

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 137** HLS 15RS 272
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: May 5, 2015	7:07 AM	Author: HAVARD
Dept./Agy.:		Analyst: Travis McIlwain
Subject: LA Privatization Review Act		

PRIVATIZATION EG SEE FISC NOTE GF EX See Note Page 1 of 2
 Creates the Privatization Review Act

Proposed legislation provides that no state agency shall enter into a privatization contract unless the agency, in consultation with the Division of Administration (DOA), complies with certain requirements. Those requirements include: 1.) preparing a written statement of services proposed to be privatized, 2.) every privatization contract shall contain provisions requiring the contractor to offer available employee positions to qualified classified state employees of the agency at which state employment is terminated due to privatization, 3.) comprehensive written estimate of the costs of state employees providing services including all direct and indirect costs, 4.) after receiving bids, agency shall prepare written analysis of the contract cost, 5.) head of state agency must certify in writing to the legislative auditor and appropriated standing committees of various items relative to the contract. Proposed legislation limits privatization contracts to \$5 M or more and limits lease agreements to \$500,000 or more. Proposed legislation provides for the legislative auditor to review each contract and certificate no later than 30 days after receipt. Proposed legislation provides for a post-privatization review process that includes an analysis of the nongovernmental entity's compliance with the terms of contract, all complaints received by contractor from agency and a current analysis of the fair market rental or lease value of the state building or facility based upon documented comparables.

EXPENDITURES	2015-16	2016-17	2017-18	2018-19	2019-20	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW					
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						

REVENUES	2015-16	2016-17	2017-18	2018-19	2019-20	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

This bill may result in an indeterminable and potentially significant increase in the workload and costs of the Legislative Auditor, the Division of Administration (DOA) and any state agency seeking a privatization contract due to the review and analysis requirements within this bill. However, the extent of the workload increase will ultimately depend upon the number of privatization contracts and/or leases in excess of \$5 M (privatization) and \$500,000 (leases) that are proposed and the complex nature of the subject matter being considered.

The Legislative Auditor is estimating 300 audit hours per privatization contract review. Although some non-complex privatization contract reviews could be absorbed within the existing workload of current staff, if the Legislative Auditor is required to review numerous privatization contracts annually and/or if a review is complex in nature, there may be a need for additional audit positions or the assistance of professional service contractors.

This legislation requires each state agency requesting a privatization in excess of \$5 million to provide the following analysis: 1.) a written estimate of the costs of state employees providing the state service that the proposed contractor would provide including direct/indirect costs of retirement, insurance and other employee benefit costs, 2.) a written estimate of the costs of the contractor providing the same service state employees are currently providing including the transition costs from public to private, additional retirement costs (legacy costs) and unemployment benefit costs and potential state revenue loss. The DOA believes this legislation requires state agencies requesting a privatization contract to evaluate potential statewide fiscal issues arising from the potential replacement of state employees that may not have a direct impact to the state agency's operating budget. The DOA contends the state issues requiring analysis include: impact to the UAL, group health insurance impact, unemployment claims, potential decreased statewide tax revenues. The DOA argues that the analysis of these state issues will require professional expertise in financial analysis, economic, actuarial science, taxation and labor markets. The Legislative Fiscal Office believes this analysis could be completed by current state employees and assumes some of this analysis would be completed regardless of this bill, but such a workload increase of current employees may impact the day-to-day responsibilities of these state employees. To the extent the required privatization analysis cannot be completed with existing state employees and the interpretation of the analysis required within the legislation intends to include analysis of the UAL, actuarial impact to the OGB program, impact to unemployment or economic analysis as a result of the potential state income tax loss may require a private contractor to assist in the analysis. The DOA estimates the cost of a private contractor to complete the required analysis to be approximately \$300,000 per study. (See Page 2)

REVENUE EXPLANATION

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

Senate	<u>Dual Referral Rules</u>	House	<input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}	<i>Evan Brasseaux</i> Evan Brasseaux Staff Director
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}		<input type="checkbox"/> 6.8(F)(2) >= \$500,000 Rev. Red. to State {H & S}		
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}		

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CONTINUED EXPLANATION from page one:

In addition, the DOA believes that due to the broad definition contained within the bill of "privatization contract," this legislation could result in the reporting and analytical process prescribed in the legislation to be applied to all potential large contracts because the actual contract value will not be made known until after the RFP process. Therefore, the DOA argues that in order to risk not being required to restart the RFP/contracting process, the requirements of this legislation would be followed for all potentially large contracts. For context, there are currently 44 contracts in the state with a total value of \$5 M or more. Some existing contracts may be subject to the post privatization requirements of this proposed legislation.

To the extent these privatization reviews result in additional legislative standing committee meetings, the legislative member per diem rate is \$150 and the mileage reimbursement is \$0.58/mile. This bill provides for legislative standing committee approval prior to entering into the privatization contract and further provides for the full legislature to adopt a concurrent resolution before the agency enters into the privatization contract.

Senate

Dual Referral Rules

House

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

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

6.8(F)(2) >= \$500,000 Rev. Red. to State {H & S}

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

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

Evan Brasseaux

Evan Brasseaux
Staff Director