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FISCAL IMPACT REPORT

ORIGINAL DATE 01/26/10

SPONSOR Egolf LAST UPDATED _____ HB 124

SHORT TITLE State Contractor Registration and Requirements SB _____

ANALYST Archuleta

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$15.0 - \$30.0*	\$1.5 - \$3.0*	\$16.5 - \$33.0*	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*Estimate based on using existing staff

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)
 Department of Transportation (DOT)
 Public Education Department (PED)
 Higher Education Department (HED)

SUMMARY

Synopsis of Bill

House Bill 124 was introduced pursuant to Executive Message 13 and requires a prospective contractor, prior to seeking a contract with a state agency or local public body, to register with GSD providing information regarding any contracts the prospective contractor currently has with them including the amount and term of each contract. The bill requires prospective contractors to disclose all contributions given to a state or local public officer during two years prior to the date of his or her response to a solicitation if the contributions total \$250 dollars. House Bill 124 requires the following:

- Prior to a state agency or local public body entering into a contract with a prospective contractor and before the contract can be enforced, the appropriate procurement officer shall review the information that has been disclosed to GSD and certify that the contractor has properly registered, made disclosures and that no conflict of interest exists.
- A principal of a contractor that was a prospective contractor shall not make a contribution to or solicit a contribution for the benefit of a state or local public officer during the term of a contract. The bill requires a state agency or local public body to disqualify a

prospective contractor from receiving a contract if he or she fails to submit or update a fully completed disclosure statement or makes prohibited contributions. Contracts may be voided for violations.

- Repeals Section 13-1-191.1 Campaign contribution disclosure and prohibition NMSA 1978 (being Laws 2006, Chapter 81, Section 1. as amended).

FISCAL IMPLICATIONS

GSD notes that the full fiscal implications of this bill could not be readily determined. The bill will require the creation of a database for maintaining contribution information. An FTE will be needed and dedicated to maintaining this database of information and keeping it updated. Updates will be time sensitive to prevent delay in contract awards at both the state and LPB levels, and to make sure that awards are only made in accordance with the provisions of this bill.

LFC analysis indicates that the existing contracts database could be updated to include a field for the contribution disclosure component without any significant programming costs. Initial estimates suggest this could be accomplished within a range of \$15,000 to \$30,000.

PED indicates that there would be no significant fiscal impact to the department. However, it would require the agency's contract liaison to require contractors to furnish the agency with the proper paperwork before entering into a contract with the cost likely borne by the contractor.

SIGNIFICANT ISSUES

GSD notes the following significant issues:

- This bill applies to all contracting efforts of the state including exempted items in the procurement code.
- Requires GSD to create a database to house disclosure information.
- Maintenance keeping this information current may be substantial.
- No appropriation of dollars or manpower for development of site, training, or maintenance.
- Procurement officer certification requires training to insure compliance with this bill.
- The process may cause some delay in contract awards to insure compliance.

PERFORMANCE IMPLICATIONS

GSD indicates that additional steps in validating and assessing registration and reviewing disclosure data for every procurement may be necessary. There may be a need for intervention by legal counsel before contracts are awarded to insure that compliance has been maintained.

ADMINISTRATIVE IMPLICATIONS

GSD indicates that additional staff will be required to develop the database of information required by this legislation and to keep it current.

House Bill 124 would require that each agency verify that contractors submit paperwork in compliance with the act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to Senate Bill 28.

TECHNICAL ISSUES

GSD notes that the construction and update of data for solicitations requires near real time support to prevent delays in the procurement process. Technical support for construction of a user friendly website will be necessary and this information will require access for the public as state personnel.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

DA/svb