

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **HB 128** HLS 14RS 96  
 Bill Text Version: **ENGROSSED**  
 Opp. Chamb. Action:  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> May 12, 2014 9:05 AM	<b>Author:</b> HAVARD
<b>Dept./Agy.:</b>	<b>Analyst:</b> Travis McIlwain
<b>Subject:</b> LA Privatization Review Act	

PRIVATIZATION EG SEE FISC NOTE GF EX See Note Page 1 of 2  
 Establishes the Privatization Review Act

Proposed legislation provides that no state agency shall enter into a privatization contract unless the agency, in consultation with the Division of Administration (DOA), complies with certain requirements. Those requirements include: 1.) preparing a written statement of services proposed to be privatized, 2.) every privatization contract shall contain provisions requiring the contractor to offer available employee positions to qualified classified state employees of the agency at which state employment is terminated due to privatization, 3.) comprehensive written estimate of the costs of state employees providing services including all direct and indirect costs, 4.) after receiving bids, agency shall prepare written analysis of the contract cost, 5.) head of state agency must certify in writing to the legislative auditor and appropriated standing committees of various items relative to the contract. Proposed legislation limits privatization contracts to \$5 M or more and limits lease agreements to \$500,000 or more. Proposed legislation provides for the legislative auditor to review each contract and certificate no later than 30 days after receipt. Proposed legislation provides for a post-privatization review process that includes an analysis of the nongovernmental entity's compliance with the terms of contract, all complaints received by contractor from agency and a current analysis of the fair market rental or lease value of the state building or facility based upon documented comparables.

<b>EXPENDITURES</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b><u>\$0</u></b>
<b>Annual Total</b>						
<b>REVENUES</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b><u>\$0</u></b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**EXPENDITURE EXPLANATION**

Due to this legislation being prospective, this bill may result in an indeterminable increase in the workload of the Legislative Auditor, the Division of Administration (DOA) and any state agency seeking a privatization contract due to the review and analysis requirements in the bill. However, the extent of the workload will ultimately depend upon the number of privatization and/or leases in excess of \$5 M (privatization) and \$500,000 (leases) that are proposed. If a privatization proposal includes a building/lease of state facility there could be nominal costs associated with the post privatization process, which requires an analysis of the fair market rental value of the state facility.

The Legislative Auditor is estimating 300 audit hours per privatization contract reviewed that can be absorbed with existing staff and resources. However, to the extent there are a significant number of privatization reviews required by this bill, the legislative auditor could require additional staff and resources. The specific expenditure impact of Legislative Auditor is dependent upon the additional workload this legislation actually creates.

This legislation requires each agency to provide the following analysis: 1.) fiscal analysis of state employees providing the state service that the proposed contractor would provide, 2.) fiscal analysis of the cost of the contractor providing the same service state employees are currently providing. Even though this bill may increase the workload for those state agencies requesting a privatization contract in excess of \$5 M, the Legislative Fiscal Office assumes state agencies would be completing this analysis regardless of this bill's requirements in order to determine the cost effectiveness of a proposed privatization.

The overall costs to executive branch agencies as a result of this legislation will ultimately depend upon the implementation of the certification process required by each agency head seeking privatization to the legislative auditor. The DOA has indicated to the Legislative Fiscal Office that this legislation will require 6 additional positions and related expenditures for a total cost of \$672,500. The DOA contends these positions are needed for investigation into the background of employees hired by the private companies. One of the requirements of this legislation is for each agency head to certify in writing to the legislative auditor that the business and its supervisory employees have no adjudicated record of repeated noncompliance with any federal or state regulatory provisions and laws. Due to this broad language included in the bill, the DOA has interpreted this section to include researching a significant number of potential violations including EEOC, OSHA, Environmental laws, etc. that would have to be verified by each agency head. However, to the extent a state agency requires the company to sign affidavits certifying that the company has no repeated noncompliance issues with any federal or state regulatory provisions, there may be no anticipated expenditures for executive branch agencies as result of complying with this (See Page 2)

**REVENUE EXPLANATION**

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

Senate	<u>Dual Referral Rules</u>	House	<input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}	<i>Evan Brasseaux</i> Evan Brasseaux Staff Director
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}		<input type="checkbox"/> 6.8(F)(2) >= \$500,000 State Rev. Reduc. {H & S}		
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}		

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**CONTINUED EXPLANATION from page one:** Page 2 of 2

section of the proposed bill. This certified document may be included in the overall privatization contract with the state.

In addition, this legislation requires a post privatization process that requires a current analysis of the fair market rental or lease value of the state building or facility. The DOA has indicated that this analysis may cost on average approximately \$3,500/appraisal. To the extent this legislation is enacted and an agency proposes a privatization contract in excess of \$5 M and that contract involves a state facility or building, the state will likely incur additional costs associated with this annual requirement in subsequent fiscal years. This potential annual cost would only be incurred if a state agency entered into a privatization agreement in excess of \$5 M and also includes a state facility in the agreement.

To the extent these privatization reviews result in additional legislative standing committee meetings, the legislative member per diem rate is \$153 and the mileage reimbursement is \$0.56/mile. This bill provides for legislative standing committee approval prior to entering into the privatization contract and further provides for the full legislature to adopt a concurrent resolution before the agency enters into the privatization contract.

<p><u>Senate</u></p> <p><input type="checkbox"/> 13.5.1 &gt;= \$100,000 Annual Fiscal Cost {S&amp;H}</p> <p><input type="checkbox"/> 13.5.2 &gt;= \$500,000 Annual Tax or Fee Change {S&amp;H}</p>	<p><u>Dual Referral Rules</u></p>	<p><u>House</u></p> <p><input type="checkbox"/> 6.8(F)(1) &gt;= \$100,000 SGF Fiscal Cost {H &amp; S}</p> <p><input type="checkbox"/> 6.8(F)(2) &gt;= \$500,000 State Rev. Reduc. {H &amp; S}</p> <p><input type="checkbox"/> 6.8(G) &gt;= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}</p>	<p><i>Evan Brasseaux</i></p> <hr/> <p><b>Evan Brasseaux</b> Staff Director</p>
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