LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 8, 2015

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB20** by Nelson (Relating to state agency contracting; creating an offense.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB20, As Engrossed: a negative impact of ($4,950,000) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	($2,700,000)
2017	($2,250,000)
2018	($950,000)
2019	($950,000)
2020	($950,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Change in Number of State Employees from FY 2015
2016	($2,700,000)	8.0
2017	($2,250,000)	8.0
2018	($950,000)	8.0
2019	($950,000)	8.0
2020	($950,000)	8.0

Fiscal Analysis

The bill would amend the Government Code to require the State Auditor's Office to consider auditing contracts entered by the Health and Human Services Commission that exceed $100 million in annual value.

The bill would require the Comptroller of Public Accounts (CPA), in cooperation with the Governor's budget and policy staff, to conduct a study examining the feasibility and practicality of consolidating state purchasing functions and reducing the number of vendors authorized to contract with the state.

The bill would amend the Government Code to specify that purchasing information reported by state agencies in the statewide uniform accounting system should include solicitation and contracting information, as defined by CPA.

The bill would require agencies to submit a certain number of requests for pricing on purchases made through multiple award contract schedules at CPA and the Department of Information Resources (DIR) depending on the value of the goods, services, and contracts. Agencies would also be required to receive approval for statements of work on DIR information technology commodity contracts worth more than $50,000.

The bill would require agencies and institutions of higher education to comply with certain reporting requirements for each contract with a value exceeding $1 million, and to comply with certain additional requirements for each contract with a value exceeding $5 million. Agencies and institutions of higher education would be required to develop a risk analysis procedure and identify certain types of contracts for enhanced contract or performance monitoring. The bill would also require agencies and institutions of higher education, including the Texas Department of Transportation (TxDOT), to post online a list of the contracts the entities have entered along with the statutory authorities and request for proposals associated with the procurements.

The bill would require institutions of higher education to participate in the training and certification process offered by CPA to state agencies.

The bill would expand the membership of the Contract Advisory Team (CAT) from six members to nine, with one additional member each from the Texas Department of Transportation, the Texas Education Agency, and the Texas Commission on Environmental Quality; and require the team to submit a quarterly report to the Legislative Budget Board on the number of solicitation documents and contracts reviewed in the previous quarter. Agencies would be required to submit contract changes that result in a change in value of 20 percent or more for review by the CAT on contracts that were previously reviewed by CAT.

The bill would amend the Education Code to make the procurement authority of institution of higher education contingent on implementation of policies and procedures described in the bill. If the state auditor determines that an institution of higher education has failed to adopt the required rules and policies, the auditor will adopt a remediation plan in consultation with the institution. If the auditor finds that the institution fails to comply with the remediation plan, the purchasing authority of the institution would subject to standard agency procurement oversight and procedures.

The bill would create a Class A misdemeanor for the employment of former state employees and officers within the first two years after state employment if those employees participated in a procurement related to the hiring entity.

Methodology

This estimate assumes the CPA would incur additional administrative costs of $1.6 million in General Revenue to hire 8.0 FTEs in the 2016-17 biennium for legal support for new procurements, ensuring compliance with procurement requirements, and conducting additional

reviews of contract amendments for contracts subject to CAT review. The CPA would also incur costs of $0.8 million in General Revenue in 2016-17 to contract for assistance to study state procurement and to reimburse the State Office of Administrative Hearings for additional vendor protests.

TxDOT estimates a cost in the 2016-17 biennium to develop a system for identifying and hosting 50,000 contracts on its website annually. This analysis assumes that on-going business costs to maintain this system in fiscal year 2018 and beyond could be absorbed by the agency using existing resources.

In addition to the costs reported by the CPA, both institutions of higher education and state agencies reported some costs associated with implementation of the provisions of the bill, including the verification of contract monitoring information provided by contractors, developing and implementing a risk analysis procedure to identify contracts that require enhanced contract and performance monitoring, and the additional reporting requirements. For purposes of this fiscal note, it assumed that these costs are not significant and could be absorbed by the institutions and agencies.

DIR estimates there would be a cost associated with implementing provisions of the bill including reviewing statements of work for information technology commodity purchases over $50,000. It is anticipated that these cost could be absorbed within existing resources. The agency also anticipates a loss of revenue out of appropriated receipts generated from administrative fees charged to customers of DIR's cooperative contracts program due to the $1 million cap on contracts offered through the program. The agency anticipates that administrative fees would be increased to offset the loss of revenue from purchases through the program. To the extent administrative fees are not increased, there would likely be a reduction in FTEs at DIR.

The State Auditor's Office (SAO) assumed that any remediation plans for institutions of higher education would be implemented through a remediation plan developed by the institution. According to SAO, the SAO would then determine compliance with the timeline and plan to preserve its independence in accordance with Government Auditing Standards. This work load could be absorbed using existing resources.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than $4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution, and confinement could likely be absorbed with existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 601 Department of Transportation, 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 303 Facilities Commission, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 313 Department of Information Resources, 320 Texas Workforce Commission, 405 Department of Public Safety, 450 Department of Savings and Mortgage Lending, 454 Department of Insurance, 582 Commission on Environmental Quality, 696 Department of Criminal Justice, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 781 Higher Education Coordinating Board, 783

University of Houston System Administration

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