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The original instrument was prepared by Brandi Cannon. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jeanne Johnston.

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SB 180 Reengrossed

DIGEST  
2021 Regular Session

Fred Mills

Present law provides for the use of a reverse auction by a political subdivision to purchase materials, supplies, or equipment when the procurement officer determines that the best interests of the political subdivision would be served and that electronic online bidding is more advantageous than other procurement methods. Proposed law provides that consulting services may also be procured through the reverse auction process.

Present law provides for the use of a reverse auction by the state for the acquisition of materials, supplies, services of any type, products, or equipment with the approval of the state chief procurement officer that the best interests of the state would be served. Proposed law provides that consulting services may also be procured through the reverse auction process.

Present law defines consulting service for the purposes of the Louisiana Procurement Code and provides examples of consulting services. Proposed law adds pharmacy benefit manager (PBM) services as an example.

Proposed law provides that the division of administration may procure PBM services for the administration of benefits provided by the Office of Group Benefits through the reverse auction process and establishes the standards and procedures. Proposed law provides for legislative intent and defines key terms.

Proposed law provides for the mandatory content of contracts for PBM services obtained through reverse auction including the minimum capabilities of the technology platform, the required related services from the technology platform provider, and the time limit for procuring the technology platform and related technology provider.

Proposed law provides that if the division of administration uses a reverse auction to procure PBM services as authorized by proposed law, the division shall not award a contract for the technology platform and related provider services to a PBM and prohibits the vendor from outsourcing any part of the reverse auction or review of invoiced drug claims.

Proposed law provides that the technology platform used to conduct the reverse auction shall be repurposed over the duration of the PBM services contract as an automated pharmacy claims adjudication engine to perform real-time, electronic, line-by-line, claim-by-claim review of 100% of invoiced PBM prescription drug claims, and identify all deviations from the specific terms of the PBM services contract. Proposed law requires the division of administration to reconcile the electronically adjudicated pharmacy claims with PBM invoices on a monthly or quarterly basis to ensure that state payments shall not exceed the terms specified in any PBM services contract.

Proposed law provides for the timeline for the completion of each PBM reverse auction and requires notice of the dates of the scheduled PBM reverse auction and the termination of the existing PBM services contract to be given to the Joint Legislative Committee on the Budget.

Proposed law provides that the division of administration shall implement a no-pay option that obligates the winning PBM, rather than the state, to pay the cost of the technology platform and related technology platform provider services by assessing the PBM a per-prescription fee in an amount agreed to by the division of administration and the technology provider and requiring the PBM to pay these fees to the technology provider over the duration of the PBM services contract.

Proposed law does not apply in the case of a nonprofit, nongovernmental health maintenance organization with respect to managed care plans that provide a majority of covered professional services through a single contracted medical group.

Proposed law provides that any other self-funded public sector health plan may use the processes and procedures established in proposed law individually, collectively, or as a joint purchasing group with the group benefit plans provided by the Office of Group Benefits. Proposed law further authorizes, after completion of the first PBM reverse auction, self-funded private sector health plans with substantial participation by La. employees and their dependents to participate in a joint purchasing pool with state employees for subsequent PBM reverse auctions.

Present law provides that the Louisiana Department of Health (LDH) shall administer the Medicaid prescription drug benefit program and requires contracts for PBM services, either directly with LDH or as a subcontractor or subsidiary of a managed care organization, to meet certain requirements. Proposed law adds authority for LDH to procure and negotiate PBM contracts through the use of a reverse auction.

Present law provides that the Office of Group Benefits may negotiate and contract directly for the provision of other health care services to the program's covered persons. Proposed law adds authority for OGB to procure and negotiate PBM contracts through the use of a reverse auction.

Proposed law provides that the Jt. Legislative Committee on the Budget shall review and approve any proposed contract to implement a PBM reverse auction.

Effective August 1, 2021.

(Amends R.S. 38:2271(A)(1) and (2)(b) and 2271(C)(intro para) and R.S. 39:1556(10)(a) and (50), 1600(D)(1) and (3), 1621(B), and 1648(C); adds R.S. 39:1600.1, R.S. 42:802(B)(12), and R.S. 46:450.7(C))

## Summary of Amendments Adopted by Senate

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

1. Makes technical changes.
2. Changes the procurement classification of PBM services from professional services to consulting services and updates proposed law references.
3. Provides for the standards and procedures for the procurement of PBM services through reverse auction.
4. Specifies that the procurement of PBM services through reverse auction shall be done in accordance with proposed law.

### Senate Floor Amendments to engrossed bill

1. Make technical changes.
2. Require the division of administration to implement a no-pay option that obligates the PBM to pay the technology costs.
3. Require JLCB approval of proposed contracts to implement a PBM reverse auction.