

2012 -- S 2713

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS - STATE PURCHASES

Introduced By: Senators Ciccone, Sheehan, and E O'Neill

Date Introduced: March 06, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 37-2 of the General Laws entitled "State Purchases" is hereby
2 amended by adding thereto the following section:

3 **37-2-81. Duty to review contracts.** – (a) With reference to section 37-2-39, the chief
4 purchasing officer shall monitor all state contracts with a value greater than five hundred
5 thousand dollars (\$500,000) and with respect to said contracts:

6 If there is a proposed material change to the scope of the work or to one or more of the
7 terms of the contract, then the chief purchasing officer shall determine in writing whether it is in
8 the best interest of the state to proceed under the existing contract or, after awareness of the
9 material change, to authorize said modification. Such determination shall be made prior to
10 implementing the contract increase or material change and shall clearly enumerate the
11 circumstances of the contract increase and/or material change and the reasons supporting the
12 decision. Furthermore, such determination and the reasons supporting the decision shall not be
13 deemed to establish or be considered as evidence in the litigation, arbitration or mediation of a
14 claim seeking reimbursement and/or damages for delay, change in circumstances or unforeseen
15 conditions. The chief purchasing officer shall file copies of the written determination with the
16 senate fiscal advisor and the house fiscal advisor no later than three (3) business days after
17 executing the written determination.

18 (b) Notwithstanding any other provision to the contrary, including any provision
19 exempting any entity from the requirements of this chapter, all public corporations as defined in

1 subdivision 35-20-5(4) and quasi-public agencies shall monitor their respective contracts with a
2 value greater than five hundred thousand dollars (\$500,000) and with respect to said contracts:

3 If there is a proposed material change to the scope of the work or to one or more of the
4 terms of the contract, then the chief executive officer shall determine in writing whether it is in
5 the best interest of the state to proceed under the existing contract or, after awareness of the
6 material change, to authorize said modification. Such determination shall be made prior to
7 implementing the contract increase or material change, shall comply with the requirements of
8 section 37-2-6 of this chapter, and shall clearly enumerate the circumstances of the contract
9 increase and/or material change and the reasons for the decision made. Furthermore, such
10 determination and the reasons supporting the decision shall not be deemed to establish or be
11 considered as evidence in the litigation, arbitration or mediation of a claim seeking
12 reimbursement and/or damages for delay, change in circumstances or unforeseen conditions. The
13 chief executive officer shall file copies of the written determination with the governor, the
14 president of the senate, the speaker of the house, the director of the department of administration,
15 the budget officer, the senate fiscal advisor, and the house fiscal advisor no later than three (3)
16 business days after executing the written determination.

17 (c) Definitions: For the purposes of this section, the term “material change” shall mean
18 any alteration to either the scope of work or to one or more terms or conditions of the contract
19 such that the economic benefits thereof to the contractor, or the cost thereof to the state, would
20 have influenced the public bidding process or the decision to award the contract. A ten percent
21 (10%) cumulative increase in the value of the contract shall, by itself, constitute a material
22 change.

23 SECTION 2. This act shall take effect upon passage and shall apply to all contracts
24 entered into after July 1, 2011.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would require the chief purchasing officer, as well as all public corporations and
2 quasi-public agencies, to monitor all state contracts with a value of greater than five hundred
3 thousand dollars (\$500,000) for certain change; and to authorize any material change
4 modifications.

5 This act would take effect upon passage and would apply to all contracts entered into
6 after July 1, 2011.

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