

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 490

INTRODUCER: Senator Albritton

SUBJECT: Statewide Procurement Efficiency Task Force

DATE: March 11, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ponder	McVaney	GO	Favorable
2.			AEG	
3.			AP	

I. Summary:

SB 490 creates a 14 member Statewide Procurement Efficiency Task Force. The purpose of the task force is to evaluate the effectiveness and value of state and local procurement laws and policies to the taxpayers of this state, determine where inconsistencies in such laws and policies exist, and submit a report by July 1, 2020. The final report of the task force must include, at a minimum, recommendations for consideration by the Legislature that promote procurement efficiency, streamline procurement policies, establish best management practices, and encourage increased use of state term contracts.

The bill provides for termination of the task force upon the submission of its final report.

The bill takes effect July 1, 2019.

II. Present Situation:

Task Force Requirements under Section 20.03, Florida Statutes

Section 20.03(8) defines “task force” to mean an “advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem.” This provision specifies that the existence of the task force terminates upon the completion of its assignment.

State Procurement

Chapter 287, F.S., provides a comprehensive scheme for the procurement of commodities and services by the state. Section 287.001, F.S., establishes the legislative intent that public procurement be “fair and open” so as to preserve “public confidence that contracts are awarded

equitably and economically.” Chapter 287, F.S., was enacted to protect the public and allow agencies to purchase commodities at the lowest possible cost. “Agency” does not include the university and college boards of trustees or the state universities and colleges.

All state agencies are subject to ch. 287, F.S. Section 271.012(1), F.S., defines “agency” as “any of the various state officers, departments, boards, commission, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government.” Section 24.105(13), F.S., grants the Department of Lottery the authority to adopt rules providing alternative procurement procedures.

The Department of Management Services is the state agency that has authority to establish uniform policies, procedures, and practices state agencies are required to use in acquiring commodities and contractual services.¹ The department has the authority to procure purchasing agreements and state term contracts.² These contracts are generally developed for purchases of commodities and services that are ongoing and common to multiple state agencies. Agencies are required to use state term contracts when they are available³ and eligible users⁴ may use to make purchase.⁵ Section 24.105(13), F.S., grants to the Department of Lottery authority to perform any function of the Department of Management Services under ch. 287, F.S.

Chapter 255, F.S., provides the procurement process for public construction works and provides for a scenario in which agencies may receive unsolicited proposals.⁶

The public bidding process is also governed by ch. 120, F.S., which provides a mechanism by which aggrieved parties may challenge agency decisions.

Local Procurement

Local governments are not subject to Chapter 287, though many have rules or policies for procurements that are similar to chapter 287.⁷ For public construction projects, s. 255.20, F.S., requires counties, municipalities, special districts or other political subdivisions of the state to competitively award these projects.

III. Effect of Proposed Changes:

Section 1 creates the Statewide Procurement Efficiency Task Force (task force) to evaluate the effectiveness and value of state and local procurement laws and policies to the taxpayers of this state and determine where inconsistencies in such laws and policies exist. The task force is to be chaired by the Secretary of the Department of Management Services, or his or her designee, and composed of:

¹ Section 287.042(3), F.S.

² Section 287.042(2)(a), F.S.

³ Section 287.056(1), F.S.

⁴ See s. 287.012(11), F.S. and Rule 60A-1.001(2), F.A.C

⁵ Section 287.012(11), F.S.

⁶ Section 255.065(3), F.S.

⁷ See *Accela, Inc. v. Sarasota Cnty.*, 993 So. 2d 1035 (Fla. 2d DCA 2008).

- The Secretary of Management Services, or his or her designee;
- Seven members appointed by the Governor, including one county government official, one municipal official, one district school board member, one professional engineer, one general contractor, and the chairs of the governing boards of two water management districts;
- Two members appointed by the Speaker of the House of Representatives, including a member of the House of Representatives, and an attorney who is a member in good standing of The Florida Bar and has expertise in procurement law;
- Two members appointed by the President of the Senate, including one member of the Senate and one an attorney who is a member in good standing of The Florida Bar and has expertise in procurement law;
- The Chief Financial Officer, or his or her designee; and
- The state chief information officer, or his or her designee.

Members of the task force are to serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

The bill requires appointments to be made by July 31, 2019. The task force must meet by August 31, 2019, to organize. The task force is to meet at the call of the chair. A majority of task force members constitutes a quorum, and a quorum is necessary for the purpose of voting on any action or recommendation of the task force. All meetings must be held in Tallahassee, unless otherwise decided by the task force, and no more than two meetings may be held in other locations for the purpose of taking public testimony.

By July 1, 2020, the task force must submit a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report, at a minimum, must include recommendations for consideration by the Legislature to promote procurement efficiency, streamline procurement policies, establish best management practices, and encourage increased use of state term contracts. The task force is terminated upon the submission of its final report.

Section 2 provides the act will take effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides that task force members are to serve without compensation and are not entitled to reimbursement for per diem or travel expense. Thus, to the extent travel is required, the members will incur associated costs.

C. Government Sector Impact:

The Department of Management Services will incur an indeterminate amount of administrative expenses as the agency providing administrative and technical support for the task force.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill does not amend the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.