

# An Act

HOUSE BILL 93-1212

BY REPRESENTATIVES Berry, Foster, Williams, Grampas, Owen, Romero, Acquafresca, Adkins, Allen, Anderson, Coffman, Dyer, Kerns, Martin, Morrison, Pankey, Pfiffner, and Taylor; also SENATORS Rizzuto, Tebedo, Norton, Bird, Traylor, Hopper, Mutzebaugh, Owens, R. Powers, and Schroeder.

CONCERNING THE USE OF PERSONAL SERVICES CONTRACTS BY STATE GOVERNMENT.

*Be it enacted by the General Assembly of the State of Colorado:*

SECTION 1. Article 50 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PART to read:

## PART 5 CONTRACTS FOR PERSONAL SERVICES

24-50-501. Legislative declaration. RECOGNIZING THAT THE ADOPTION OF SECTION 20 OF ARTICLE X AT THE 1992 GENERAL ELECTION HAS IMPOSED STRICT NEW CONSTRAINTS ON STATE GOVERNMENT, IT IS HEREBY DECLARED TO BE THE POLICY OF THIS STATE TO ENCOURAGE THE USE OF PRIVATE CONTRACTORS FOR PERSONAL SERVICES TO ACHIEVE INCREASED EFFICIENCY IN THE DELIVERY OF GOVERNMENT SERVICES, WITHOUT UNDERMINING THE PRINCIPLES OF THE STATE PERSONNEL SYSTEM REQUIRING COMPETENCE IN STATE GOVERNMENT AND THE AVOIDANCE OF POLITICAL PATRONAGE. THE GENERAL ASSEMBLY RECOGNIZES THAT SUCH CONTRACTING MAY RESULT IN VARIANCES FROM LEGISLATIVELY MANDATED PAY SCALES AND OTHER EMPLOYMENT PRACTICES THAT APPLY TO THE STATE PERSONNEL SYSTEM. IN ORDER TO ENSURE THAT SUCH PRIVATIZATION OF GOVERNMENT SERVICES DOES NOT SUBVERT THE POLICIES UNDERLYING THE CIVIL SERVICE SYSTEM, THE PURPOSE OF THIS PART 5 IS TO BALANCE THE BENEFITS OF PRIVATIZATION OF PERSONAL SERVICES AGAINST ITS IMPACT UPON THE STATE PERSONNEL SYSTEM AS A WHOLE. THE GENERAL ASSEMBLY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and

FINDS AND DECLARES THAT, IN THE USE OF PRIVATE CONTRACTORS FOR PERSONAL SERVICES, THE DANGERS OF ARBITRARY AND CAPRICIOUS POLITICAL ACTION OR PATRONAGE AND THE PROMOTION OF COMPETENCE IN THE PROVISION OF GOVERNMENT SERVICES ARE ADEQUATELY SAFEGUARDED BY EXISTING LAWS ON PUBLIC PROCUREMENT, PUBLIC CONTRACTS, FINANCIAL ADMINISTRATION, EMPLOYMENT PRACTICES, ETHICS IN GOVERNMENT, LICENSURE, CERTIFICATION, OPEN MEETINGS, OPEN RECORDS, AND THE PROVISIONS OF THIS PART 5. RECOGNIZING THAT THE ULTIMATE BENEFICIARIES OF ALL GOVERNMENT SERVICES ARE THE CITIZENS OF THE STATE OF COLORADO, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT PRIVATIZATION OF GOVERNMENT SERVICES NOT RESULT IN DIMINISHED QUALITY IN ORDER TO SAVE MONEY.

24-50-502. Definitions. AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CONTRACT" MEANS ANY TYPE OF STATE AGREEMENT, REGARDLESS OF WHAT IT MAY BE CALLED, FOR THE ACQUISITION OF SERVICES.

(2) "PERSONAL SERVICES" MEANS SERVICES ACQUIRED FOR THE STATE'S DIRECT BENEFIT IN ITS OPERATIONS.

(3) "PURCHASED SERVICES" MEANS THE ACQUISITION OF SERVICES WHICH DIRECTLY BENEFIT SPECIFIC GROUPS OR INDIVIDUALS IN THE PUBLIC AT LARGE AS DEFINED BY LAW, FROM PUBLIC OR PRIVATE ENTITIES LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY STATUTE TO PROVIDE SUCH SERVICES.

(4) "SERVICES" MEANS THE FURNISHING OF LABOR, TIME, OR EFFORT.

24-50-503. Personal services contracts implicating state personnel system - no separation of existing classified employees.

(1) CONTRACTS FOR PERSONAL SERVICES THAT CREATE AN INDEPENDENT CONTRACTOR RELATIONSHIP AND THAT ARE NOT AUTHORIZED UNDER THE PROVISIONS OF SECTION 24-50-504 ARE NEVERTHELESS PERMISSIBLE UNDER THIS SECTION TO ACHIEVE INCREASED EFFICIENCY IN THE DELIVERY OF GOVERNMENT SERVICES WHEN THE STATE PERSONNEL DIRECTOR DETERMINES THAT ALL OF THE FOLLOWING CONDITIONS ARE MET:

(a) THE CONTRACTING AGENCY CLEARLY DEMONSTRATES THAT THE PROPOSED CONTRACT WILL RESULT IN OVERALL COST SAVINGS TO THE STATE AND THAT THE ESTIMATED SAVINGS WILL NOT BE ELIMINATED BY CONTRACTOR RATE INCREASES DURING THE TERM OF THE CONTRACT, SUBJECT TO THE FOLLOWING:

(I) IN COMPARING COSTS, THERE SHALL BE INCLUDED THE STATE'S COST OF PROVIDING THE SAME SERVICE AS PROPOSED BY A CONTRACTOR. THE STATE'S COSTS SHALL INCLUDE THE SALARIES AND BENEFITS OF STAFF THAT WOULD BE NEEDED AND THE COST OF SPACE, EQUIPMENT, AND MATERIAL NEEDED TO PERFORM THE FUNCTION.

(II) IN COMPARING COSTS, THERE SHALL NOT BE INCLUDED THE STATE'S INDIRECT OVERHEAD COSTS UNLESS THE COSTS CAN BE ATTRIBUTED SOLELY TO THE FUNCTION IN QUESTION AND WOULD NOT EXIST IF THAT FUNCTION WERE NOT PERFORMED IN STATE SERVICE. FOR SUCH PURPOSE, "INDIRECT OVERHEAD COSTS" MEANS THE PRO RATA SHARE OF EXISTING ADMINISTRATIVE SALARIES AND BENEFITS, RENT, EQUIPMENT COSTS, UTILITIES, AND MATERIALS.

(III) IN COMPARING COSTS, THERE SHALL BE INCLUDED IN THE COST OF A CONTRACTOR PROVIDING A SERVICE ANY CONTINUING STATE COSTS THAT WOULD BE DIRECTLY ASSOCIATED WITH THE CONTRACTED FUNCTION. THESE CONTINUING STATE COSTS SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THOSE FOR INSPECTION, SUPERVISION, AND MONITORING.

(IV) IN COMPARING COSTS, THERE SHALL NOT BE INCLUDED ANY SAVINGS TO THE STATE ATTRIBUTABLE TO LOWER HEALTH INSURANCE BENEFITS PROVIDED BY THE CONTRACTOR.

(b) THE CONTRACTING AGENCY CLEARLY DEMONSTRATES THAT THE PROPOSED CONTRACT WILL PROVIDE AT LEAST THE SAME QUALITY OF SERVICES AS THAT OFFERED BY THE CONTRACTING AGENCY.

(c) THE CONTRACT INCLUDES SPECIFIC PROVISIONS PERTAINING TO THE QUALIFICATIONS OF THE STAFF THAT WILL PERFORM THE WORK UNDER THE CONTRACT.

(d) THE CONTRACT CONTAINS NONDISCRIMINATION PROVISIONS REQUIRED BY LAW TO BE INCLUDED IN STATE CONTRACTS.

(e) THE CONTRACT CONTAINS PROVISIONS FOR TERMINATION BY THE STATE FOR BREACH OF THE CONTRACT BY THE CONTRACTOR.

(f) THE POTENTIAL ECONOMIC ADVANTAGE OF CONTRACTING IS NOT OUTWEIGHED BY THE PUBLIC'S INTEREST IN HAVING A PARTICULAR FUNCTION PERFORMED DIRECTLY BY STATE GOVERNMENT. IN ASSESSING THE PUBLIC'S INTEREST, THE STATE PERSONNEL DIRECTOR SHALL TAKE INTO ACCOUNT:

(I) THE CONSEQUENCES AND POTENTIAL MITIGATION OF IMPROPER OR FAILED PERFORMANCE BY THE CONTRACTOR;

(II) WHETHER PERFORMANCE OF THE CONTRACT INVOLVES THE IMPROPER DELEGATION OF A POLICY-MAKING FUNCTION;

(III) THE EXTENT TO WHICH THE CONTRACTING PRESERVES THE PRINCIPLES OF COMPETENCE IN GOVERNMENT AND THE AVOIDANCE OF POLITICAL PATRONAGE. FOR SUCH PURPOSE, THERE SHALL BE CONSIDERED THE APPLICABILITY OF OTHER LAWS, INCLUDING THOSE AS ENUMERATED IN SECTION 24-50-505, THAT AID IN SAFEGUARDING THE FUNDAMENTAL PRINCIPLES UNDERLYING THE STATE PERSONNEL SYSTEM.

(2) THE STATE PERSONNEL DIRECTOR SHALL NOT APPROVE A PERSONAL SERVICES CONTRACT UNDER THIS SECTION IF THE CONTRACT WOULD RESULT DIRECTLY OR INDIRECTLY IN THE SEPARATION OF CERTIFIED EMPLOYEES FROM STATE SERVICE. HOWEVER, NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PREVENT THE SEPARATION OF CERTIFIED EMPLOYEES FROM STATE SERVICE PURSUANT TO ANY OTHER PROVISION OF LAW, INCLUDING BUT NOT LIMITED TO THE PROVISIONS OF SECTION 24-50-124, FOR REASONS OTHER THAN PRIVATIZATION.

**24-50-504. Personal services contracts not implicating state personnel system.** (1) PERSONAL SERVICES CONTRACTS FOR EMPLOYEES OR INDEPENDENT CONTRACTORS ARE PERMISSIBLE WHEN THE FUNCTIONS CONTRACTED ARE OTHERWISE PERFORMED BY PERSONS EXEMPT FROM CIVIL SERVICE BY SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION OR BY STATUTES ENACTED PURSUANT THERETO.

(2) PERSONAL SERVICES CONTRACTS THAT CREATE AN INDEPENDENT CONTRACTOR RELATIONSHIP ARE PERMISSIBLE WHEN THE STATE PERSONNEL DIRECTOR DETERMINES THAT ANY OF THE FOLLOWING CONDITIONS ARE MET:

(a) THE CONTRACT IS FOR AN EXISTING STATE PROGRAM THAT HAS NEVER BEEN PERFORMED BY EMPLOYEES IN THE STATE PERSONNEL SYSTEM, OR THE CONTRACT IS FOR AN EXISTING STATE PROGRAM THAT INVOLVES DUTIES SIMILAR TO DUTIES CURRENTLY OR PREVIOUSLY PERFORMED BY CLASSIFIED EMPLOYEES BUT THE CONTRACTED PROGRAM IS DIFFERENT IN SCOPE OR POLICY OBJECTIVES FROM THE PROGRAMS CARRIED OUT BY SUCH CLASSIFIED EMPLOYEES. FOR THE PURPOSES OF THIS PARAGRAPH (a), AN "EXISTING STATE PROGRAM" IS A STATE PROGRAM THAT WAS IN EFFECT AND PERFORMED BY CONTRACT PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

(b) THE CONTRACT IS FOR A NEW STATE PROGRAM, AND THE GENERAL ASSEMBLY HAS STATUTORILY AUTHORIZED THE PERFORMANCE OF THE PROGRAM BY INDEPENDENT CONTRACTORS. A PROGRAM IS NOT A NEW STATE PROGRAM WITHIN THE MEANING OF THIS PARAGRAPH (b) SOLELY BECAUSE IT IS PERFORMED AT A NEW FACILITY OR LOCATION.

(c) THE SERVICES CONTRACTED ARE NOT AVAILABLE WITHIN THE STATE PERSONNEL SYSTEM, CANNOT BE PERFORMED SATISFACTORILY BY EMPLOYEES OF THE STATE PERSONNEL SYSTEM, OR ARE OF SUCH A HIGHLY SPECIALIZED OR TECHNICAL NATURE THAT THE NECESSARY EXPERT KNOWLEDGE, EXPERIENCE, AND ABILITY ARE NOT AVAILABLE THROUGH THE STATE PERSONNEL SYSTEM.

(d) THE SERVICES ARE INCIDENTAL TO A CONTRACT FOR THE PURCHASE OR LEASE OF REAL OR PERSONAL PROPERTY. CONTRACTS UNDER THIS CRITERION, KNOWN AS "SERVICE AGREEMENTS", INCLUDE, BUT ARE NOT LIMITED TO, AGREEMENTS TO SERVICE OR MAINTAIN EQUIPMENT, COMPUTERS, OR OTHER PRODUCTS THAT ARE ENTERED INTO IN CONNECTION WITH THEIR ORIGINAL LEASE OR PURCHASE.

(e) THE LEGISLATIVE, ADMINISTRATIVE, OR LEGAL GOALS AND PURPOSES CANNOT BE ACCOMPLISHED THROUGH THE UTILIZATION OF PERSONS

SELECTED PURSUANT TO THE STATE PERSONNEL SYSTEM. CONTRACTS ARE PERMISSIBLE UNDER THIS CRITERION TO PROTECT AGAINST A CONFLICT OF INTEREST OR TO ENSURE INDEPENDENT AND UNBIASED FINDINGS IN CASES WHERE THERE IS A CLEAR NEED FOR A DIFFERENT, OUTSIDE PERSPECTIVE. THESE CONTRACTS INCLUDE, BUT ARE NOT LIMITED TO, OBTAINING EXPERT WITNESSES IN LITIGATION.

(f) THE CONTRACTOR WILL PROVIDE EQUIPMENT, MATERIALS, FACILITIES, OR SUPPORT SERVICES THAT COULD NOT FEASIBLY BE PROVIDED BY THE STATE IN THE LOCATION WHERE THE SERVICES ARE TO BE PERFORMED.

(g) THE CONTRACTOR WILL CONDUCT TRAINING COURSES FOR WHICH APPROPRIATELY QUALIFIED STATE PERSONNEL SYSTEM INSTRUCTORS ARE NOT AVAILABLE.

(h) THE SERVICES ARE OF AN URGENT, TEMPORARY, OR OCCASIONAL NATURE.

(3) CONTRACTS FOR PURCHASED SERVICES, AS DETERMINED BY THE STATE PERSONNEL DIRECTOR, THAT CREATE AN INDEPENDENT CONTRACTOR RELATIONSHIP ARE PERMISSIBLE.

24-50-505. Liability and immunity. (1) THE CONTRACTOR SHALL ASSUME ALL LIABILITY ARISING FROM ITS OWN ACTS OR OMISSIONS UNDER ALL CONTRACTS ENTERED INTO PURSUANT TO THIS PART 5.

(2) THE SOVEREIGN IMMUNITY AND GOVERNMENTAL IMMUNITY OF THE CONTRACTING AGENCY SHALL NOT EXTEND TO THE CONTRACTOR, EXCEPT AS OTHERWISE PROVIDED BY LAW. NEITHER THE CONTRACTOR NOR THE INSURER OF THE CONTRACTOR MAY PLEAD THE DEFENSE OF SOVEREIGN IMMUNITY OR GOVERNMENTAL IMMUNITY IN ANY ACTION ARISING OUT OF THE PERFORMANCE OF THE CONTRACT.

24-50-506. Applicability of other laws. (1) IN ADDITION TO THE OTHER PROVISIONS OF THIS PART 5 THAT ARE INTENDED TO SAFEGUARD THE FUNDAMENTAL PRINCIPLES UNDERLYING THE STATE PERSONNEL SYSTEM, PERSONAL SERVICES CONTRACTS ENTERED INTO PURSUANT TO THIS ARTICLE ARE SUBJECT TO ALL OTHER APPLICABLE LAWS, WHICH MAY INCLUDE BUT ARE NOT NECESSARILY LIMITED TO THE FOLLOWING:

(a) STATE PROCUREMENT LAWS, INCLUDING THE FOLLOWING:

(I) THE PROVISIONS OF PART 14 OF ARTICLE 30 OF THIS TITLE;  
AND

(II) THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF THIS TITLE.

(b) LAWS GOVERNING FISCAL ADMINISTRATION BY THE STATE CONTROLLER, INCLUDING THE PROVISIONS OF PART 2 OF ARTICLE 30 OF

THIS TITLE AND THE FISCAL RULES PROMULGATED THEREUNDER.

(c) LAWS GOVERNING THE MANAGEMENT OF STATE MONEYS BY THE STATE TREASURER, INCLUDING THE PROVISIONS OF ARTICLE 36 OF THIS TITLE.

(d) THE PROVISIONS OF ARTICLE 18 OF THIS TITLE ESTABLISHING STANDARDS OF CONDUCT FOR STATE OFFICERS AND EMPLOYEES.

24-50-507. Conflict of interest. (1) IN ADDITION TO ANY OTHER APPLICABLE LAWS, THE PROVISIONS OF THIS SECTION SHALL APPLY TO CONTRACTS ENTERED INTO PURSUANT TO THIS PART 5.

(2) (a) THE FOLLOWING INDIVIDUALS SHALL NOT SOLICIT OR ACCEPT, DIRECTLY OR INDIRECTLY, ANY PERSONAL BENEFIT OR PROMISE OF A BENEFIT FROM AN ENTITY OR A PERSON NEGOTIATING, DOING BUSINESS WITH, OR PLANNING, WITHIN THE INDIVIDUAL'S KNOWLEDGE, TO NEGOTIATE OR DO BUSINESS WITH THE CONTRACTING AGENCY:

(I) A MEMBER OF, OR ANY OTHER PERSON OR ENTITY UNDER CONTRACT WITH, ANY GOVERNMENTAL BODY THAT EXERCISES ANY FUNCTIONS OR RESPONSIBILITIES IN THE REVIEW OR APPROVAL OF THE UNDERTAKING OR CARRYING OUT OF THE PROJECT, INCLUDING BUT NOT LIMITED TO ANY EMPLOYEE OF THE CONTRACTING AGENCY OR ANY PERSON SERVING AS THE MONITOR OF A PERSONAL SERVICES CONTRACT; OR

(II) A MEMBER OF THE IMMEDIATE FAMILY OF ANY INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

(b) NO INDIVIDUAL DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL USE HIS OR HER POSITION, INFLUENCE, OR INFORMATION CONCERNING SUCH NEGOTIATIONS, BUSINESS, OR PLANS TO BENEFIT HIMSELF OR HERSELF OR ANOTHER.

(3) A CONTRACTOR SHALL AGREE THAT, AT THE TIME OF CONTRACTING, THE CONTRACTOR HAS NO INTEREST AND SHALL NOT ACQUIRE ANY INTEREST, DIRECT OR INDIRECT, THAT WOULD CONFLICT IN ANY MANNER OR DEGREE WITH THE PERFORMANCE OF THE CONTRACTOR'S SERVICES. THE CONTRACTOR SHALL FURTHER COVENANT THAT, IN THE PERFORMANCE OF THE CONTRACT, THE CONTRACTOR SHALL NOT EMPLOY ANY PERSON HAVING ANY SUCH KNOWN INTERESTS.

24-50-508. Intergovernmental agreements excluded. IN ACCORDANCE WITH SECTION 18 (2) OF ARTICLE XIV OF THE STATE CONSTITUTION; CONTRACTS BETWEEN THE STATE AND ITS POLITICAL SUBDIVISIONS OR THE GOVERNMENT OF THE UNITED STATES, OR ANY COMBINATION THEREOF, SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS PART 5.

24-50-509. Review of individual contracts by state personnel director - when not required. THE STATE PERSONNEL DIRECTOR MAY APPROVE THE USE OF PERSONAL SERVICES CONTRACTS FOR

ANY PROGRAM, WITHOUT THE NECESSITY OF REVIEWING THE INDIVIDUAL CONTRACTS, IF THE CONTRACTS ARE OF THE SAME TYPE AND IF THE STATE PERSONNEL DIRECTOR DETERMINES THAT SUCH CONTRACTS MEET THE REQUIREMENTS OF THIS PART 5.

24-50-510. Annual report of contracts. USING FORMS SUPPLIED BY THE STATE PERSONNEL DIRECTOR, EVERY STATE AGENCY SHALL SUBMIT TO THE STATE PERSONNEL DIRECTOR A REPORT NO LATER THAN SEPTEMBER 30 OF EACH YEAR SETTING FORTH THE TYPES AND DOLLAR VALUES OF CONTRACTS FOR SERVICES APPROVED DURING THE PRECEDING FISCAL YEAR. SUCH REPORT SHALL INCLUDE INFORMATION ON ANY CHANGES TO THE TYPES OR NUMBER OF CLASSIFIED POSITIONS IN THE STATE AGENCY AS A DIRECT RESULT OF CONTRACTS ENTERED INTO BY THE AGENCY. AS USED IN THIS SECTION, "STATE AGENCY" MEANS EVERY BOARD, BUREAU, COMMISSION, DEPARTMENT, INSTITUTION, DIVISION, OR SECTION OF STATE GOVERNMENT, INCLUDING INSTITUTIONS OF HIGHER EDUCATION.

24-50-511. State personnel director procedures. THE STATE PERSONNEL DIRECTOR SHALL PROMULGATE PROCEDURES TO IMPLEMENT THE POLICIES OF THIS PART 5. SUCH PROCEDURES SHALL INCLUDE, BUT NOT BE LIMITED TO, PROVISIONS FOR CONSIDERATION OF CONTRACTORS THAT UTILIZE A PREFERENCE FOR HIRING VETERANS OF MILITARY SERVICE AND AN ANNUAL CERTIFICATION PROCESS FOR ONGOING PERSONAL SERVICES CONTRACTS. IN PROMULGATING PROCEDURES GOVERNING THE ANALYSIS OF COST SAVINGS PURSUANT TO SECTION 24-50-503 (1), THE STATE PERSONNEL DIRECTOR SHALL CONSIDER THE RECOMMENDATIONS OF THE OFFICE OF STATE PLANNING AND BUDGETING.

24-50-512. State personnel board rules. THE STATE PERSONNEL BOARD MAY PROMULGATE RULES CONSISTENT WITH THE POLICIES OF THIS PART 5.

24-50-513. Contracts of six months or less - permitted. PERSONAL SERVICES CONTRACTS FOR A TERM OF SIX MONTHS OR LESS THAT ARE NOT EXPECTED TO RECUR ON A REGULAR BASIS ARE PERMISSIBLE AND ARE NOT SUBJECT TO THIS PART 5.

24-50-514. Repeal of part. THIS PART 5 IS REPEALED, EFFECTIVE JULY 1, 1995.

SECTION 2. 24-50-128 (2) and (3), Colorado Revised Statutes, 1988 Repl. Vol., are repealed as follows:

24-50-128. Certification required before salary paid.  
~~(2) Contracts for personal services for a term longer than six months in duration shall be reviewed by the state personnel director to determine whether such positions should be brought into the state personnel system.~~

~~(3) It is declared to be the policy of the state that contracts for personal services which create an employer-employee relationship shall normally not be used to fill permanent or~~


~~temporary positions in the state personnel system where the duties of such positions are classified and where such duties are commonly or historically performed by employees in regular positions under the state personnel system. If the duties of a position will not become a permanent assignment within the personnel system or if either a classification does not exist into which the position can properly be allocated or the nature of work is so unusual or specialized that there is no need to develop a permanent class specification, as determined by the state personnel director, the head of a principal department or college or university may seek approval of the state personnel director to enter into a personal service contract for such a position. A copy of each such contract must be forwarded to the state personnel director in the manner prescribed by the personnel director and prior to the effective date of the contract. The director shall have the authority to finally approve or disapprove such contracts, but the director may delegate the preliminary authority to enter into such contracts, if any of the criteria of this subsection (3) are met. If, upon review of the contract, the personnel director finds that none of such criteria exist, or that the personnel director determines that the position should be filled in accordance with the provisions of this part 1 and the rules on appointments adopted by the state personnel board, the state personnel director shall disapprove the filling of the position by contract. In no event shall the contract exceed six months in a twelve month period, nor shall any person be employed longer than six calendar months in any twelve month period through any combination of a contract and any other type of temporary appointment. The state personnel director shall, within ten days of receipt, approve or disapprove the submitted contract. If a personal service contract is entered into for such a permanent or temporary position in the face of disapproval of the state personnel director or without the forwarding of the contract in the prescribed manner, the contract shall be deemed void from the beginning, and the person appointed to such position shall be immediately terminated.~~

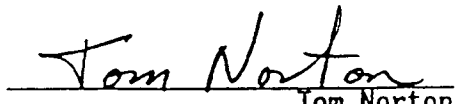
**SECTION 3. Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.


**SECTION 4. Safety clause.** The general assembly hereby

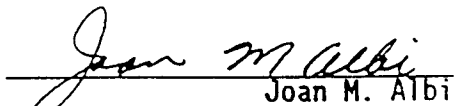


finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

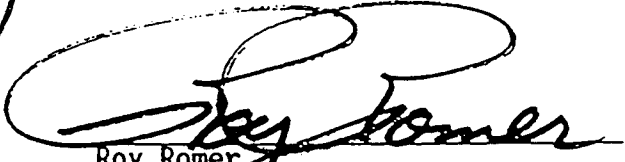
  
Charles E. Berry  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

  
Tom Norton  
PRESIDENT OF  
THE SENATE

  
Lee C. Bahrych  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

  
Joan M. Albi  
SECRETARY OF  
THE SENATE

APPROVED *April 7, 1993 at 1:22 PM.*

  
Roy Romer  
GOVERNOR OF THE STATE OF COLORADO

1995

# An Act

HOUSE BILL 95-1105

BY REPRESENTATIVES Berry, Epps, Martin, Pankey, and Taylor; also SENATORS Norton, Ament, R. Powers, and Tebedo.

CONCERNING THE USE OF PERSONAL SERVICES CONTRACTS BY STATE GOVERNMENT, AND, IN CONNECTION THEREWITH, EXTENDING THE PRIVATIZATION LAW GOVERNING SUCH CONTRACTS AND MAKING OTHER MINOR REVISIONS THERETO.

*Be it enacted by the General Assembly of the State of Colorado:*

SECTION 1. 24-50-503 (1) (f) (III), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-50-503. Personal services contracts implicating state personnel system - no separation of existing classified employees. (1) Contracts for personal services that create an independent contractor relationship and that are not authorized under the provisions of section 24-50-504 are nevertheless permissible under this section to achieve increased efficiency in the delivery of government services when the state personnel director determines that all of the following conditions are met:

(f) The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by state government. In assessing the public's interest, the state personnel director shall take into account:

(III) The extent to which the contracting preserves the principles of competence in government and the avoidance of political patronage. For such purpose, there shall be considered the applicability of other laws, including those as enumerated in ~~section 24-50-505~~ SECTION 24-50-506, that aid in safeguarding the fundamental principles underlying the state personnel system.

SECTION 2. 24-50-509, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-50-509. Review of individual contracts by state personnel director - when not required. The state personnel director may approve the use of ~~personal-services~~ contracts ~~for any program~~, without the necessity of reviewing the individual contracts, if the contracts are of the same type and if the state personnel director determines that such contracts meet the requirements of this part 5.


SECTION 3. 24-50-513, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

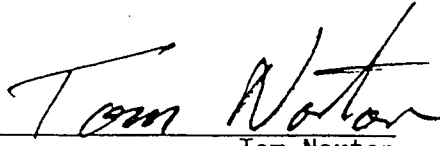
24-50-513. Contracts of six months or less - permitted. ~~Personal-services~~ Contracts for a term of six months or less that are not expected to recur on a regular basis are permissible and are not subject to this part 5.

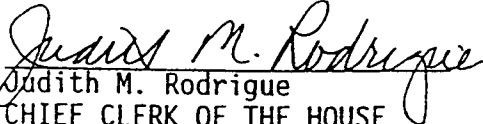
SECTION 4. 24-50-514, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

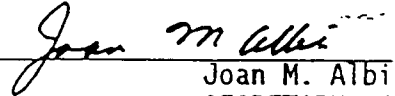
24-50-514. Repeal of part. ~~This part 5 is repealed, effective July 1, 1995.~~

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

  
Charles F. Berry  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

  
Tom Norton  
PRESIDENT OF  
THE SENATE

  
Judith M. Rodrigue  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

  
Joan M. Albi  
SECRETARY OF  
THE SENATE

APPROVED April 7, 1995 at 8:10 a.m.

  
Roy Romer  
GOVERNOR OF THE STATE OF COLORADO