

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2085
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: MAY 21, 2020

SUMMARY

Synopsis: “Electronic Construction Procurement Act.”

Type of Impact: Annual increases to State expenditures.

Agencies Affected: Department of the Treasury, State Institutions of Higher Education, the Schools Development Authority, Department of Community Affairs, Department of Law and Public Safety, Office of Information Technology

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system.
- Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement.
- Although the State may incur increased up-front expenditures associated with developing and implementing the electronic purchasing system, these potential costs could be offset by savings not achievable through the current public contracting process.
- The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities. If a local contracting unit chooses to use the electronic procurement process, the bill prohibits the unit from incurring any costs or fees related to its use, including, but not limited to, any cost or fee related to the use or purchase of any required equipment or software.

BILL DESCRIPTION

The bill would require State contracting units to use an electronic procurement process for public works construction contracts when the project requires public advertisement.

The bill requires the State Treasurer to promulgate regulations to effectuate the electronic procurement of public works construction. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet certain criteria. The regulations would also set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process.

The bill permits local units of government, county colleges, and school districts to use an electronic procurement process for public works construction contracts, at no cost or fees related to its use. The electronic construction procurement process to be used by those public entities would be the process developed by the Director of the Division of Local Government Services in the Department of Community Affairs by regulations promulgated for the electronic procurement practices authorized in the Local Unit Electronic Procurement Act.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in indeterminate additional expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system. However, the OLS lacks sufficient information to quantify the precise fiscal impacts of the bill.

State Expenditure Increases

The Department of the Treasury is expected to incur indeterminate start-up costs associated with developing the electronic system required by the bill. However, lacking information concerning the technical specifications of the electronic procurement process, the OLS cannot quantify the anticipated increase in expenditures. Additionally, the design complexity of the electronic system may influence whether the department outsources development to a contracted service provider or performs the work in-house. The two approaches would likely entail different costs, and it is unclear which approach the department would implement.

The Treasury is also expected to incur additional annual expenditures to provide training on the use of the electronic system to State contracting units and other users of the system. However, absent any information concerning the contents of such training, the OLS is unable to estimate the anticipated cost of this requirement.

Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement. Although State contracting units may incur additional start-up costs associated with implementing the system, these potential costs could be offset by savings not achievable through the current public contracting process. Specifically, the use of a technology-based

procurement system may allow State contracting units to allocate staff more efficiently and reduce costs associated with the current paper-based public contracting and purchasing system. Electronic purchasing systems also could increase the transparency of the contracting and bidding process, achieve value and promote competition, expand the supplier base, maintain financial controls, measure contractor performance, and promote efficiency in workflow and approval authority.

Impact on Local Contracting Units

The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities. If a local contracting unit chooses to use the electronic procurement process, the bill prohibits the unit from incurring any costs or fees related to its use, including, but not limited to, any cost or fee related to the use or purchase of any required equipment or software. The electronic construction procurement process to be used by those local public entities would be the process developed by the Director of the Division of Local Government Services by regulations promulgated for the electronic procurement practices authorized in the Local Unit Electronic Procurement Act. Due to the passage of that act, the OLS estimates the bill to have a negligible impact on local contracting units.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).