

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

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

Date: June 1, 2012
Bill Status: Deemed Lost
Fiscal Analyst: Kori Donaldson (303-866-4976)

TITLE: CONCERNING THE CREATION OF A PROCUREMENT PREFERENCE TO BE GRANTED FOR MATERIALS MANUFACTURED IN THE UNITED STATES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures		
<u>Total</u>	<u>\$205,318</u>	At least <u>\$272,059*</u>
General Fund	198,830	203,021
State Highway Fund	6,488	69,038
FTE Position Change	2.7 FTE	4.0 FTE
Effective Date: The bill was heard in the House State, Veterans, and Military Affairs Committee on April 26, 2012. A motion to refer the bill to the Committee on Appropriations failed on a tie vote and no further action on the bill was taken before adjournment sine die. The bill was therefore deemed lost on May 10, 2012.		
Appropriation Summary for FY 2012-2013: The Department of Personnel and Administration would have required a General Fund appropriation of \$198,830 and 2.7 FTE.		
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, would have directed state agencies to grant a 1 percent preference to bidders for contracts expected to cost more than \$250,000 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 required that the purchased goods be of equal quality, available in sufficient quantity, and not exceed by more than 15 percent the cost of such items manufactured outside the United States. The Department of Personnel and Administration (DPA) was 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 would have increased state expenditures by at least \$205,318 and 2.7 FTE in FY 2012-13 and by \$272,059 and 4.0 FTE in FY 2013-14, as shown in Table 1. These costs were based mainly on increased workload for verification of contracts, but also included some one-time costs for the Colorado Department of Transportation (CDOT) to update contract materials. The potential impact of the bill on contracting costs is not included in Table 1, but is described in greater detail below.

Cost Components	FY 2012-13	FY 2013-14
Personal Services	\$182,156	\$263,556
FTE	2.7	4.0
Operating Expenses and Capital Outlay	16,674	8,503
Updating Contracting Manuals (CDOT)	6,488	0
TOTAL	\$205,318	\$272,059

Department of Personnel and Administration. The Department of Personnel and Administration would have required 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 would have been payable from the General Fund and included operating expenses and capital outlay. These costs were 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 would have required 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 would have required additional resources to ascertain whether the goods to be purchased did not exceed by more than 15 percent the cost of comparable goods made outside the United States. This fiscal note assumed that verification of a bidder's eligibility would have only occurred during the contracting process, rather than throughout the term of a contract.

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

The CDOT would have also required 1.0 FTE at a cost of \$69,038 beginning in FY 2013-14 and continuing in future years. This amount would have be payable from the State Highway Fund and included operating expenses and capital outlay. These costs were required to verify a bidder's eligibility for the 1 percent preference. The promulgation of rules and training of agency staff would have likely taken several months, and this fiscal note assumed that the new verification procedures

would not have gone into effect until FY 2013-14. This fiscal note estimated that the verification process would have required an additional 4 hours per bid per contract, that the average contract received 4 bids, and that the total workload would have increased by 16 hours per contract. In FY 2010-11, the CDOT issued about 127 contracts that would have been eligible for the 1 percent preference, which would have required an additional 2,032 hours to verify, or 127 contracts x 16 hours per contract.

All state agencies. This fiscal note assumed that to the extent that other agencies issued a high enough volume of contracts to qualify for at least 0.1 additional FTE, based on the formula discussed above, additional costs may have been requested in future years, but that these costs would have been addressed through the regular budget process.

Increased contracting costs. This bill may have increased 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 certified that the goods were manufactured in the United States, as defined by the bill, could submit a bid up to 1 percent greater than the next lowest bid to win the contract. Therefore, the overall cost of the contract could have increased by as much 1 percent.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill would have been 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 2.

Table 2. 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 identified additional costs of \$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 anticipated the need to source all of the components of the goods to be purchased. This fiscal note assumed that only the final design or assembly of a product must occur in the United States, and that the department would not have needed to source the individual components of goods to be purchased.

State Appropriations

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

Departments Contacted

All Departments