SB11-185

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 11-0747	**Date:**	March 14, 2011
Prime Sponsor(s):	Sen. Johnston	**Bill Status:**	Senate Local Government
		Fiscal Analyst:	Jonathan Senft (303-866-3523)

TITLE: CONCERNING A CLAUSE IN STATE CONTRACTS THAT REQUIRES A VENDOR TO NOTIFY THE STATE IF THE VENDOR OUTSOURCES DUTIES PERFORMED PURSUANT TO THE CONTRACT TO A LOCALE OUTSIDE THE UNITED STATES.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue	<\$5,000	<\$5,000
State Expenditures Cash Funds - State Highway Fund	\$8,063	
FTE Position Change		
Effective Date: January 1, 2012, unless a referendum petition is filed.		
Appropriation Summary for FY 2011-2012: None.		
Local Government Impact: See local Government Impact section.		

Summary of Legislation

This bill inserts a clause within procurement contracts requiring vendors to notify agencies of foreign outsourcing in contracts over $250,000. Vendors will be responsible for notifying the contracting agency, in writing, of any international outsourcing work within 10 days of such work, or at the signing of the procurement contact. The Department of Personnel and Administration is then required to post the names of vendors on its web site. The bill does not require any compliance monitoring by the agency, however if vendors are found to be non-compliant, they will be subject to a fine equal to one percent of the contract value and the contract may be voided.

Background

Prior to contracting, current law requires a prospective vendor to disclose whether any services under contract or subcontracts will be performed outside the United States, and the rationale to its necessity. This law does not apply to any contract for Medicare, Medicaid, the Children's Basic Health Plan, or the Colorado Indigent Care Program. This bill differs from current law in that it does not require the vendor to provide written notice of outsourced duties upon completion of the contract.

State Revenue

This bill requires a fine to be levied on contracting vendors that fail to notify the agency of outsourcing performed in other countries within a certain time frame. This fine is set at one percent of the price of the total contract. Any revenue generated by this fine is based on the number of violations and the contract size, and is therefore indeterminate. Assuming an average of two violations per year, fine revenue could rise to $5,000 per year. Further, the bill is silent on the allocation of any fines or how they will be collected, but it is assumed that fine revenue would be allocated to the contracting agency.

State Expenditures

A minimal level of work is required by each agency to insert proposed language within new and renewed contracts, and costs may be incurred to explain the new rule to vendors. Also, in accordance with the bill, the Department of Personnel and Administration is required to post the names vendors who internationally outsource on its web site. As the site is maintained and updated on a regular basis, these new duties are expected to be absorbed within existing resources.

In addition, the Department of Transportation requires a one-time modification to its bidding and contracting documents, utilizing approximately 200 hours of staff resources at a cost of $8,063 in FY 2011-12. The department's resources are continuously appropriated through the State Highway Fund, and therefore no specific appropriation is required.

Local Government Impact

Any local government participating jointly on a state purchasing contract could potentially gain revenue from any fined levied, however the bill is silent as to the allocation of fine revenue.

Departmental Differences

It is the position of the Department of Health Care Policy and Financing that this bill requires significant additional monitoring of vendors to ensure compliance with the bill's provisions. The department is engaged in approximately 3,000 contracts at any time and asserts that it would require additional staff to review monetary terms and potentially cancel contracts. The department expects to require 1.0 FTE, General Professional II, for a cost of $25,668 in FY 2011-12 and $50,128 in FY 2012-13. These costs are prorated to reflect the remainder of the first fiscal year, and would be divided evenly between federal funds and the General Fund. This fiscal note assumes that the burden of this bill remains with the vendor, and would not require additional work above regular activities to ensure contract compliance.

Departments Contacted

All Departments