

March 17, 2015

The Honorable Ron Ryckman, Jr., Chairperson
House Committee on Appropriations
Statehouse, Room 111-N
Topeka, Kansas 66612

Dear Representative Ryckman:

SUBJECT: Fiscal Note for HB 2153 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2153 is respectfully submitted to your committee.

HB 2153 would enact the Taxpayer Empowerment, Accountability and Transparency in State Contracting Act. The Division of Purchases within the Department of Administration would be required to establish and maintain an online database that is accessible, searchable, sortable, and downloadable. The database would include the following:

1. A description of the contract for services being purchased;
2. The name of the agency, department, or division contracting for the service;
3. The name of the contractor and any and all subcontractors;
4. Effective and expiration dates of the contract;
5. The annual amount paid to the contractor in the past fiscal years and the current fiscal year under the contract by funding source;
6. The annual amount proposed to be paid to the contractor in the fiscal years beyond the approved budget;
7. The total projected cost of the contract for all fiscal years by funding source; and
8. A list of private contractor employers for each contract, reflected as full-time equivalent positions, their hourly wage rate, and the number of private contractor employers and consultants for the current and previous fiscal years.

The information would be compiled in an annual service contractor expenditure budget accompanying the Governor's budget, detailing total spending on service contracts for the state.

Each service contract in excess of \$25,000 between an agency and a person or firm for the performance of a governmental function would provide that the agency is entitled to receive a copy of the necessary records and files and indicate that the records and files are subject to the Kansas Open Records Act. Contractors doing business with an agency would be required to keep and maintain the public records that ordinarily would be kept and maintained by the agency in order to perform a service or activity; provide the agency with access to public records on the same terms and conditions that do not exceed cost as defined in current law; and abide by the provisions of the Kansas Open Meetings Act.

Before any contract is finalized, the contracting agency would prepare a request to the governing body for an appropriation and any authority that is necessary to hire personnel and obtain resources necessary to oversee and monitor performance of service contracts and enforce other conditions required by law. Prior to the awarding of a service contract, the Secretary of Administration would make public a cost comparison. No agency may enter a private service contract, unless the proposed contract is projected to result in overall cost savings to the state or at least 10.0 percent less than the projected cost of having the services provided by public employees. Contract costs would include direct costs, including salaries and benefits, indirect overhead costs, rent and equipment costs, utilities, and materials.

The bill would require the Secretary of Administration or an agency designee, prior to entering into a private contract for public services, to produce a thorough analysis of the possible impacts of the private contract. The analysis would include the possible loss of employment or income in a local area; impacts on social services in the local area; impacts on public assistance programs; economic impact on local businesses; any possible loss or increased tax revenue for the local area; and any environmental impacts that may result from the private contract, including any upgrades or possible degradation. The report would be made available to the public and posted on the Department of Administration's website.

The Kansas Department of Transportation is unable to estimate if the bill could be implemented within currently approved staffing and operating expenditures. The Department of Administration estimates there would be at least 2,000 contracts in any one fiscal year which would qualify for display on the agency's website. The Department estimates additional State General Fund expenditures of \$187,930 in FY 2016 and \$179,930 in FY 2017, along with an additional 5.00 FTE positions. Of those amounts, for both FY 2016 and FY 2017, \$168,930 would be for salaries and wages for the additional FTE positions who would upload the contracts and post the required information on the Department's website; \$8,000 would be for the leasing of additional space in both FY 2016 and FY 2017; \$8,000 would be for one-time costs for computers, phones, and office space in FY 2016; and \$3,000 would be for communication expenses in both FY 2016 and FY 2017. The agency is unable to estimate a precise fiscal effect to upgrade the state's accounting system at this time because the agency states it cannot estimate how many contracts would qualify for display on the agency's website at this time.

The Department for Children and Families states the agency relies on contacts when internal expertise cannot match the skill and specialization available in the private sector, and

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when technology requirements are prohibitive. According to the agency, the increase in complexity of the proposed contracting process would increase administrative and contract costs. If HB 2153 were enacted, the agency estimates additional expenditures of \$22,225,107 in FY 2016, including \$18,532,410 from the State General Fund and \$3,692,697 from federal funds. For FY 2017, the agency estimates additional expenditures of \$22,268,062, including \$18,665,094 from the State General Fund and \$3,602,968 from federal funds. The agency's estimates also include an additional 11.00 FTE positions in both fiscal years. Of the FY 2016 amount, \$724,623 would be for salaries and wages for the additional FTE positions; \$43,230 would be for other operating expenditures; and \$21,457,254 would be for a 10.0 percent contract increase. For the FY 2017 amount, \$732,846 would be for salaries and wages for the additional FTE positions; \$26,598 would be for other operating expenditures; and \$21,508,618 would be for a 10.0 percent contract increase. Further, the agency states that unplanned contract terminations and transitions to state services could result in work delays and substantial federal penalties.

The Kansas Board of Regents indicates enactment of HB 2153 would require several additional reporting levels and time delays resulting in a decrease in the Board's ability to outsource services as an available option. The Board cannot estimate the amount of additional administrative funding that would be needed to fully implement the provisions of the bill, as it would increase the amount of time it would take the Board to implement service contracts. The League of Kansas Municipalities states it cannot estimate a fiscal effect upon Kansas cities if HB 2153 were enacted. Any fiscal effect associated with HB 2153 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Ben Cleaves, Transportation
Colleen Becker, Department of Administration
Kelly Oliver, Board of Regents
Larry Baer, League of Municipalities
Jackie Aubert, Children & Families
Aaron Dunkel, Health & Environment