



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #104

### **Procurement and Risk Appropriation Creation (Administration -- General Agency Provisions)**

[LFB 2019-21 Budget Summary: Page 24, #7]

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#### **CURRENT LAW**

The State Bureau of Procurement (SBOP) and the Bureau of State Risk Management (BSRM) are administered within the Department of Administration's Division of Enterprise Operations. The State Bureau of Procurement is responsible for purchasing all necessary materials, supplies, equipment, other permanent personal property and miscellaneous capital, contractual services, and other expenses of a consumable nature for agencies, except those authorized as special designated agents. Under current law, DOA may assess any agency or municipality for the cost of procurement services provided. The Bureau of State Risk Management provides risk management and risk financing services to state agencies. Under current law, DOA may charge each agency a proportionate share of the estimated costs attributable to programs administered by BSRM.

#### **GOVERNOR**

Create a continuing PR appropriation for procurement and risk management services. Authorize DOA to provide technical assistance and other services relating to procurement and risk management for local governmental units and private organizations, including conducting educational seminars, courses, and conferences. Require DOA to charge fees sufficient to recover the costs of activities. The bill estimates expenditures for the appropriation at \$0 annually.

#### **DISCUSSION POINTS**

1. The State Bureau of Procurement's responsibilities are to: (a) establish policies and

procedures governing all agency and campus procurements; (b) manage statewide procurements and contracts for goods and services used across state government; (c) provide training and consulting services to agencies; (d) maintain the state's online purchasing information system; and (e) perform management reviews of agencies and campuses for compliance with state procurement laws, policies, and procedures. Under statute, SBOP is responsible for purchasing all necessary materials, supplies, equipment, other permanent personal property and miscellaneous capital, contractual services, and other expenses of a consumable nature for all agencies. The Bureau may delegate purchasing authority to special designated agents. Under current law, DOA may assess any agency or municipality to which it provides procurement services for the cost of the services provided.

2. The Bureau of State Risk Management's responsibilities are to: (a) protect the state from losses that are catastrophic in nature and minimize the total cost to the state of all activities related to the control of accidental loss; (b) emphasize the reduction of loss through professional attention to scientific loss control techniques and by motivational incentives, prompt claims payment, and other loss prevention measures; (c) identify and evaluate loss exposure to the state and its employees or injury to the public as the result of fire, accidents, or other fortuitous events at state-owned properties or facilities; (d) recommend changes in procedures, program conditions, or capital improvements for all agencies that would satisfactorily eliminate or reduce loss exposure; (e) manage the state employees' worker's compensation program and statewide self-funded programs to finance losses arising from state liability and damage to state property; (f) arrange appropriate insurance contracts for the transfer of risk on the part of the state or its employees, to the extent such loss cannot reasonably be assumed by the individual agencies or the self-funded program; (g) approve all insurance purchases; and (i) train, upgrade, and guide appropriate personnel in the agencies in the implementation of sound risk management practices and industry standards for best practices for claims management. Under current law, DOA may charge each agency a proportionate share of the estimated costs attributable to programs administered by BSRM.

3. The requested appropriation would authorize DOA to charge local units of government and private organizations for technical assistance and other services relating to procurement and risk management, including educational seminars, courses, or conferences. For example, the administration indicates the proposed appropriation could be used to receive risk, procurement, and other conference registration fees from local units of government and private organizations.

4. The Department regularly provides two such qualifying conferences each year. On October 31, 2018, SBOP held the third annual state procurement conference. Registration fees ranged from \$30 to \$45 depending on the time of payment. On November 1 and 2, 2018, BSRM held the twenty-third annual state risk management conference. Registration fees ranged from \$60 to \$80 depending on the time of payment. Conference fees collected from all attendees are currently processed through the administrative appropriations associated with SBOP and BSRM. Conference fees from non-state entities were estimated to generate \$800 in 2017-18.

5. The provision would authorize DOA to charge for procurement and risk management services provided to non-state entities, such as local units of government and private organizations. The administration indicates that the recommendation is intended to codify current practices and allow for the separate accounting of associated fees. The Committee could approve the Governor's

recommendation to create a continuing PR appropriation, with estimated expenditures of \$0 annually, for procurement and risk management services for non-state entities. [Alternative 1]

6. The bill estimates expenditures for the appropriation at \$0 annually. However, expenditure authority for a continuing appropriation that is not sum certain is only limited to the unencumbered balance in the appropriation account. Further, the bill does not specify the meaning of "technical assistance and other services." Given the structure of the appropriation and lack of definitions under the bill, it could be argued that DOA would have the authority to expand services to local governmental units and private organizations and to spend any revenues collected without legislative review. Based on the value of qualifying services in 2017-18, the Committee could decide to limit expenditures by instead modifying the proposal to create an annual appropriation with expenditure authority of \$1,000 PR annually. [Alternative 2]

7. On the other hand, it could be argued that the statutory responsibilities of SBOP and BSRM encompass services to state agencies, rather than services to local units of government or private organizations. Further, DOA currently has the authority to process occasional revenues from non-state entities. The administration indicates that, if the provision were not approved, DOA would continue to deposit revenues from non-state entities to each bureau's administrative appropriations and would not pursue marketing to non-state entities or individuals. Therefore, the Committee could take no action. [Alternative 3]

## ALTERNATIVES

1. Approve the Governor's recommendation to create a continuing PR appropriation for procurement and risk management services for non-state entities with estimated expenditures of \$0 annually.

2. Modify the provision to create an annual PR appropriation for procurement and risk management services for non-state entities. Further, modify the provision to limit expenditure authority to \$1,000 PR annually.

ALT 2	Change to	
	Base	Bill
PR	\$2,000	\$2,000

3. Take no action.

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