

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 20, 2009

TO: Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1805 by Zaffirini (Relating to contracting issues of state agencies, including ethics issues related to state contracting.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1805, As Introduced: a negative impact of (\$5,494,822) through the biennium ending August 31, 2011.

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
2010	(\$3,306,318)
2011	(\$2,188,504)
2012	(\$1,992,003)
2013	(\$1,990,660)
2014	(\$1,940,855)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>Federal Funds</i> 555	Probable (Cost) from <i>Appropriated Receipts</i> 666	Probable (Cost) from <i>Interagency Contracts</i> 777
2010	(\$3,306,318)	(\$482,847)	(\$234,194)	(\$100,369)
2011	(\$2,188,504)	(\$299,321)	(\$234,194)	(\$100,369)
2012	(\$1,992,003)	(\$290,323)	(\$234,194)	(\$100,369)
2013	(\$1,990,660)	(\$288,460)	(\$234,194)	(\$100,369)
2014	(\$1,940,855)	(\$249,301)	(\$234,194)	(\$100,369)

Fiscal Year	Probable Revenue Gain from <i>Insurance Maint Tax Fees</i> 8042	Probable (Cost) from <i>Insurance Maint Tax Fees</i> 8042	Change in Number of State Employees from FY 2009
2010	\$267,690	(\$267,690)	18.0
2011	\$249,083	(\$249,083)	21.0
2012	\$249,083	(\$249,083)	21.0
2013	\$249,083	(\$249,083)	21.0
2014	\$249,083	(\$249,083)	21.0

Fiscal Analysis

The bill includes provisions to implement recommendations in the report, "Reduce Risks Associated with State Contract Management," in the LBB *Government Effectiveness and Efficiency Report* submitted to the Eightieth Texas Legislature, 2007.

The bill would reform state contracting and procurement practices, including: contract reporting and public notification; review and analysis of contracting and outsourcing opportunities; determination and approval of outsourcing of inherently governmental operations; contract manager training, certification, and advancement; contract performance measure use, monitoring, reporting, and review; contractor disclosure requirements; required contract terms and provisions; the responsibilities and composition of the State Contract Advisory Team; and state-level oversight of agency contracting operations.

The bill would create a State Office of Contract Management, as a division within the Comptroller of Public Accounts, tasked with reviewing, approving, and assisting state agency actions related to high risk contracts. High-risk contracts would be defined as those at or exceeding \$10 million in total costs, or containing other high-risk factors as determined by the office.

The requirements of the bill would take effect at various times beginning November 1, 2009, with full implementation of the bill by September 1, 2011.

Methodology

The creation of a State Office of Contract Management (Office) to oversee the development, execution, and monitoring of high-risk state contracts at the comptroller's office would require 9 additional full-time equivalent employees (FTEs) in fiscal year 2011 (6 FTEs in fiscal year 2010). The cost for the office would be \$1.2 million in General Revenue Funds for the 2010-11 biennium. The bill would provide the Office some flexibility in defining high-risk contracts, and provide the CPA the ability to waive agencies and specific operations from the requirements of the chapter; therefore, not all \$10 million contracts would require the activities prescribed by the bill. This factor was considered when calculating the workload assumptions on which this fiscal impact is based. Depending on the number of contracts identified as high-risk, future staffing levels may need to be adjusted.

The bill would prescribe several new reporting requirements for general contracting operations and analysis and review requirements for agencies to complete prior to awarding high-risk contracts and outsourcing engagements of \$10 million or more or resulting in the loss of 100 state employees. Agencies report a need for additional internal staff associated with such requirements and a cost to contract with the Council on Competitive Government to determine projects of an inherently governmental nature. Such activities would result in an increase of 12 FTEs during the 2010-11 biennium at a General Revenue cost of \$3.4 million.

The Comptroller of Public Accounts reported that the performance review database required by the bill would cost \$725,000 in General Revenue Funds in fiscal year 2010 to develop.

This analysis assumes that the additional contracting requirements that would be enacted by this bill could be met within existing resources appropriated to agencies. Current statute requires agency contract managers to complete state developed training; therefore, no significant additional costs would be associated with the bill's requirements related to contract manager training. Likewise, general training requirements already exist in state statute regarding agency executive directors and governing boards; therefore, the specific contract training requirements that would be imposed by the bill would not create additional significant costs to the state.

Technology

The requirements of this bill would result in a technology cost during the 1010-11 biennium of \$871,900 in General Revenue Funds. This cost is related to the development of a centralized contract performance database at the Comptroller of Public Accounts and the improvement of contracting systems at various other agencies to enact the tracking and reporting requirements of the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 303 Facilities Commission, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 313 Department of Information Resources, 362 Texas Lottery Commission, 405 Department of Public Safety, 454 Department of Insurance, 529 Health and Human Services Commission, 551 Department of Agriculture, 582 Commission on Environmental Quality, 601 Department of Transportation, 696 Department of Criminal Justice

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