IMPLEMENTED IN ORDER TO COMPLETE ALL REQUIRED ACTIVITIES NEEDED
20 TO TRANSFER THE SERVICE OR ACTIVITY FROM THE STATE AGENCY TO THE CONTRACTOR
21 AND OPERATE THE SERVICE OR ACTIVITY SUCCESSFULLY.

22 5. A PERFORMANCE STANDARDS PROVISION THAT IDENTIFIES ALL REQUIRED
23 PERFORMANCE STANDARDS, WHICH MUST INCLUDE AT A MINIMUM:

24 (a) DETAILED AND MEASURABLE ACCEPTANCE CRITERIA FOR EACH DELIVERABLE
25 AND SERVICE TO BE PROVIDED TO THE STATE AGENCY UNDER THE TERMS OF THE
26 CONTRACT THAT DOCUMENT THE REQUIRED PERFORMANCE LEVEL.

27 (b) A METHOD FOR MONITORING AND REPORTING PROGRESS IN ACHIEVING
28 SPECIFIED PERFORMANCE STANDARDS AND LEVELS.

29 (c) THE SANCTIONS OR DISINCENTIVES THAT WILL BE IMPOSED FOR
30 NONPERFORMANCE BY THE CONTRACTOR OR STATE AGENCY.

31 6. A PROVISION THAT REQUIRES THE CONTRACTOR AND ITS SUBCONTRACTORS TO
32 MAINTAIN ADEQUATE ACCOUNTING RECORDS THAT COMPLY WITH ALL APPLICABLE FEDERAL
33 AND STATE LAWS AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

34 7. A PROVISION THAT AUTHORIZES THE STATE AGENCY TO HAVE ACCESS TO AND
35 AUDIT ALL RECORDS RELATED TO THE CONTRACT AND SUBCONTRACTS, OR ANY
36 RESPONSIBILITIES OR FUNCTIONS UNDER THE CONTRACT AND SUBCONTRACTS, FOR
37 PURPOSES OF LEGISLATIVE OVERSIGHT AND A REQUIREMENT FOR AUDITS BY A SERVICE
38 ORGANIZATION PURSUANT TO PROFESSIONAL AUDITING STANDARDS, IF APPROPRIATE.

39 8. A PROVISION THAT REQUIRES THE CONTRACTOR TO INTERVIEW AND CONSIDER
40 FOR EMPLOYMENT WITH THE CONTRACTOR EACH DISPLACED STATE EMPLOYEE WHO IS
41 INTERESTED IN SUCH EMPLOYMENT.

42 9. A CONTINGENCY PLAN PROVISION THAT DESCRIBES THE MECHANISM FOR
43 CONTINUING THE OPERATION OF THE SERVICE OR ACTIVITY, INCLUDING TRANSFERRING
44 THE SERVICE OR ACTIVITY BACK TO THE STATE AGENCY OR SUCCESSOR CONTRACTOR, IF

1 THE CONTRACTOR FAILS TO PERFORM AND COMPLY WITH THE PERFORMANCE STANDARDS AND
2 LEVELS OF THE CONTRACT AND THE CONTRACT IS TERMINATED.

3 10. A PROVISION THAT REQUIRES THE CONTRACTOR AND ITS SUBCONTRACTORS TO
4 COMPLY WITH PUBLIC RECORDS LAWS SPECIFICALLY TO:

5 (a) KEEP AND MAINTAIN THE PUBLIC RECORDS THAT ORDINARILY AND
6 NECESSARILY WOULD BE REQUIRED BY THE STATE AGENCY IN ORDER TO PERFORM THE
7 SERVICE OR ACTIVITY.

8 (b) PROVIDE THE PUBLIC WITH ACCESS TO THE PUBLIC RECORDS ON THE SAME
9 TERMS AND CONDITIONS THAT THE STATE AGENCY WOULD PROVIDE THE RECORDS.

10 (c) ENSURE THAT RECORDS THAT ARE EXEMPT OR RECORDS THAT ARE
11 CONFIDENTIAL AND EXEMPT ARE NOT DISCLOSED EXCEPT AS AUTHORIZED BY LAW.

12 (d) MEET ALL REQUIREMENTS FOR RETAINING RECORDS AND TRANSFER TO THE
13 STATE AGENCY, AT NO COST, ALL PUBLIC RECORDS IN POSSESSION OF THE CONTRACTOR
14 ON TERMINATION OF THE CONTRACT AND DESTROY ANY DUPLICATE PUBLIC RECORDS THAT
15 ARE EXEMPT OR CONFIDENTIAL. ALL RECORDS STORED ELECTRONICALLY MUST BE
16 PROVIDED TO THE STATE AGENCY IN A FORMAT THAT IS COMPATIBLE WITH THE
17 INFORMATION TECHNOLOGY SYSTEMS OF THE STATE AGENCY.

18 11. A PROVISION THAT ADDRESSES OWNERSHIP OF INTELLECTUAL PROPERTY. THIS
19 PARAGRAPH DOES NOT PROVIDE THE SPECIFIC AUTHORITY NEEDED BY A STATE AGENCY TO
20 OBTAIN A COPYRIGHT OR TRADEMARK.

21 12. IF APPLICABLE, A PROVISION THAT ALLOWS THE STATE AGENCY TO PURCHASE
22 FROM THE CONTRACTOR, AT ITS DEPRECIATED VALUE, ASSETS USED BY THE CONTRACTOR
23 IN THE PERFORMANCE OF THE CONTRACT. IF ASSETS HAVE NOT DEPRECIATED, THE STATE
24 AGENCY SHALL RETAIN THE RIGHT TO NEGOTIATE TO PURCHASE AT AN AGREED ON COST.

25 41-2785. Council accounting method

26 THE COUNCIL, BY RULE, SHALL ESTABLISH AN ACCOUNTING METHOD THAT:

27 1. IS SIMILAR TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES USED BY A
28 PRIVATE ENTERPRISE.

29 2. ALLOWS AN AGENCY TO IDENTIFY THE TOTAL ACTUAL COST OF ENGAGING IN A
30 COMMERCIAL ACTIVITY IN A MANNER SIMILAR TO HOW A PRIVATE ENTERPRISE
31 IDENTIFIES THE TOTAL ACTUAL COST TO THE PRIVATE ENTERPRISE, INCLUDING THE
32 FOLLOWING:

33 (a) LABOR EXPENSES, SUCH AS COMPENSATION AND BENEFITS, COSTS OF
34 TRAINING, COSTS OF PAYING OVERTIME, COSTS OF SUPERVISING LABOR OR OTHER
35 PERSONNEL EXPENSES.

36 (b) OPERATING COSTS, SUCH AS VEHICLE MAINTENANCE AND REPAIR,
37 MARKETING, ADVERTISING OR OTHER SALES EXPENSES, OFFICE EXPENSES, COSTS OF AN
38 ACCOUNTING OPERATION SUCH AS BILLING, INSURANCE EXPENSES, REAL ESTATE OR
39 EQUIPMENT COSTS, DEBT SERVICE COSTS OR A PROPORTIONATE AMOUNT OF OTHER
40 OVERHEAD OR CAPITAL EXPENSES, SUCH AS VEHICLE DEPRECIATION AND DEPRECIATION
41 OF OTHER FIXED ASSETS.

42 (c) CONTRACT MANAGEMENT COSTS.

43 (d) OTHER COSTS PARTICULAR TO A PERSON SUPPLYING THE GOOD OR SERVICE.

3. PROVIDES A PROCESS TO ESTIMATE THE TAXES A STATE AGENCY WOULD PAY RELATED TO ENGAGING IN A COMMERCIAL ACTIVITY IF THE STATE AGENCY WERE REQUIRED TO PAY FEDERAL, STATE AND LOCAL TAXES TO THE SAME EXTENT AS A PRIVATE ENTERPRISE ENGAGING IN THE COMMERCIAL ACTIVITY.

41-2786. Governor: required review of commercial activities

BEGINNING WITH FISCAL YEAR 2009-2010, THE GOVERNOR, AT LEAST ONCE EVERY TWO FISCAL YEARS, SHALL SELECT AT LEAST THREE COMMERCIAL ACTIVITIES THAT ARE BEING PERFORMED BY A STATE AGENCY TO BE EXAMINED BY THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING.

41-2787. Duties of the governor's office of strategic planning and budgeting

A. THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING SHALL:

1. DETERMINE THE AMOUNT OF AN APPROPRIATION THAT IS NO LONGER NEEDED BY AN EXECUTIVE BRANCH AGENCY BECAUSE ALL OR A PORTION OF THE AGENCY'S PROVISION OF A GOOD OR SERVICE IS PRIVATIZED.

2. ADJUST THE GOVERNOR'S BUDGET RECOMMENDATIONS TO REFLECT THE AMOUNT THAT IS DETERMINED UNDER PARAGRAPH 1.

3. REPORT ITS FINDINGS TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

B. THIS SECTION DOES NOT PREVENT THE GOVERNOR MAKING A BUDGET RECOMMENDATION REGARDING THE RESTORATION OF A PORTION OF THE APPROPRIATION TO A STATE AGENCY THAT IS REDUCED UNDER THIS SECTION.

41-2788. Applicability

THIS ARTICLE DOES NOT APPLY TO CONTRACTS IN SUPPORT OF THE PLANNING, DEVELOPMENT, IMPLEMENTATION, OPERATION OR MAINTENANCE OF THE ROAD, BRIDGE AND PUBLIC TRANSPORTATION CONSTRUCTION PROGRAM OF THE DEPARTMENT OF TRANSPORTATION PURSUANT TO TITLE 28.

Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3019.01. to read:

41-3019.01. Council on efficient government: termination
July 1, 2019

A. THE COUNCIL ON EFFICIENT GOVERNMENT TERMINATES ON JULY 1, 2019.

B. TITLE 41, CHAPTER 25, ARTICLE 3 IS REPEALED ON JANUARY 1, 2020.

Sec. 3. Initial terms of members of the council on efficient government

Notwithstanding section 41-2781, Arizona Revised Statutes, as added by this act, the initial members of the council on efficient government who are engaged in private enterprise shall assign themselves by lot to terms of one or two years in office. The appointing authority shall make all subsequent appointments as prescribed by statute.

Sec. 4. Purpose

Pursuant to section 41-2955, subsection E, Arizona Revised Statutes, the purposes of the council on efficient government are to:

- 1 1. Ensure that each state agency focuses on its core mission and
2 delivers goods and services effectively and efficiently by leveraging
3 resources and contracting with private sector vendors if these vendors can
4 more effectively and efficiently provide these goods or services and reduce
5 the cost of government.
- 6 2. Evaluate for feasibility, cost effectiveness and efficiency
7 business cases to be outsourced before a state agency proceeds with any
8 outsourcing of goods or services.