

**STATE
FISCAL IMPACT**

Drafting Number: LLS 12-0607
Prime Sponsor(s): Sen. Foster
 Rep. Miklosi

Date: February 8, 2012
Bill Status: Senate Local Government
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TITLE: CONCERNING THE CREATION OF A PROCUREMENT PREFERENCE TO BE GRANTED FOR MATERIALS MANUFACTURED IN THE UNITED STATES.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures		
<u>Total</u>	<u>\$205,318</u>	At least <u>\$294,777*</u>
General Fund	198,830	210,127
Various Cash Funds		3,762
State Highway Fund	6,488	43,555
Reappropriated Funds		2,806
Federal Funds		34,527
FTE Position Change	2.7 FTE	4.4 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: None.		

* The funding sources provided are an estimated based on affected agencies' funding sources at the department level.

Summary of Legislation

Beginning in FY 2012-13, this bill directs state agencies to grant a 1 percent preference to bidders for contracts expected to cost more than \$1 million for the purchase of assembled materials, supplies, products, provisions or equipment manufactured in the United States. In order to qualify for the 1 percent preference, the bill requires that the purchased goods be of equal quality, available in sufficient quantity, and not exceed by more than 5 percent the cost of such items manufactured outside the United States. The Department of Personnel and Administration (DPA) is directed to promulgate rules for the administration of the preference, including a process for a bidder to certify, and an agency to verify, a bidder's eligibility.

State Expenditures

This bill will increase state expenditures by at least \$205,318 and 2.7 FTE in FY 2012-13 and by \$294,777 and 4.4 FTE in FY 2013-14, as shown in Tables 1 and 2. These costs are based mainly on increased workload for verification of contracts, but also include some one-time costs for

the Colorado Department of Transportation (CDOT) to update contract materials. This fiscal note assumes that General Fund moneys will be needed, but the exact fund sources will vary by agency. The potential impact of the bill on contracting costs is not included in Tables 1 and 2, but is described in greater detail below.

Cost Components	FY 2012-13	FY 2013-14
Personal Services	\$182,156	\$200,171
FTE	2.7	3.0
Operating Expenses and Capital Outlay	16,674	2,850
Updating Contracting Manuals (CDOT)	6,488	0
TOTAL	\$205,318	\$203,021

Department of Personnel and Administration. The Department of Personnel and Administration will require 2.7 FTE at a cost of \$198,830 for FY 2012-13, and 3.0 FTE at a cost of \$203,021 in FY 2013-14 and in future years. This amount will be payable from the General Fund and includes operating expenses and capital outlay. These costs are required to promulgate and manage new rules and to support certification of a vendor's eligibility for the 1 percent preference. The DPA manages state-wide procurement of many goods such as computers and vehicles. It also acts as the purchasing agent for about ten other state agencies. The department will require additional employees to research and validate the requirement that goods be manufactured in the United States, particularly for major sourcing categories such as vehicles and computers. Additionally, the department will require additional resources to ascertain whether the goods to be purchased do not exceed by more than 5 percent the cost of comparable goods made outside the United States. This fiscal note assumes that verification of a bidder's eligibility will only occur during the contracting process, rather than throughout the term of a contract.

Colorado Department of Transportation. The Colorado Department of Transportation (CDOT) will have to update rules and modify both its construction manuals and its construction management software to conform to the requirements of this bill. These modifications are expected to require an estimated one-time cost of \$6,488 in FY 2012-13. These costs will be paid from the State Highway Fund, which is continuously appropriated to the department.

All state agencies. The bill directs state agencies to verify a bidder's eligibility for the 1 percent preference. The verification process will be determined by rules promulgated by the DPA after the bill becomes law. Several state agencies will experience increased staff costs, which will vary by the volume and complexity of the contracts issued by each agency, and depend on the level of review required by the DPA rules. This fiscal note assumes that the promulgation of rules and training of agency staff will take several months, and that the new verification procedures will not go into effect until FY 2013-14.

This fiscal note assumes that the verification process will require an additional 4 hours per bid per contract, that the average contract receives 4 bids, and the total workload will increase by 16 hours per contract. Table 2 lists agencies with eligible contracts over \$1.0 million issued since the beginning of FY 2010-11, as recorded in the state contracting database. The listed agencies issued a high enough volume of contracts to qualify for at least 0.1 additional FTE, based on the formula above. The staffing level for one agency rises to the 0.5 FTE minimum required for standard operating and capital outlay expenses. This cost is reflected as an additional cost in Table 2. Staffing is assumed to be at the General Professional IV level for all agencies.

Table 2. Expenditures Beginning in FY 2013-14 by Agency under SB 12-004					
Agency	Number of Eligible Contracts*	Staff Time Required (Hours)	FTE	Additional Costs	Total
Health Care Policy and Financing	25	400	0.2	N/A	11,359
Human Services	25	400	0.2	N/A	11,359
Transportation	130	2080	1.0	5,273	69,038
	180	2,880	1.4	5,273	\$91,756

* The number of eligible contracts is an estimate based on a survey of the information listed in the state contracting website.

This fiscal note assumes that to the extent that other agencies issue a high enough volume of contracts to qualify for at least 0.1 additional FTE, based on the formula above, additional costs may be requested in future years, but these costs can be addressed through the regular budget process.

Increased contracting costs. This bill may increase the cost of some contracts for the purchase of goods for state agencies by up to 1 percent, or \$10,000 per \$1.0 million expended. A bidder for a contract for goods costing more than \$1.0 million who certifies that the goods are manufactured in the United States, as defined by the bill, could submit a bid up to 1 percent greater than the next lowest bid and win the contract. Therefore, the overall cost of the contract could increase by as much 1 percent.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 3.

Table 3. Expenditures Not Included Under SB 12-004*		
Cost Components	FY 2012-13	FY 2013-14
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$16,806	\$18,467
Supplemental Employee Retirement Payments	9,712	12,286
TOTAL	\$26,518	\$30,753

*More information is available at: <http://colorado.gov/fiscalnotes>

Departmental Difference

The DPA is requesting an *additional* \$134,381 and 1.8 FTE in FY 2012-13 and \$138,392 and 2.0 FTE in FY 2013-14 and future years to oversee the verification of a bidder's eligibility for the 1 percent preference. Specifically, the department anticipates the need to source all of the components of the goods to be purchased. This fiscal note assumes that only the final design or assembly of a product must occur in the United States, and that the department will not need to source the individual components of goods to be purchased.

State Appropriations

For FY 2012-13, the Department of Personnel and Administration requires a General Fund appropriation of \$198,830 and 2.7 FTE.

Departments Contacted

All Departments