

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 805**Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

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Measure Description:

Permits employee of contracting agency that conducts cost analysis or determines feasibility of procurement, or exclusive representative of employee's bargaining unit, to seek judicial review of cost analysis or determination.

Government Unit(s) Affected:

Cities, Department of Administrative Services (DAS), Department of Aviation, Department of Corrections, Department of Education, Department of Human Services (DHS), Department of Veterans' Affairs, Housing and Community Services Department, Judicial Department, Oregon Department of Fish and Wildlife (ODFW), Oregon Department of Transportation (ODOT), Oregon Health Authority (OHA), Oregon Military Department, Oregon Parks and Recreation Department (OPRD), Secretary of State

Summary of Expenditure Impact:

Please see analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The fiscal impact of the measure is indeterminate due to an unforeseeable number of possible actions and the undefined application of certain provisions added to statute.

The measure amends certain portions of state procurement statutes, requiring a contract agency, prior to deciding to conduct a procurement for services with an estimated contract price exceeding \$250,000 to perform a written cost analysis and demonstrate that it would cost more to perform the services or it would not be feasible to perform the services using the contracting agency's own personnel. Included in the cost analysis, the contracting agency must estimate the cost a potential contractor would incur and the profit the potential contractor would realize in performing the services. It is not clear however if the estimated profit is included, or how it is included, in the required comparison between costs of contractor providing services and cost of the contracting agency performing the services.

The measure allows for any employee, or their exclusive representative, of a contracting agency to seek a judicial review of the contracting agency's cost analysis or determination if the agency allegedly violates the provisions of the cost analysis requirements in statute after providing notice and allowing for possible administrative resolution if the contracting agency moves forward with the procurement. The number of potential disputes brought by employees of contracting agencies is unknown. The unclear language related to what is included in the cost comparison could potentially magnify this number. Since profit and even potential profit may vary widely between potential contractors, the inclusion of an estimated profit for the purpose of a comparison leading to a determination to contract for procurement potentially could lead to suit being brought against contracting agencies from private services providers. For these reasons the fiscal impact of the measure is indeterminate.