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Testimony of Roy A. Merritt, Jr, P.E.

On behalf of  
**The Connecticut Society of Civil Engineers (CSCE) Section of the  
American Society of Civil Engineers (ASCE)**

**Before the Government Administration and Elections Committee**

Regarding the following:

**Bill:** *Senate Bill No. 917 – AN ACT CONCERNING THE STATE CONTRACTING STANDARDS BOARD AND REQUIREMENTS FOR PRIVATIZATION CONTRACTS*

**CSCE Position:** **Opposed**

**February 27, 2019**

I am Roy Merritt, Jr., and I am a licensed Professional Engineer in the State of Connecticut. I am submitting this written testimony on behalf of the Connecticut Society of Civil Engineers (CSCE) Section of the American Society of Civil Engineers<sup>1</sup> (ASCE), where I serve as Chairman of their Legislative Affairs Committee. CSCE has over 1,600 members in Connecticut – civil engineers working in private practice, government, industry, and academia who are dedicated to the advancement of the science and profession of civil engineering. CSCE submits this testimony in **opposition to** Senate Bill No. 917 – AN ACT CONCERNING THE STATE CONTRACTING STANDARDS BOARD AND REQUIREMENTS FOR PRIVATIZATION CONTRACTS.

S.B. No. 917 places additional restrictions and administrative reporting requirements on state agencies seeking to contract with private-sector firms to supplement their internal staffing and carry out key projects. The bill also strives to expand the amount of services performed in-house with agency staff and seeks to increase the number of state employees. In summary, S.B. No. 917 would:

- Require agencies to develop a business case evaluating cost-effectiveness for privatization contracts worth more than \$1 million.
- Place additional levels of approval authority from the Office of Policy and Management (OPM), Attorney General, and State Contracting Standards Board on privatization contracts - above the original approval of the state contracting agency.
- Require agencies seeking to contract with a private-sector firms to notify and negotiate with the collective bargaining agent for the associated state employees, and develop hiring and staffing plans to increase the number of state employees if insufficient staffing was stated a reason for the agency seeking to enter in to a privatization contract.

- Mandate that agency budgets (as well as the Governor’s budget) address budget allocations specific to filling additional state agency positions and increasing the number of state employees.

First, a simple cost comparison does not constitute the best way to measure the value of delivering professional engineering services to the public. This is supported by federal law, and the laws in most states that require the use of a competitive Qualifications-Based Selection (QBS) process for selecting architectural and engineering services. Qualification-based selection for engineering services is further supported by [ASCE Policy Statement 304](#).

Also, there has been much national debate regarding cost-benefit studies on in-house versus contracting-out engineering services. There are significant differences in the manner in which state agencies and private firms treat labor, fringe and overhead rates, which makes direct cost comparisons difficult. Private engineering firms must follow Federal Acquisition Regulation (FAR) Part 31 in accounting for and reporting costs associated with contracting with state agencies. Because state agencies are not required to follow FAR Part 31 in accounting their costs, certain accounting practices followed by private engineering firms – such as segregation of direct and indirect costs – are not typically applied by state agencies. This makes it difficult to get a true and accurate comparison of all labor, fringe and overhead costs for state agencies. According to an August 31, 2016 report “*Engineering Design Costs: In-House versus Contracting-Out*” by Professor F.H. (Bud) Griffis, P.E., PhD of the NYU Tandon School of Engineering, when considering direct salary, fringe benefits (such as payroll taxes, health, dental, and life insurance, retirement pensions and benefits, workman’s compensation insurance, etc.), and overhead rates (such as facility costs, indirect labor costs such as administrative staff, non-project related time, training, paid time off, etc.) – total in-house costs at State DOTs were about 25% higher than the same work performed by private engineering firms. Regardless, it is critical that cost-benefit analyses accurately assess all direct and indirect costs – and reflect a true “apples-to-apples” cost comparison.

CSCE reiterates that cost should not be the primary reason for determining state policy regarding privatization contracts, and that Connecticut’s leaders should be establishing policies and procedures (and statute when necessary) to provide the best value to our residents and give state agencies the greatest flexibility in how they fulfill their core missions and obligations to the state’s citizens. There are a number of additional factors that elected officials and public agencies should consider when making decisions to contract out work to a private firm:

- **Staffing capacity** – The public cannot afford to staff state agencies to handle peak workloads. If state agencies were staffed to handle peak workloads, taxpayers would be liable to pay the additional state employees during times when project workloads are light, even when they have nothing to work on. When a project is contracted out, employees of the private firm are only paid for the time they work on the project – and either move onto projects with other clients or are laid off when their state project ends.
- **Schedule constraints** – Agencies may need to hire a private firm to expedite the completion of critical or time-sensitive projects based on the availability of in-house staff.
- **Expertise** – Often state agencies have complex projects or other needs that are periodic in nature and require specific expertise that the agency lacks in-house. It is not practical for a state agency to hire specialized experts that would only be needed periodically. In these cases, an agency has few viable options other than to hire a private firm to provide the specialized expertise.



- **Risk management** – Contracting out is an effective risk management tool that enables state agencies to shift risk to the private firm performing the work and away from the taxpayer.

Lastly, Connecticut has been in a chronic cycle of budget deficits for the past decade. Now is not the time for our state leaders to promote policies such as those in S.B. No. 917 that seek to increase the state government workforce. Increasing the state workforce would add to the state's operating budget while creating additional retirement obligations for new state employees at a time when our future spending and pension obligations are exploding. Agencies already face an impending staffing crisis to simply maintain state employee levels near their current levels. Recent reports have stated that approximately 16,000 state workers are eligible for retirement by July 2022 – three short years from now. Connecticut's population has slowly declined in recent decades. It is not clear how any staffing increases resulting from S.B. No. 917 could be accomplished when coupled with the pending retirement of over 30% of state workers in the next few years. Qualified replacements for these future state retirees likely don't reside in Connecticut right now and attracting new professionals to the State has been a struggle in recent years.

CSCE reiterates our **opposition to** S.B. No. 917. It is important at this juncture in Connecticut's history that we maintain an appropriate balance between the public and private sector, avoid policies that protect and advocate for state workers over those in private enterprise, and allow our state agencies increased flexibility in the methods they employ to fulfill their obligations to the state's citizens and meet their core missions. S.B. No. 917 fails on all of these accounts. We urge members of the Government Administration and Elections Committee, and all members of the General Assembly, to **oppose** S.B. No. 917. CSCE looks forward to working with the Legislature on this issue.

Thank you,



Roy A. Merritt, Jr., P.E.  
Burlington, CT

**Connecticut Society of Civil Engineers**  
**Section of the American Society of Civil Engineers**

*Mr. Merritt serves as Chairman of CSCE's Legislative Affairs Committee*

<sup>1</sup> ASCE was founded in 1852 and is the oldest national civil engineering organization. It represents more than 150,000 civil engineers (over 1,600 in Connecticut) in private practice, government, industry and academia who are dedicated to the advancement of the science and the profession of civil engineering. ASCE is a non-profit educational and professional society organized under Part 1.501(c)(3) of the Internal Revenue Code. CSCE is a 100% volunteer organization.