

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass with Different Amendments and Be Printed Engrossed

Signers of the Report: Sen. Starr, Sen. Ferrioli

Prepared By: Lori Brocker, Administrator

Meeting Dates: 6/24

WHAT THE MEASURE DOES: Raises threshold for requiring contracting agency to produce cost analysis or determination on procurement of services contract from \$250,000 to \$2 million. 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 court give due deference to factual decisions and contracting agency's judgment in review of cost analysis. Requires de novo review of questions of law. Requires contracting agency demonstrate that procurement will advance certain educational goals. Requires contracting agency include profit of potential contractor in cost analysis. 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
- Potential difficulty obtaining certain required information

EFFECT OF COMMITTEE AMENDMENT: Raises threshold for requiring contracting agency to produce cost analysis or determination on procurement of services contract from \$250,000 to \$2 million. Removes prohibition on contracting agency including proceeds or revenue of sales of long-term assets, including capital assets, in cost analysis. Requires contracting agency to demonstrate that conducting the procurement will advance the statewide education goals outlined in ORS 351.009. Restores certain provisions of original statutory structure.

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 (Minority) 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 those procurements with a contract price of more than \$2 million to undergo the cost analysis. The measure requires the contracting agency to include in its cost analysis the profit the potential contractor stands to realize and requires that the agency demonstrate that the procurement will advance the state's 40-40-20 education goals.