



## Legislation Text

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**File #:** Res 0037-2004, **Version:** A

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### Res. No. 37-A

Resolution urging the Mayor and all city agencies to comply with Local Law 35 (Section 312(a) of the New York City Charter) which requires agencies to conduct a cost/benefit analysis prior to making a decision to privatize city services, and in particular, urging the city to abandon its current efforts to privatize the custodial workforce in New York City schools, and instead to continue and expand the use of a unionized, civil service custodial workforce by rehiring civil service Custodian Engineers in schools currently using private contractors.

By Council Members Jackson, The Speaker (Council Member Miller), Addabbo, Jr., Quinn, Barron, Brewer, Clarke, Gentile, Gerson, James, Katz, Martinez, Nelson, Reed, Weprin, Liu, Gennaro, Reyna, Palma, Avella, Sears, Monserrate, McMahon, DeBlasio, Perkins, Rivera, Lopez, Yassky, Gioia, Comrie, Dilan, Gallagher, Vallone, Gonzalez, Foster, Serrano, Recchia and The Public Advocate (Ms. Gotbaum)

Whereas, Pursuant to Local Law 35, prior to entering into any contract to privatize services performed by city employees, City agencies must conduct a cost/benefit analysis and must provide the Council with a copy of such analysis; and

Whereas, Further, pursuant to section 2-01 of the Procurement Policy Board's rules, agencies procuring technical, consultant and personal services must document, in writing, their rationale for outsourcing; the rule further requires the agency to take several factors into account in its decision to outsource, including the cost-effectiveness of outsourcing; and

Whereas, The Office of Management and Budget, as stated in *Contracting-In Cost Comparison Manual: A Guide to Determining Cost-Effectiveness*, requires a detailed cost analysis by agencies wishing to contract out for engineering/architectural services, custodial services and secretarial and other office services; and

Whereas, Taken together, Local Law 35, the PPB Rules and the City Office of Management and Budget provide the agencies with a detailed framework within which to determine the need and appropriateness of contracting-out for services, the purpose of which is to ensure that the City has some basis for a decision to

outsource, that it uses taxpayer dollars prudently, and that it does not privatize simply for the sake of privatizing; and

Whereas, For at least the past five years, the Council has not received a report of a cost/benefit analysis from any city agency; and

Whereas, Further, at a hearing of the City Council's Committee on Contracts in May, 2003, the Committee heard testimony from the City's largest municipal workers union, District Council 37, that city agencies have generally ignored the requirements of Local Law 35 over the past several years; and

Whereas, A particularly egregious example of failure to comply with Local Law 35 involves the current efforts of the Department of Education to privatize its custodial workforce; and

Whereas, Currently, the Department of Education is soliciting bids from private contractors to perform the functions of the civil service Custodial Engineers, but it has not conducted an analysis comparing the costs and benefits of privatizing with those of maintaining a civil service Custodian Engineer workforce; and

Whereas, While the administration may claim that the contracting provisions of the Charter, such as Local Law 35, do not apply to contracts entered into by the Department of Education, nothing prohibits the Department from utilizing this common-sense approach to determine the benefit and cost effectiveness of privatization of custodial functions in the City's schools; and

Whereas, Indeed, it is incumbent upon the Department of Education during this time of fiscal uncertainty, to make certain that it spends wisely and creates safe environments for children; and

Whereas, The New York City School System has employed civil service Custodian Engineers to maintain school system buildings for over 100 years; and

Whereas, Civil service Custodian Engineers have been a unionized workforce since 1924, belonging to Local 891 of International Union of Operation Engineers, affiliated with the American Federation of Labor since that time and affiliated with the New York Central Labor Council for almost 50 years; and

Whereas, The current civil service Custodian Engineers' contract is a result of traditional fair and

equitable collective bargaining with management; and

Whereas, Civil service Custodian Engineers have qualified for their positions through competitive examinations, licensing requirements, extensive experience and background investigations, and provide an exceptional level of safety not affordable or attainable under a privatized system; and

Whereas, The failure to apply a cost/benefit analysis to its privatization effort is particularly troubling because had the Department conducted such an analysis, it would most certainly have found it not to be in the City's best interests to privatize custodial services; and

Whereas, Indeed, based on the Mayor's own statistics as reported in the Mayor's Management Reports over the past ten years, private custodians cost more than civil service Custodian Engineers-sometimes substantially more; and

Whereas, Furthermore, based on an analysis of data provided by the Department of Education in its Office of Financial Management's "School Based Budget Reports," it is clear that New York City public schools that have privatized custodial services are spending more for such services than schools serviced by civil service custodians; civil service Civil service Custodian Engineers have provided their services at less cost than private companies; and

Whereas, Moreover, unlike private companies, civil service Custodian Engineers serve schools without concern for corporate profit; indeed, civil service Custodian Engineers return unused funds budgeted for custodial services to the Department of Education, and over the past several years, Custodian Engineers have returned to the New York City school system as much as five million dollars per year in cost savings through the efficient exercise of their posts; and

Whereas, Given the profit motive of private companies, meaningful cost savings through the privatization of custodial services above and beyond the costs associated with the provision of school maintenance, could only come at a sacrifice of the current quality of custodial services or the utilization of a non-union, low paid and possibly less qualified workforce; and

Whereas, The current civil service system, which ensures full government oversight without injecting a profit motive, provides a better mechanism to ensure that the custodial staff workers hired are correctly screened and monitored, and further provides more effective security measures by more closely controlling who may enter into City schools and work around children; and

Whereas, The poor management of funds earmarked to protect the health, safety and education of the City's children is of particular concern to the Council; and

Whereas, In addition to cost savings, the use of civil service Custodian Engineers results in other significant benefits for the City; for example, private contractors typically purchase materials and equipment outside the local neighborhoods while civil service Custodian Engineers do a substantial amount of such purchases locally thereby creating a positive multiplier effect on the local economy; and

Whereas, Moreover, racial diversification requirements imposed by the United States Justice Department on the City and its Department (then Board) of Education, have resulted in the hiring of those qualified candidates from civil service lists that have helped the process to establish a custodial work force that truly represents the ethnic, racial and national diversity of our city; privatization could reverse this trend markedly; and

Whereas, Reforms put in place by fair collective bargaining and legislative action in the present custodial system have improved our schools and promise to continue to do so; and

Whereas, Despite these reforms and the clear cost savings, efficiencies and other benefits associated with employing civil service Custodian Engineers, the Department of Education through its solicitation of bids for private contractor custodial services has indicated that it plans to further privatize custodial services; and

Whereas, Under the solicitation, a private contractor would replace 255 of Local 891's union positions-a full 30% of its total membership of 850--with non-union workers; now, therefore, be it

Resolved, That the City Council urges the Mayor and all city agencies to comply with Charter Section 312(a) which requires agencies to conduct a cost/benefit analysis prior to making a decision to privatize city

services, and in particular, urges the city to abandon its current efforts to privatize the custodial workforce in New York City schools, and instead to continue and expand the use of a unionized, civil service custodial workforce by rehiring civil service Custodian Engineers in schools currently using private contractors.

RJN  
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