

CHAPTER 141

(HB 329)

AN ACT relating to government contract review and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 45A.705 is amended to read as follows:

- (1) There is hereby created a permanent committee of the Legislative Research Commission to be known as the Government Contract Review Committee. The committee shall be composed of eight (8) members appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Members shall serve for terms of two (2) years, and the members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. Any vacancy that may occur in the membership of the committee shall be filled by the appointing authority who made the original appointment.
- (2) On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings. A majority of the entire membership of the Government Contract Review Committee shall constitute a quorum, and all actions of the committee shall be by vote of a majority of its entire membership. The members of the committee shall be compensated for attending meetings, as provided in KRS 7.090(3).
- (3) Any professional, clerical, or other employees required by the committee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).
- (4) All proposed personal service contracts, tax incentive agreements, and memoranda of agreement received by the Legislative Research Commission shall be submitted to the committee to:
 - (a) Examine the stated need for the service or benefit to the Commonwealth of the motion picture or entertainment production;
 - (b) Examine whether the service could or should be performed by state personnel, for personal service contracts and memoranda of agreement;
 - (c) Examine the amount and duration of the contract or agreement; and
 - (d) Examine the appropriateness of any exchange of resources or responsibilities.
- (5) *The committee shall review a personal service contract, tax incentive agreement, or memorandum of agreement submitted to the Legislative Research Commission within forty-five (45) days of the date received.*
- (6) *If the committee determines that the contract service or agreement, other than:*
 - (a) *A contract necessary in the exercise of the enumerated powers specifically granted to the Governor pursuant to Sections 75, 76, 77, 78, 79, and 80 of the Constitution of Kentucky or any subsequent amendments to the Constitution of Kentucky which specifically designate enumerated powers to the Governor; or*
 - (b) *An emergency contract approved by the secretary of the Finance and Administration Cabinet or his or her designee;*

is not needed or inappropriate, the motion picture or entertainment production is not beneficial or is inappropriate, the service could or should be performed by state personnel, the amount or duration is excessive, or the exchange of resources or responsibilities are inappropriate, the committee shall attach a written notation of its nonbinding recommendations regarding the personal service contract, tax incentive agreement, or memorandum of agreement and shall forward the personal service contract, tax incentive agreement, or memorandum of agreement to the State Treasurer or his or her designee.

- (7) *Upon receipt of the committee's nonbinding recommendations regarding a personal service contract, tax incentive agreement, or memorandum of agreement, the State Treasurer or his or her designee shall determine whether the personal service contract, tax incentive agreement, or memorandum of agreement shall:*
- (a) *1. Be revised by the Treasurer and returned to the secretary of the Finance and Administration Cabinet or his or her designee; and*
 - 2. The Finance and Administration Cabinet or designee shall either:*
 - a. Issue the contract with the Treasurer's revisions; or*
 - b. Cancel the contract;*
 - (b) *Be canceled and, if applicable, payment allowed for services rendered under the contract or amendment; or*
 - (c) *Remain effective as originally submitted.*
- (8) If the committee determines that the contract *executed pursuant to subsection (6)(a) or (b) of this section*~~[service or agreement, other than an emergency contract approved by the secretary of the Finance and Administration Cabinet or his or her designee,]~~ is not needed or inappropriate, the motion picture or entertainment production is not beneficial or is inappropriate, the service could or should be performed by state personnel, the amount or duration is excessive, or the exchange of resources or responsibilities are inappropriate, the committee shall attach a written notation of *its nonbinding recommendations regarding* the~~[reasons for its disapproval or objection to the]~~ personal service contract, tax incentive agreement, or memorandum of agreement and shall return the personal service contract, tax incentive agreement, or memorandum of agreement to the secretary of the Finance and Administration Cabinet or his or her designee~~[-]. The committee shall act on a personal service contract, tax incentive agreement, or memorandum of agreement submitted to the Legislative Research Commission within forty five (45) days of the date received].~~
- ~~(9)(6)(a)~~ Upon receipt of the committee's *nonbinding recommendations regarding*~~[disapproval or objection to]~~ a personal service contract, tax incentive agreement, or memorandum of agreement *executed pursuant to subsection (6)(a) or (b) of this section*, the secretary of the Finance and Administration Cabinet or his or her designee shall determine whether the personal service contract, tax incentive agreement, or memorandum of agreement shall:
- ~~(a)[1-]~~ Be revised to comply with the objections of the committee;
 - ~~(b)[2-]~~ Be canceled and, if applicable, payment allowed for services rendered under the contract or amendment; or
 - ~~(c)[3-]~~ Be appealed within ten (10) days to the State Treasurer, who shall make a final determination within ten (10) days of receipt of the appeal of whether the personal service contract, tax incentive agreement, or memorandum of agreement shall:
 - a. Be revised to comply with the objection of the committee;
 - b. Be canceled and, if applicable, payment allowed for services already rendered under the contract or amendment; or
 - e.] Remain effective as originally submitted.
- ~~[(b) Paragraph (a)3. of this subsection shall not apply to any personal service contract, tax incentive agreement, or memorandum of agreement insofar as the contract or agreement is based upon the enumerated powers specifically granted to the Governor pursuant to Sections 75, 76, 77, 78, 79, and 80 of the Constitution of Kentucky, or any subsequent amendments to the Constitution of Kentucky which specifically designate enumerated powers to the Governor.]~~
- ~~(10)(7)~~ Contracting bodies shall make annual reports to the committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies related to personal service contracts, tax incentive agreements, and memoranda of agreement submitted by the secretary of the Finance and Administration Cabinet or his or her designee.

➔Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 3. Whereas the Government Contract Review Committee is a statutory committee meeting monthly and disposing instruments brought before it at those meetings, and it is imperative to ensure that the mechanisms envisioned by the Kentucky General Assembly are effectual, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden March 30, 2023.