

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: HB 2375 – A11**Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: Kim To
Reviewed by: Daron Hill, Paul Siebert, John Borden
Date: 6/3/2015

Measure Description:

Requires all state contracting agencies to use a contract form or contract template for all price agreements, cooperative procurements or procurements for which the Attorney General or the Director of the Oregon Department of Administrative Services determines that the specifications for goods and services, the terms and conditions, the scope or work or other aspects of a procurement or a class of procurements do not vary significantly among state contracting agencies.

Government Unit(s) Affected:

All state agencies

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:

House Bill 2375 with the – A11 amendment requires all state contracting agencies to use a contract form or contract template for all price agreements, cooperative procurements or procurements for which the Attorney General or the Director of the Oregon Department of Administrative Services determines that the specifications for goods and services, the terms and conditions, the scope or work or other aspects of a procurement or a class of procurements do not vary significantly among state contracting agencies. The bill sets forth certain conditions under which a state contracting agency may vary from this requirement. The bill requires individuals who conduct procurement or administers a public contract to complete required education and training or have professional experience. Before agencies executes a public contract exceeding \$150,000, the head of the state contracting agency must review and verify that the person administering the public contract has read and understands all advice and recommendations from DAS and the Department of Justice or other legal counsel. The – A11 does not change the original fiscal determination.

Passage of this bill is anticipated to have no or minimal impact to state agencies that do not have high volume or complex or uncommon procurement needs. Exceptions to this no or minimal determination are discussed below:

Department of Administrative Services (DAS)

The bill directs DAS and the Attorney General to cooperate to adopt rules to implement the provisions of this bill; and to develop and make available solicitation templates, contract forms, and contract templates. In addition, DAS is required to:

- Establish standards for education, training, and experience required to conduct procurement or administer a public contract.
- Sign and retain in the state contracting agency's records a statement that acknowledges that the head of the state contracting agency has reviewed the advice and recommendations by DAS and the Department of Justice or other legal counsel.
- Develop and evaluate advice and recommendation for promoting best practices.
- Evaluate the feasibility and practicality of and methods by which the state may develop and implement a system of peer review or a reservoir of shared expertise among state agencies.

- Report to and interim Legislative committee by November 31, 2015.

DAS reports that the agency will use existing staff and resource to perform these duties.

Furthermore, the bill permits DAS to provide education and training programs. The cost of developing and providing this training is indeterminate.

Department of Justice (DOJ)

Passage of this bill may have a fiscal impact for the Department of Justice. At this time, the potential impact cannot be quantified. In addition to cooperating with DAS to carry out the requirements listed above, passage of this bill will require ongoing DOJ involvement in contracts review and training.

DOJ estimates that developing the templates, and drafting and adopting rules to implement the requirements of this bill will require approximately 300 to 500 hours of attorney time over the 2015-17 biennium. This workload can be handled within existing resources in the General Counsel Division, and DOJ does not anticipate a need for additional staff. Applying the estimated billable hourly rate of \$183/hour, the implementation of this bill may generate \$54,900 to \$91,500 in billings to state agencies, if the workload is in addition to the agency's normal updating of its documents each biennium. .

Additionally, the bill allows for contracting state agencies to modify the implemented contract forms and templates, pending the consultation and approval of the Attorney General. At this time, DOJ is unable to estimate the frequency or level of work involved in these modified contract consultations. These modified contract consultations would be billed to the contracting agency at the billable rate.

Department of Corrections (DOC), Oregon Department of Education (ODE), Oregon Housing and Community Services (OHCS), Oregon Transportation Department (ODOT), Oregon Business Development Department (Business Oregon), Oregon Department of Fish and Wildlife (ODFW), Oregon State Library, Oregon Liquor Control Commission (OLCC), Oregon State Police (OSP), Oregon Department of Parks and Recreation (ODPR), Water Resources Department

Passage of this bill is anticipated to have a fiscal impact for state agencies with high volume or complex or uncommon procurement needs. At this time the fiscal impact of this bill on these agencies is indeterminate depending on the qualifications and training standards established by DAS, as well as the frequency or level of work these agencies may require from the Department of Justice for contract reviews. If this bill passes, these agencies would most likely incur the initial expenses for the required training for current contract administrators, as well as the ongoing expense of contracts review, and training of contract administrators hired thereafter.

As a point of reference for training costs, DAS currently offers trainings in three different courses relating to the contracting process at a cost of \$125 per class. If the training requirement ranged between one and three classes at an estimated cost between \$75 and \$250 each, an agency with 100 contract administrators would incur somewhere in the range of \$22,500 to \$75,000 in training expenses.

Secretary of State and the State Treasurer

This bill is anticipated to have minimal impact on the Secretary of State and the State Treasurer. The bill exempts the Secretary of State and the State Treasurer from the majority of the bill's requirements, and permits the two agencies the choice of establishing their own forms, templates and training standards (by December 31, 2017); or to elect to use the resources developed by DAS and the Attorney General office.