

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: House Bill 391 (First Edition)

SHORT TITLE: Dept. of Admin/Procurement Modernization.-AB

SPONSOR(S): Representatives Avila and Torbett

| <b>FISCAL IMPACT</b>   |   |                          |                                  |                          |                          |
|--|---|--------------------------|----------------------------------|--------------------------|--------------------------|
|  | <b>Yes (X)</b>  | <b>No ( )</b>            | <b>No Estimate Available ( )</b> |                          |                          |
|  | <b><u>FY 2011-12</u></b>                                      | <b><u>FY 2012-13</u></b> | <b><u>FY 2013-14</u></b>         | <b><u>FY 2014-15</u></b> | <b><u>FY 2015-16</u></b> |
| <b>REVENUES</b>  |   |                          |                                  |                          |                          |
| <b>EXPENDITURES</b>  |   |                          |                                  |                          |                          |
| Contract Savings   | Savings Cannot Be Determined: See Assumptions and Methodology |                          |                                  |                          |                          |
| Operations and Maintenance   | Costs Cannot Be Determined: See Assumptions and Methodology   |                          |                                  |                          |                          |
| <b>Special Funds:</b>  |   |                          |                                  |                          |                          |
| E-Commerce Reserve   | \$3,483,526   |                          |                                  |                          |                          |
| <b>POSITIONS (cumulative):</b>   |   |                          |                                  |                          |                          |
| <b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Administration and all State government departments, institutions, and agencies. |   |                          |                                  |                          |                          |
| <b>EFFECTIVE DATE:</b> July 1, 2011  |   |                          |                                  |                          |                          |

**BILL SUMMARY:**

House Bill 391 amends G.S. 143-49 with respect to purchase and contract services performed by the Department of Administration (Department). Section 1 of the bill deletes the term "supply of materials and supplies" and replaces it with "goods" with respect to canvassing for supplies and purchase and contracting for the supply of goods. Throughout the bill, goods are defined as all commodities, supplies, materials, equipment, and other tangible personal property. Furthermore, the Department is allowed to use, without limitation, negotiations, reverse auctions, or a best value procurement method as defined in G.S. 143-135.9(a)(1). The best value procurement method allows the selection of a contractor on the basis of multiple factors including total cost of ownership; the evaluated technical merit of the vendor's proposal, past performance of the vendor,

and the ability of the vendor of performing the required task on time while maintain quality. The current method of selection would be the “lowest and best bid” under G.S. 143-52.

The bill also amends the Department’s current authority to establish and enforce specifications to include the term “goods and services” and deletes the existing “supplies, materials, and equipment.”

The bill amends the requirement that the Department must request a representative from the Attorney General’s office to assist in the negotiation of a contract. The negotiation requirement for the award of a contract is removed, and a negotiation requirement with prospective contractors for contracts exceeding \$100,000 is added. Contractual services under this section are also amended to include items in G.S. 143-52.2.

An additional subsection (17) is added to G.S. 143-49. This requires the Department to establish procedures to permit State government entities to join with any federal, State, or local government entity and nonprofit organization in cooperative purchasing plans, projects, arrangements, or agreements that serve the interest of the State.

Section 2 of the bill amends the reporting requirement by agencies to the Department under G.S. 143-51. Currently, State entities are required to report to the Department regarding needs for supplies, materials, contractual services, and equipment. Agencies would be required to report needs of goods and services under the new reporting requirement. An additional subsection is added to require a new reporting requirement for actual expenditures of goods and services from State entities.

Section 3 makes various technical and conforming changes to G.S. 153-52. The changes are required due to Section 1 of this bill.

Section 4 amends G.S. 143-53 regarding rules development for the Department. Language allowing the Department to develop rules for contractual services is deleted. Technical and conforming changes are made to subsection (a)(5) and (a)(7). With respect to subsection (a)(5), the limitation on reverse auctions is removed for public schools.

Section 5 makes technical and conforming changes to G.S. 143-55, which requires State entities to make purchases through entities established by contract and certified by the Department.

#### **ASSUMPTIONS AND METHODOLOGY:**

The Department expects no additional costs to the Division of Purchase and Contract to manage the changes outlined in this bill. Fiscal Research concurs with this estimate. The Department estimates that various upgrades will need to be made to the Electronic Procurement System utilized by the department for the purchase of goods. The purchase for this System will be made through a sole source contract with Accenture, utilizing Ariba Buyer software. The Department estimates that this upgrade will cost \$3,483,526 in Fiscal Year 2012. The source of funds for the E-Procurement upgrade will come from the E-Commerce Reserve Fund. The total cost of the contract is \$5,500,000.

The source of funds for the reserve is a surcharge of 1.75% required for the purchase of goods using the current E-Procurement System. After the surcharge covers monthly payments to Accenture for hosting the Help Desk, the balance goes to the reserve fund. The current balance of the fund is \$9,577,042 as of March 31<sup>st</sup>.

Additional costs could occur to the State if such a surcharge is continued in the future for the operation and maintenance of the E-Procurement system. Currently, no information on the surcharge has been provided for the next fiscal year. Currently, payments for hosting the help desk cost \$873,000 per month until June 30, 2011.

The Department expects savings to occur to the State by combining the purchasing of State agencies, institutions, departments, and Community Colleges with the various allowed contracting methods provided for in this bill. The Department also estimates that increased reporting requirements from State entities will enhance estimates of procurement needs. Within the Governor's Recommended Budget for 2011-2013 on page 291, a \$30,000,000 savings was expected from procurement reform for FY 2013. However, documentation that reflects this savings has not been provided as of this time.

**SOURCES OF DATA:** Department of Administration

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION:** (919) 733-4910

**PREPARED BY:** Mark Bondo

**APPROVED BY:** Lynn Muchmore, Director  
**Fiscal Research Division**

**DATE:** April 20, 2011



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