

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 799** HLS 16RS 886
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

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Dept./Agy.: State contracts	Analyst: Alan M. Boxberger
Subject: Requires certain information in all state contracts	

PUBLIC CONTRACTS OR INCREASE GF EX See Note Page 1 of 1
 Requires certain information be included in all state contracts and certain state-related contracts

Proposed law deems all state contracts subject to the Louisiana Procurement Code, a university pilot procurement code, or any contract issued by the LCTCS Facilities Corporation be deemed public records for the purposes of proposed law and requires that such contracts contain: certification by the contractor that nothing of any value was given to any party in exchange for granting of the contract, except for the obligation of the contract; certification that the contract is on behalf of the entity itself and not as a front for another person or entity acting as true owners of the contractor; certification that it acknowledges that a covered contract is a public record and filing false public records is a criminal offense under present with specified criminal penalties; and an appropriations dependency clause allowing a contract to be terminated at the beginning of the fiscal year for which funds are not appropriated. Proposed law requires that each professional, personal, consulting and social services contract shall contain a provision authorizing the contracting entity to terminate the contract upon 30 days notice or sooner.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Federal Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total						

REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

Proposed law would require that all contracts include language providing for certain certifications by contractors, reiterating that contract documents are public records, providing that falsehoods in the contract are criminal offenses, providing an appropriations dependency clause allowing for semi-automatic termination if no funds are available, as well as providing for a thirty day or sooner contract termination clause for all professional, personal, consulting and social services contracts.

The Division of Administration (DOA) reports that several of the proposed law's provisions are already provided for: corruption and falsehoods in state contracts are illegal, contract documents are public records, contracts contain dependency clauses, and contracts already have standard termination clauses with 30 days being the typical rule but in some situations the state uses a 60 or 90 day termination where workforce disruptions will apply or when the contractor has a substantial upfront investment in a project. DOA reports proposed law will result in very little operational impact other than nominal additional workloads associated in revising the state's standard contract templates and verifying that such provisions are present in the final contracts, activities that can likely be absorbed within the agency's normal operations.

The Office of State Procurement (OSP) estimates approximately 40 hours of work time to draft and implement template changes, and 5 minutes per contract review to provide careful reading and confirmation that the provisions of proposed law are included. In 2015, OSP reviewed and approved 4,017 contracts. OSP estimates it will require approximately 335 hours of additional annual work time to review contracts in addition to the 40 hours mentioned previously for a total workload adjustment of 375 hours in the first year and 335 hours annually thereafter. Given that the workload increase is less than a full T.O. FTE position, it is likely that existing staff and resources can absorb the workload. To the extent that numerous pieces of legislation may impact the agency's workload, it is possible that additional staff and resources may be necessary.

OSP reports that inclusion of a 30 day, or sooner, cancellation clause in every state contract will likely result in vendors increasing costs by an indeterminable amount to cover the risk of losing the state's business prior to recovering the entity's upfront costs of securing and starting the contracted work. Existing state contracts already have provisions for "Cancellation for Cause" and "Cancellation for Convenience," so proposed law likely goes beyond existing cancellation provisions to provide more advantageous terms for the state upon termination. The extent to which contract costs may increase is unknown and not easily estimated but could be significant when considering the full scope of state contracts on an annual basis. Any potential increased expenditure impact would likely impact all means of finance.

REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure.

Senate Dual Referral Rules House

13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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