

2021 Regular Session

SENATE BILL NO. 15

BY SENATOR MILLIGAN

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

PROCUREMENT CODE. Provides relative to purchase of telecommunication and video equipment or services by all state agencies. (8/1/21)

1 AN ACT

2 To amend and reenact R.S. 38:2237.1, and R.S. 39:1753.1, to enact R.S. 39:200(M), and to

3 repeal R.S. 39:1755(5), relative to the procurement of telecommunications or video

4 surveillance equipment or services by state agencies and certain educational entities;

5 to require the procurement of telecommunications or video surveillance equipment

6 or services to comply with federal guidelines under Section 889(a) of the John S.

7 McCain National Defense Authorization Act for Fiscal Year 2019; to provide for

8 violations; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 38:2237.1 is hereby amended and reenacted to read as follows:

11 §2237.1. ~~Purchase~~ **Procurement** of ~~approved~~ telecommunications **or video**

12 **surveillance** equipment **or services** by **state agencies and** certain

13 educational entities

14 A. ~~No telecommunications or video surveillance equipment as described in~~

15 ~~Section 889(a) of the Fiscal Year 2019 National Defense Authorization Act shall be~~

16 ~~purchased by public elementary, secondary, and postsecondary education schools,~~

17 ~~institutions, and governing authorities; nonpublic elementary, secondary, and~~

1 ~~postsecondary schools, institutions, and governing authorities that receive state~~  
 2 ~~funds; and proprietary schools that receive state funds unless the equipment is from~~  
 3 ~~a manufacturer who is in compliance with Section 889(a) of the Fiscal Year 2019~~  
 4 ~~National Defense Authorization Act as provided in this Section. Agencies and~~  
 5 ~~certain educational entities of the state, as defined in R.S. 39:1753.1(A), shall not~~  
 6 ~~procure prohibited telecommunications or video surveillance equipment or~~  
 7 ~~services as defined in R.S. 39:1753.1(A).~~

8 B. Prior to the purchase of equipment procurement of telecommunications  
 9 or video surveillance equipment or services, the vendor shall provide  
 10 documentation by affidavit that the ~~telecommunications and video surveillance~~  
 11 ~~equipment or services~~ to be purchased procured is from a manufacturer that is in  
 12 compliance with Section 889(a) of the Fiscal Year 2019 National Defense  
 13 Authorization Act not prohibited telecommunications or video surveillance  
 14 equipment or services as defined in R.S. 39:1753.1(A).

15 C. No award of any bid or purchase procurement shall be made from a  
 16 vendor or other entity who fails to provide the documentation required in Subsection  
 17 B of this Section. Any award of a bid to a contractor or purchase or contract to  
 18 purchase procurement of prohibited telecommunications or video surveillance  
 19 equipment or services as defined in R.S. 39:1753.1(A), or other procurement in  
 20 violation of this Section, shall be null and void.

21 D. This Section shall apply only to procurements initiated on or after  
 22 August 1, 2021, by state agencies, certain educational entities, and their service  
 23 providers.

24 Section 2. R.S. 39:1753.1 is hereby amended and reenacted and R.S. 39:200(M) is  
 25 hereby enacted to read as follows:

26 §200. General provisions

27 The following general provisions shall apply to all procurements under this  
 28 Part:

29 \* \* \*

1                   **M. The provisions of R.S. 39:1753.1 shall apply to all procurements of**  
2                   **telecommunications or video surveillance equipment or services pursuant to this**  
3                   **Part.**

4   \*       \*       \*

5                   §1753.1. ~~Purchase of approved~~ **Procurement of** telecommunications or **video**  
6   **surveillance** equipment **or services** by **state agencies and** certain  
7   educational entities

8                   A. ~~No telecommunications or video surveillance equipment as described in~~  
9                   ~~Section 889(a) of the Fiscal Year 2019 National Defense Authorization Act shall be~~  
10                   ~~purchased by public elementary, secondary, and postsecondary education schools,~~  
11                   ~~institutions, and governing authorities; nonpublic elementary, secondary, and~~  
12                   ~~postsecondary schools, institutions, and governing authorities that receive state~~  
13                   ~~funds; and proprietary schools that receive state funds unless the equipment is from~~  
14                   ~~a manufacturer who is in compliance with Section 889(a) of the Fiscal Year 2019~~  
15                   ~~National Defense Authorization Act as provided in this Section.~~ **Definitions. For the**  
16                   **purposes of this Section, the words defined in this Subsection shall have the**  
17                   **meanings set forth below:**

18   **(1) "Agency" shall have the same meaning as provided in R.S. 36:3.**

19   **(2) "Certain educational entities" means all public elementary,**  
20                   **secondary, or postsecondary education schools, institutions, and governing**  
21                   **authorities; nonpublic elementary, secondary, and postsecondary schools,**  
22                   **institutions, and governing authorities that receive state funds; and proprietary**  
23                   **schools that receive state funds.**

24   **(3) "Procure" and "procurement" shall have the same meaning as**  
25                   **provided in R.S. 39:1556.**

26   **(4) "Prohibited telecommunications or video surveillance equipment or**  
27                   **services" includes all of the following:**

28   **(a) Telecommunications equipment produced by Huawei Technologies**  
29                   **Company or ZTE Corporation, or any subsidiary or affiliate of such entities, as**

1 described in Section 889(f)(3)(A) of the John S. McCain National Defense  
2 Authorization Act for Fiscal Year 2019.

3 (b) Video surveillance equipment or telecommunications equipment  
4 produced by Hytera Communications Corporation, Hangzhou Hikvision Digital  
5 Technology Company, Dahua Technology Company, or any subsidiary or  
6 affiliate of such entities, as described in Section 889(f)(3)(B) of the John S.  
7 McCain National Defense Authorization Act for Fiscal Year 2019.

8 (c) Telecommunications or video surveillance equipment or services  
9 produced or provided by an entity found to be owned, controlled, or otherwise  
10 connected to the government of the People's Republic of China, as described in  
11 Section 889(f)(3)(D) of the John S. McCain National Defense Authorization Act  
12 for Fiscal Year 2019.

13 (d) Any product or equipment, regardless of manufacturer, containing  
14 as a component any equipment identified by Subparagraphs (a) through (c)  
15 above. This may include but is not limited to the following:

16 (i) Computers or other equipment containing a component which  
17 enables any form of network connectivity or telecommunications regardless of  
18 whether the equipment is regularly connected to a network.

19 (ii) Building automation, environmental controls, access controls, or  
20 facility management and monitoring systems.

21 (iii) Voting machines, peripherals, and election systems.

22 (e) Any services provided using any equipment identified by  
23 Subparagraphs (a) through (d) in this Subsection.

24 B. Agencies and certain educational entities of the state, as defined in  
25 R.S. 39:1753.1(A), shall not procure prohibited telecommunications or video  
26 surveillance equipment or services as defined in Subsection A of this Section.

27 C. Prior to the purchase of equipment procurement of telecommunications  
28 or video surveillance equipment or services, the vendor shall provide  
29 documentation by affidavit that the ~~telecommunications and video surveillance~~

1 equipment ~~or services~~ to be ~~purchased~~ **procured** ~~is from a manufacturer that is in~~  
 2 ~~compliance with Section 889(a) of the Fiscal Year 2019 National Defense~~  
 3 ~~Authorization Act.~~ **is not prohibited telecommunications or video surveillance**  
 4 **equipment or services as defined in Subsection A of this Section.**

5 ~~€D.~~ No award of any bid or purchase **procurement** shall be made from a  
 6 vendor or other entity who fails to provide the documentation required in Subsection  
 7 ~~B~~ **C** of this Section. Any award of a bid to a contractor or purchase or contract to  
 8 ~~purchase~~ **procurement of prohibited telecommunications or video surveillance**  
 9 **equipment or services as defined in Subsection A of this Section, or other**  
 10 **procurement** in violation of this Section shall be null and void.

11 **E. This Section shall apply only to procurements initiated on or after**  
 12 **August 1, 2021, by state agencies, certain educational entities, and their service**  
 13 **providers.**

14 Section 3. R.S. 39:1755(5) is hereby repealed.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Martha S. Hess.

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DIGEST

SB 15 Engrossed

2021 Regular Session

Milligan

Present law prohibits all of the following entities from purchasing telecommunications or video surveillance equipment as described in Section 889(a) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (National Defense Authorization Act) unless such equipment is from a manufacturer that is in compliance with this federal provision:

- (1) Public elementary, secondary, and postsecondary schools, institutions, and governing authorities.
- (2) Nonpublic elementary, secondary, and postsecondary schools, institutions, and governing authorities that receive state funds.
- (3) Proprietary schools that receive state funds.

Proposed law broadens present law to prohibit all agencies and certain educational entities of the state from procuring any prohibited telecommunications or video surveillance equipment or services as defined in proposed law.

Present law requires the vendor of such equipment to provide an affidavit that the equipment is from a manufacturer that is in compliance with such federal provisions. Proposed law retains present law and makes present law applicable to the procurement of telecommunications or video surveillance equipment or services by state agencies.

Proposed law defines "agency", "certain education entities", and "procure". Also defines "prohibited telecommunications or video surveillance equipment or services" to include all of the following:

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities, as described in Section 889(f)(3)(A) of the National Defense Authorization Act.
- (2) Video surveillance equipment or telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, or any subsidiary or affiliate of such entities, as described in Section 889(f)(3)(B) of the National Defense Authorization Act.
- (3) Telecommunications or video surveillance equipment or services produced or provided by an entity found to be owned, controlled, or otherwise connected to the government of the People's Republic of China, as described in Section 889(f)(3)(D) of the National Defense Authorization Act.
- (4) Any product or equipment, regardless of manufacturer, containing as a component any equipment identified by Subparagraphs (1) through (3) above. This may include but is not limited to the following:
  - (a) Computers or other equipment containing a component which enables any form of network connectivity or telecommunications regardless of whether the equipment is regularly connected to a network.
  - (b) Building automation, environmental controls, access controls, or facility management, and monitoring systems.
  - (c) Voting machines, peripherals, and election systems.
- (5) Any services provided using any equipment identified by Subparagraphs (1) through (4) in this Subsection.

Proposed law provides that any procurement of prohibited telecommunications or video surveillance equipment or services or other procurement in violation of proposed law shall be null and void.

Proposed law repeals present law provision that with respect to the procurement of telecommunications systems or services, present law supersedes conflicting provisions of present law.

Proposed law applies only to procurements initiated on or after August 1, 2021, by state agencies, certain educational entities, and their service providers.

Effective August 1, 2021.

(Amends R.S. 38:2237.1, R.S. 39:1753.1; adds R.S. 39:200(M); and repeals R.S. 39:1755(5))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Finance to the original bill

1. Defines the terms "agency", "certain education entities", "prohibited telecommunications or video surveillance equipment or services", and "procure".

2. Provides that proposed law applies only to procurements initiated on or after August 1, 2021, by state agencies, certain educational entities, and their service providers.