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## Higher Education Committee

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### HB 1962

**Brief Description:** Reducing burdens on institutions of higher education.

**Sponsors:** Representative Hunter.

#### Brief Summary of Bill

- Raises threshold limits for personal services contracts entered into by institutions of higher education.
- Exempts institutions of higher education from the requirements regarding sole source contracts.
- Excludes personal service contracts entered into by institutions of higher education from the publicly available list of all personal service contracts entered into by state agencies.
- Excludes institutions of higher education from the procedure and formula for allocating the costs of services provided to state agencies by the Division of Archives and Records Management.
- Provides that, for purposes of the Higher Education Personnel Service Fund, institutions of higher education are to be charged for services used rather than a percentage of salaries and wages for positions within the classified service.
- Raises bid threshold limits for procurement of goods by institutions of higher education.
- Exempts vehicles owned by institutions of higher education from fuel economy requirements.
- Allows institutions of higher education to pay in advance for equipment maintenance services to be performed more than 12 months after payment is made.

**Hearing Date:** 2/16/11

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Cece Clynch (786-7195).

## **Background:**

### Personal Services Contracts.

A policy of open competition applies to personal services contracts. Subject to limited exceptions, all personal services contracts entered into by state agencies must be entered into pursuant to competitive solicitation. There are enumerated exceptions for:

- emergency contracts;
- sole source contracts;
- contract amendments; and
- contracts between a consultant and an agency of less than \$20,000. Contracts between \$5,000 and \$20,000 must, nevertheless, have documented evidence of competition which must include agency posting of the contract opportunity on the state's common vendor registration and bid solicitation system.

The Office of Financial Management (OFM) must maintain a publicly available list of all personal service contracts entered into by state agencies during each fiscal year. The list must identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any modifications to the contract and whether the contract was competitively procured or awarded on a sole source basis.

### Sole Source Contracts.

Sole source contracts must be filed with the OFM and made available for public inspection at least 10 working days prior to the proposed starting date of the contract. State agencies must provide to the OFM justifications for sole source contracts, including evidence that the agency posted the contract opportunity on the state's common vendor registration and bid notification system.

Sole source contracts of \$20,000 or more require evidence that the agency attempted to identify potential consultants by advertising through statewide or regional newspapers. The OFM must approve sole source contracts of \$20,000 or more before the contract becomes binding and before any services may be performed under the contract.

### Division of Archives and Public Records.

There is a Division of Archives and Public Records in the Office of the Secretary of State. Its statutory purpose is to insure the proper management and safeguarding of public records.

The Secretary of State and the Director of the OFM establish a procedure and formula for allocating the costs of services provided by this division to state agencies. The fees and charges collected from state agencies are deposited into an account in the State Treasury and appropriated exclusively for the payment of costs and expenses incurred in the operation of the division. The total amount allotted for services to state agencies may not exceed the appropriation to the Archives and Records Management Account during any allotment period.

### Higher Education Personnel Service Fund.

The Higher Education Personnel Service Fund, created within the State Treasury, is used as a revolving fund for the payment of salaries, wages, and operations required by the Department of

Personnel for the administration of the state's civil service law. Institutions of higher education are charged a percentage of salaries and wages for positions within the classified service.

#### Procurement of Goods.

State agency purchases of goods up to \$3,000 may be made without competitive bids. Purchases between \$3,000 and \$35,000 require quotations from at least three vendors to assure establishment of a competitive price. A record of competition for all such purchases must be documented for audit purposes. Purchases of \$35,000 or more require a formal sealed, electronic, or web-based competitive bid.

#### Fuel Economy Requirements.

State agencies are required to phase in fuel economy standards for motor pools to achieve an average fuel economy standard of 36 miles per gallon (MPG) for passenger vehicle fleets by 2015. After June 15, 2010, stage agencies must achieve an average fuel economy of 40 MPG for light duty passenger vehicles and 27 MPG for new purchases. Certain types of vehicles are exempted, such as passenger vans and vehicles for off-pavement use.

#### Equipment Maintenance Agreements.

Agencies may not make any payments in advance for any equipment maintenance services to be performed more than 12 months after such payment.

### **Summary of Bill:**

#### Personal Services Contracts.

The competitive bid dollar thresholds are changed for institutions of higher education:

- Less than \$10,000 - no bid.
- \$10,000 - \$100,000 - quotation from at least three vendors.
- \$100,000 and more - sealed, competitive bid.

Additionally, an older statute, which also imposed limits upon personal services contracts, is repealed.

For purposes of the publicly available list of all personal service contracts entered into by state agencies, institutions of higher education are not considered state agencies.

#### Sole Source Contracts.

Institutions of higher education are exempted from the requirements regarding sole source contracts.

#### Division of Archives and Records Management.

For purposes of the section which tasks the Secretary of State and the OFM with establishing a procedure and formula for allocating the costs of services provided by the Division of Archives and Records Management to state agencies, institutions of higher education are not considered state agencies.

#### Higher Education Personnel Service Fund.

Unlike other agencies, which are charged a percentage of salaries and wages for positions within the classified service, institutions of higher education are to be charged an amount based on services used.

Procurement of Goods.

Bid thresholds are changed for institutions of higher education as follows:

- Less than \$10,000 - no bid.
- \$10,000 - \$100,000 - quotation from at least three vendors.
- \$100,000 and more - sealed, competitive bid.

Fuel Economy Requirements.

Vehicles owned by institutions of higher education are exempted from the fuel economy requirements.

Equipment Maintenance Agreements.

Institutions of higher education may make advance payments for equipment maintenance services to be performed more than 12 months after payment.

**Appropriation:** None.

**Fiscal Note:** Requested on 2/15/2011.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.