

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 180** SLS 21RS 224

Bill Text Version: **REENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 13, 2021	9:32 AM	Author: MILLS, FRED
Dept./Agy.: LDH/Medicaid		Analyst: Shawn Hotstream
Subject: procurement		

PROCUREMENT CODE RE SEE FISC NOTE GF EX See Note Page 1 of 2
Provides relative to state procurement of certain services by use of reverse auction technology. (8/1/21)

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 it is in the best interests of the political subdivision. Proposed law provides that the Division of Administration may procure PBM services for the administration of benefits provided by OGB through the reverse auction process. Proposed law defines a reverse auction as a competitive online solicitation process on the Internet for equipment, supplies, and other materials, including consulting services, in which vendors compete against each other online in real time in an open and interactive environment. Proposed law provides that the DOA may implement a no pay option that obligates the winning PBM to pay the cost of the technology platform. Proposed law provides that LDH may procure and negotiate pharmacy benefit manager contracts through the use of a reverse auction. Proposed law provides that the Joint Legislative Committee on the Budget shall review and approve any proposed contract to implement the PBM reverse auction.

EXPENDITURES	2021-22	2022-23	2023-24	2024-25	2025-26	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						

REVENUES	2021-22	2022-23	2023-24	2024-25	2025-26	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

Proposed law may result in a net decrease in state and local government expenditures of an indeterminable amount associated with certain procurement efforts, however the fiscal impact on state funds is indeterminable, and will depend on the scope of work in the particular contract and the bid process and outcome. Presumably such an auction process would be based on a price or cost competition only, and vendors would bid for consulting services contracts (including Pharmacy Benefit Manager services) by competing with a lower price from an original or the last price point posted. Proposed law authorizes the use of a reverse auction procurement method for consulting services contracts, and additionally adds Pharmacy Benefits Manager (PBM) services to the list of consulting services contracts eligible for the reverse auction process. Present law provides that a political subdivision using the reverse auction process shall retain the right to cancel the solicitation if it determines that it is in the political subdivision's best interest.

Note: If a reverse auction process is utilized for PBM contracts by the Division of Administration, then the cost of the PBM specialty technology platform for these very specialized PBM management and reverse auction services, which is a more substantial technology than the state's existing reverse auction technology, shall be implemented with a "no-pay" option that obligates the winning PBM, not the state, to pay the cost of the technology platform and related technology platform provider services. Even with the choice of the no pay option, the impact to the state is speculative and indeterminable.

EXPENDITURE EXPLANATION CONTINUED ON PAGE TWO

REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Alan M. Boxberger
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Staff Director

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CONTINUED EXPLANATION from page one:
EXPENDITURE EXPLANATION CONTINUED FROM PAGE ONE

For informational purposes, DOA produces an annual report detailing the results of reverse auctions in accordance with LA R.S. 39:1600 (D)(4). In FY 19, 22 of 44 (50%) of reverse auctions held had one or zero bidders. In FY 20, 24 of 46 (52%) of reverse auctions had one or zero bidders. Since FY 17, 111 reverse auctions for goods and services have been held with the following reported results:

- 21 (18.9%) reverse bids were reported as a "success" outcome due to the bid award resulting in a cost savings to the agency in excess 2% below of the estimated bid price.
- 2 (1.8%) reverse bids were reported as "partial" success, resulting in procurement of a portion of the bid.
- 26 (23.4%) reverse bids were reported as having a "neutral" outcome due to the awarded bid coming within +/- 2% of the agency's cost estimate (13 or 11.7%), canceled at agency request due to timeliness (1 or 0.9%), or canceled due to specification (6 or 5.4%) or technical issues (6 or 5.4%).
- 62 (55.8%) reverse bids were reported as having a "failed" outcome due to: bids awarded over agency initial estimate (41 or 36.9%), cancelation by agency due to bid coming in over budget (5 or 4.5%), or zero bids were received (16 or 14.4%).

NOTE: The historical experience of the state with reverse auction outcomes have generally revolved around procurement of commodities. This experience may not correlate to the procurement of consulting services and PBMs. The economic value of a PBM contract may draw greater interest than the typical commodity-based procurements initiated to date and result in competition among multiple bidders.

To the extent a failed bid requires a state agency to re-initiate the procurement process, the agency and the Office of State Procurement realize a workload increase associated with repeated processes. The magnitude of such impact cannot be quantified and will vary depending on the frequency and complexity of individual procurements.

Senate Dual Referral Rules

13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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