

2017 Regular Session

HOUSE BILL NO. 554

BY REPRESENTATIVES SCHRODER, BERTHELOT, AND EDMONDS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC CONTRACTS: Provides relative to public procurement methods

1 AN ACT

2 To amend and reenact R.S. 39:1600(D)(1), (2)(introductory paragraph), and (3) and to enact
3 R.S. 39:1600(D)(4), relative to public contracts; to provide for the requirements of
4 reverse auctions for certain purchases in the Procurement Code; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 39:1600(D)(1), (2)(introductory paragraph), and (3) are hereby
8 amended and reenacted and R.S. 39:1600(D)(4) is hereby enacted to read as follows:

9 §1600. Other procurement methods

10 * * *

11 D. Reverse auction

12 (1) Notwithstanding the provisions of Subpart A of this Part, with the
13 approval of the state chief procurement officer ~~and the determination of the head of~~
14 ~~the using agency~~ that the best interests of the state would be served ~~and that~~
15 ~~electronic online bidding is more advantageous than other procurement methods~~
16 ~~provided in this Chapter~~, a reverse auction may be utilized for the acquisition of
17 materials, supplies, services of any type, products, or equipment of any monetary
18 amount, including small purchases.

19 (2) Prior to the ~~implementation of this Subsection~~, use of any reverse
20 auction, the state chief procurement officer ~~shall develop policies, procedures, and~~

1 promulgate regulations, in accordance with the Administrative Procedure Act. Such
2 policies and procedures may require in the solicitation language that:

3 * * *

4 (3) Adequate public notice for the purchase of materials, supplies, services,
5 or equipment using a reverse auction shall be given, as follows:

6 (a) The advertisement or notice shall ~~be published one time in the official~~
7 ~~journal of the state at least twenty days before the opening date of the reverse~~
8 ~~auction.~~ conform to the requirements for public notice of sealed bidding or small
9 purchases as applicable, pursuant respectively to R.S 39:1594 or 1596, such that the
10 extent, timing, location, form, and duration of public notice activities for the reverse
11 auction process shall be fully consistent with the public notice activities required for
12 a sealed bid or small purchase of equivalent value.

13 (b) ~~In the case of any purchase to meet the needs of a single budget unit, the~~
14 ~~advertisement shall be published also in a newspaper of general circulation printed~~
15 ~~in the parish in which the budget unit is situated, or, if there is not a newspaper~~
16 ~~printed in the parish, in a newspaper printed in the nearest parish that has a general~~
17 ~~circulation in the parish in which the budget unit is situated.~~

18 (4) The office of state procurement shall report annually to the legislature by
19 September first, on the use of reverse auctions and any savings achieved.

20 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 554 Re-Reengrossed

2017 Regular Session

Schroder

Abstract: Provides for reverse auctions for purchases made under the Procurement Code.

Present law provides for the methods of procurement that a state entity can use for contracts and purchases under the Procurement Code.

Present law authorizes the use of reverse auctions for purchases made under the Procurement Code with the approval of the state chief procurement officer and the determination of the head of the agency making the procurement that the method would be more advantageous than other procurement methods.

Proposed law deletes the requirement that the head of the agency making the purchase make a determination that the reverse auction method is more advantageous than other procurement methods.

Proposed law further authorizes the use of reverse auctions for any monetary amount, including small purchases, which are currently purchases not exceeding \$25,000.

Present law requires the advertisement or notice of the purchase be published in the official journal of the state at least 20 days before the opening date of the reverse auction.

Proposed law changes the requirement regarding the advertisement or notice from 20 days before the opening of the reverse auction to conform with the requirement for public notice of sealed bidding or small purchases pursuant to present law in the Procurement Code.

Proposed law requires the office of state procurement to report annually on the use of the auctions and any savings achieved.

(Amends R.S. 39:1600(D)(1), (2)(intro. para.), and (3); Adds R.S. 39:1600(D)(4))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Add requirement that the La. Municipal Assoc. or the La. Municipal Advisory and Technical Services Bureau is subject to the same standards, responsibilities, and duties as apply to political subdivisions of the state in the award, execution, or administration of any public contract.
2. Delete change to the definition of "reverse auction" adding that the definition include public works that do not exceed the contract limit in present law.
3. Change the public notice requirement for purchases of political subdivisions using a reverse auction to provide separate requirements for purchases under \$30,000 and over \$30,000.
4. Change the public notice requirement for purchases of state agencies using a reverse auction to conform with requirements of sealed bidding or small purchases in present law.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Relative to purchases valued at \$10,000 or more but less than \$30,000, replace reference to a "bidder" with reference to an "offeror".
2. Remove provisions authorizing a municipality, local government affiliate of the La. Municipal Association, or a parish from purchasing materials, equipment, and supplies through the La. Municipal Association.
3. Remove the term "qualified" from description of the group purchasing organization.
4. Remove provisions providing that price lists submitted pursuant to proposed law are generally not public records and provide instead that price lists submitted and agreements entered into pursuant to proposed law are public records available for public inspection.

5. Remove definition of "La. Municipal Assoc." and "La. Municipal Advisory and Technical Services Bureau".
6. Remove the requirement that the La. Police Jury Assoc. endorse a cooperative agreement for a parish to purchase materials, equipment, and supplies through the La. Municipal Advisory and Technical Services Bureau.
7. Relative to purchases of materials, supplies, and equipment valued at less than \$30,000 by a political subdivision using a reverse auction, require advertisement in the newspaper and on the La. Procurement and Contract Network instead of advertisement in the newspaper or on the network.
8. Relative to such newspaper advertisement, add provisions providing that the advertisement may contain a general description of the materials, supplies, or equipment sought and may refer to a full description of materials, supplies, or equipment sought that is publicly accessible via electronic means.

The House Floor Amendments to the reengrossed bill:

1. Delete provisions of proposed law relative to purchases made under the Public Bid Law and authorization of a municipality or local government unit affiliate of the La. Municipal Assoc. to enter into agreements with the La. Municipal Advisory and Technical Services Bureau to act as its qualified group purchasing organization.
2. Delete requirement that for Fiscal Years 2017-2018 through 2019-2020, the office of state procurement use reverse auctions a minimum of 24 times per year.