

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 163** HLS 16RS 76
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: March 22, 2016 2:47 PM	Author: HAVARD
Dept./Agy.:	Analyst: Alan M. Boxberger
Subject: LA Privatization Review Act	

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

Proposed law 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 including, 1) preparing a written statement of services proposed to be privatized, 2) comprehensive written estimate of the costs of state employees providing services including all direct and indirect costs, 3) after receiving bids, agency shall prepare a comprehensive written analysis of the contract cost, and 4) the head of the state agency must certify in writing to the legislative auditor and appropriated standing committees of various items relative to the contract. Proposed law provides for privatization contracts of \$5 M or more and lease agreements to \$500,000 or more. Proposed law provides for the legislative auditor to review each contract and submit findings to the appropriate legislative standing committee and each legislator via e-mail no later than 30 days after receipt, and allows the legislative standing committee the authority to disapprove the contract in a time not to exceed 45 days from report of the auditor. Proposed law 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	2016-17	2017-18	2018-19	2019-20	2020-21	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	\$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	2016-17	2017-18	2018-19	2019-20	2020-21	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 complexity of subject matter being considered.

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 enumerates the state issues requiring analysis to include: actuarial impacts to the UAL and group health insurance risk-pool structuring, unemployment claims, and potential decreased statewide income tax revenues if the winning bidder is located outside the state. The DOA represents 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 (LFO) believes some of this analysis could possibly 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 effect 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 likely 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, and that based on historical contracting patterns an assumption is made of 1-2 such studies annually. Given the current expenditure reductions reflected in the executive budget recommendation (House Bill 1 - Original), which if not offset with sufficient expenditure authority and revenues to make whole the existing staff resources of the Division of Administration, the LFO believes it is likely that outside consultants would be required to provide the analysis required in proposed law.

Continued on Page 2

REVENUE EXPLANATION

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

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| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> |
| <input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input checked="" type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {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} | |

Evan Brasseaux
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Staff Director

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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 avoid not being required to restart the RFP/contracting process, the requirements of this legislation would be followed for all potentially large contracts. For context, in FY 15 there were a minimum of 35 contracts in the state with a total value of \$5 M or more annually. Some existing contracts may also be subject to the post privatization requirements of proposed law.

The Legislative Auditor estimates approximately 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.

To the extent these privatization reviews result in additional legislative standing committee meetings, the legislative member per-diem rate is \$157 and the mileage reimbursement is \$0.54/mile. This bill provides for approval of both corresponding legislative standing committee prior to entering into the privatization contract.

Senate Dual Referral Rules House

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

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

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