

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1992 – SB 1940

March 8, 2016

**SUMMARY OF ORIGINAL BILL:** Specifies that a “vendor” includes a legal entity that is currently in a contract with a state department or agency, bids on a contract with a state department or agency, or attempts to amend a current contract. Requires a vendor that is being investigated by a state department, state agency, or law enforcement regarding the business activity of the vendor to immediately notify the chief procurement officer (CPO), in writing, of the details of the investigation. Requires the CPO to notify the executive director of the Fiscal Review Committee (FRC) and the Comptroller of the Treasury (COT) of such investigations. Subjects a vendor who knowingly withholds information from the CPO and enters into a new or amended contract to a fine of no less than \$10,000 or an amount equal to five percent of the total price of the contract, whichever is greater. Authorizes a state department or agency to terminate a vendor’s contract who is in violation of this section.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (013472):** Deletes all language after the enacting clause. Specifies that a “vendor” includes a legal entity that is currently under contract with a state department or agency; that bids on a contract with a state department or agency; or attempts to amend a current contract. Requires a vendor who is indicted for or convicted of, or pleads guilty or nolo contendere to, any violation under the Sherman Antitrust Act (15 U.S.C. §§ 1-7); mail fraud under 18 U.S.C. § 1341; any federal or state criminal statute in connection with any contract let or funded, in whole or in part, by this state or any other state or territory of the United States; or any federal or state crime as the result of any investigation into such violations or crimes, within 30 days after receiving notice of such indictment, conviction, or plea, to provide a copy of the indictment, final judgement of conviction, or plea agreement to the CPO. Requires the CPO to forward a copy of the indictment, final judgement of conviction, or plea agreement to the Executive Director of the FRC and to the COT. Subjects a vendor, who knowingly fails to provide such notice and who enters into a new contract or amended contract, to a fine of not less than \$10,000. If the total price of the contract is greater than \$200,000, the fine shall not exceed five percent of the total contract price. Authorizes a state department or agency to terminate a vendor’s contract found to be in violation of this section. The bill as amended will apply to all contracts entered into on or after July 1, 2016.

HB 1992 – SB 1940

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

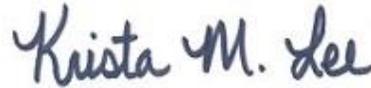
### **Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Requiring a respondent or vendor who contracts with the state to provide the required notice to the CPO will not impact the current practice of state departments or agencies.
- Requiring the CPO to provide copies of complaints, indictments, or other pleadings received from vendors to the Executive Director of the FRC as well as to the COT will not result in a significant fiscal impact to the CPO office. Any increase to the workload of the CPO can be handled within existing resources.
- In order to avoid a fine of \$10,000 or five percent of the total contract price, as well as losing a state contract, most vendors will notify the CPO as required. Any increase in penalty or fine revenue as a result of the proposed legislation is estimated to be not significant.
- State contracts with vendors contain *Termination for Convenience* and *Termination for Cause* clauses which provide the state with the authorization to terminate contracts if necessary. Authorizing a state department or agency to terminate a contract for violation of the proposed legislation will not have a significant impact.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/lsc