

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 3 - 2 - 0

Yeas: Beyer, Burdick, Rosenbaum

Nays: Ferrioli, Starr

Exc.: 0

Prepared By: Lori Brocker, Administrator

Meeting Dates: 6/24

WHAT THE MEASURE DOES: Allows employee of contracting agency, or exclusive representative of employee's bargaining unit, to seek judicial review of contracting agency's cost analysis for procurement of services if violation of cost analysis process is alleged. Requires de novo review of contracting agency's determination. Requires court enjoin contracting agency from proceeding with procurement if court finds for employee. Requires contracting agency include profit of potential contractor in cost analysis. Prohibits contracting agency from including proceeds or revenues from sale of long-term assets in cost analysis. Requires contracting agency to issue request for information or request for quotation prior to advertising or soliciting procurement. Requires information obtained from bids, proposals, or other sources after advertising or soliciting procurement to be included in cost analysis or determination and requires agency reconsider determination, if necessary, in light of new information. Becomes operative January 1, 2014. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Enforcement mechanism for current requirements
- Best practices in procurements contracts and cost analysis
- History of House Bill 2867 (2009) and work group
- Cost to agencies in defending determinations
- Concerns with obtaining certain required information

EFFECT OF COMMITTEE AMENDMENT: Provides definition to "proceeding with procurement." Modifies court's standard of review and remedies. Requires request for information or request for quotation prior to advertising or soliciting procurement. Requires inclusion of information obtained through procurement process to be included in cost analysis and requires reconsideration of determination in certain instances.

BACKGROUND: The Legislative Assembly enacted House Bill 2867 in 2009, which requires a contracting agency, before conducting a procurement for goods or services with an estimated contract price that exceeds \$250,000, to demonstrate through a cost analysis, or by other means, that the cost of providing goods or performing service with a contracting agency's own personnel or resources is greater than the cost of procuring goods or services from a contractor.

Senate Bill 805A allows an employee of a contracting agency, or the representative of the employee's bargaining unit, to seek judicial review of the cost analysis determination if violations of the cost analysis process are alleged. The measure requires the contracting agency to include in its cost analysis the profit the potential contractor stands to realize, and it prohibits including proceeds or revenues from the sale or contracting of any of the agency's long-term assets, including capital assets, vehicles, or other durable goods. Additionally, the measure requires contracting agencies to update the cost analysis or determination with information obtained in the soliciting or advertising process that would affect the cost analysis.

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This summary has not been adopted or officially endorsed by action of the committee.