

Legislative Analysis



STATE PROCUREMENT AND PRIVATIZATION: REQUIRED INFORMATION AND STUDIES

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House Bill 4700 as introduced
Sponsor: Rep. Martin Howrylak

House Bill 4701 as introduced
Sponsor: Rep. Scott Dianda

House Bill 4704 as introduced
Sponsor: Rep. Pam Faris

House Bill 4702 as introduced
Sponsor: Rep. Edward McBroom

House Bill 4705 as introduced
Sponsor: Rep. Peter J. Lucido

House Bill 4703 as introduced
Sponsor: Rep. John Kivela

Committee: Government Operations
Complete to 5-4-16

BRIEF SUMMARY:

The bill package amends various provisions within the Management and Budget Act that address procurement contracts entered into by state agencies for services provided by vendors, and requirements that certain information pertaining to state expenditures be accessible to the public on state agency websites.

House Bill 4700 requires state agencies to post certain information pertaining to the number of jobs, and the wages for those jobs, paid for by state funds.

House Bill 4701 requires a vendor to provide financial, operational, and accounting records related to the performance of a governmental function under a procurement contract for services entered into by a state agency that exceed \$500,000 in any year.

House Bill 4702 requires a state agency to conduct certain economic impact studies before seeking approval to privatize services performed by state employees and post the results of the studies on its website.

House Bill 4703 requires a procurement contract for services entered into by a state agency to include specific performance criteria and cost parameters, and allow the contract to be cancelled if the criteria and parameters are not met, or if local, state, and federal laws and regulations are not complied with.

House Bill 4704 requires a pre-privatization cost-benefit analysis be done before a state agency seeks approval to privatize services that would replace services performed by state employees, including a comparison of costs if state employees continued to provide the

services or if they were provided by a private contractor. The cost-benefit analysis would have to be posted on the agency's website.

House Bill 4705 would not allow a vendor to participate in the bid process or be awarded a contract without a signed statement attesting that the vendor is in compliance with all local, state, and federal laws and regulations, and allow the state or the agency to void the contract if the vendor was not in such compliance.

DETAILED SUMMARY:

House Bill 4700

Public Act 381 of 2012 required the Department of Technology, Management, and Budget (DTMB) to issue directives requiring all state agencies to provide the department with certain information regarding the expenditure of state funds. The information must be reported to the DTMB and made available to the public through a link on an agency's website homepage.

The bill amends Article 4 of the act to also require that state agencies report, and post for public access, the number of full-time jobs and part-time jobs and the wage rate for those jobs that will be maintained or created with the expenditure of state funds. (MCL 18.1448)

House Bill 4701

Under Public Act 230 of 2012, if a state agency enters into a procurement contract for services, the contract has to provide that the Department of Management and Budget, or its designee, be allowed to audit the vendor to verify compliance with the contract. In addition, the financial and accounting records associated with the contract must be made available to the department, its designees, and to the Legislative Auditor General upon request.

Under the bill, if a state agency enters into a contract for services that exceed \$500,000 in any year, the contract must provide that the vendor provide financial, operational, and accounting records related to the performance of the governmental function to the state agency. The state agency must then post those records on its website. (MCL 18.1470)

House Bill 4702

The bill adds a new section to Article 2 of the act to require a state agency, before seeking approval from the Civil Service Commission for privatizing any services that replace services performed by state employees, to submit a detailed economic impact study to the Appropriations committees of the Senate and House of Representatives. The detailed economic impact study must include, but is not limited to, all of the following:

- Possible loss of employment or income in a local area and statewide.
- Impacts on social services in the local area and statewide and the cost to the state associated with the social services impact.
- Impacts on public assistance programs and the cost to the state associated with those impacts.
- Economic impact on local and state businesses.

- Possible loss or increase in tax revenue for a local area or the state.
 - Economic impact on the agricultural industry and on the manufacturing industry.
- The state agency must post a copy of each detailed economic impact study created under the bill on its website. (MCL 18.1282, proposed)

House Bill 4703 adds a new section to Article 2 of the act to require a procurement contract for services entered into by a state agency to provide specific performance criteria and cost parameters, and also provide that the contract may be canceled if the contractor fails to meet the specific performance criteria or other requirements of the contract. The bill also specifies that the state agency may cancel the contract at any time if the contractor fails to comply with all applicable local, state, and federal laws and regulations. (MCL 18.1280, proposed)

House Bill 4704

The bill adds a new section to Article 2 of the act. Before seeking approval from the Civil Service Commission for privatizing any services that replace services performed by state employees, the bill would require a state agency to submit a detailed pre-privatization cost-benefit analysis to the Appropriations committees of the Senate and House of Representatives.

The analysis must be prepared utilizing accurate, reliable, and objective data, and using the soundest actuarial techniques available to the state agency. The analysis must include a detailed comparative estimate of the costs the state would incur for the contract period if state employees were to continue to provide the services, as well as if a private contractor were to provide the services. The cost analysis of privatizing the services would also have to include all necessary monitoring and oversight of the private entity by the state and up-to-date cost estimates for using companies that have a previous history or reputation for providing quality services and that will provide services covered by performance bonds.

Further, a state agency could not proceed with privatization of services until it received cost estimates and recommendations for changes in work processes from the state employees who are performing the services, or their representatives, and the agency gave full and fair consideration of the revised cost estimates and recommendations for those changes.

Lastly, the state agency must publish a copy of the detailed pre-privatization cost-benefit analysis on its website. (MCL 18.1280, proposed)

House Bill 4705

Article 2 of the act provides circumstances in which the department may exclude a vendor from participation in the bid process and from a contract award.

The bill amends this provision to specify that a vendor could not participate in the bid process or be awarded a contract under the act unless the vendor first submitted a statement to the department, signed under the penalty of perjury, attesting that the vendor is in

compliance with all local, state, and federal laws and regulations. The department or state agency could void the contract if the vendor is in violation of the bill's provisions. (MCL 18.1264)

FISCAL IMPACT:

House Bills 4702 & 4704 would have an indeterminate impact on state departments. There would be a cost associated with conducting and providing the required cost studies and analysis around privatization of services. However, the cost of the required studies would fluctuate on a case by case basis and a cost impact cannot be determined at this time. There is the potential that the studies would be covered under current funding levels if departmental staff, whose salaries are already covered, were the ones conducting the analysis. There could be recognized cost savings for the agencies resulting from the analysis conducted; however, the resulting impact would also have to be determined on a case by case basis.

House Bills 4700, 4701, 4703 & 4705 would have no fiscal impact on state or local governments.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.