

February 10, 2017

The Honorable Elaine Bowers, Chairperson
Senate Committee on Ethics, Elections and Local Government
Statehouse, Room 223-E
Topeka, Kansas 66612

Dear Senator Bowers:

SUBJECT: Fiscal Note for SB 105 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 105 is respectfully submitted to your committee.

SB 105 would prohibit the state or any municipality from entering into a contract with any business entity to provide services, materials, supplies, or equipment or to acquire, sell or lease any land or building where the value of the transaction exceeds \$10,000 if the business has solicited or made any monetary contribution, in-kind contribution, or pledge of a contribution to a candidate or elected officeholder for a state or municipal office within the 18 months preceding the negotiations for the contract or agreement, or during the term of the office holder, or within 18 months preceding the last day of the officeholder's term. The bill would also prohibit any business which agrees to any contract or agreement with the state or any municipality from soliciting or making contributions to a candidate for or officeholder of any state or municipal office.

Estimated State Fiscal Effect				
	FY 2018 SGF	FY 2018 All Funds	FY 2019 SGF	FY 2019 All Funds
Revenue	--	--	--	--
Expenditure	\$239,000	\$239,000	\$214,000	\$214,000
FTE Pos.	--	4.00	--	4.00

According to the Kansas Department of Administration, there are currently hundreds of potential public offices and candidates for election throughout the state and in Kansas municipalities. In addition, there are thousands of bidders in the state financial management

system and tens of thousands of vendors and suppliers who could be doing business with the state through an agreement in excess of \$10,000 that are also registered in the state financial management system. The agency states that at any one time, the Office of Procurement and Contracts (OPC) is managing approximately 3,500 contracts, not including any municipal contracts or contracts with Regent's institutions. The OPC also handles more than 7,000 purchase requisitions in any one fiscal year, and many are for procurements in excess of \$10,000. There is nothing in the bill to prevent current contracts from needing to be amended to comply with the requirements of SB 105; however, the vendor or supplier would not be under any obligation to sign the amendment, which could cause the contract to be cancelled and a new bid event initiated. During the interim, the state could be without access to the commodity or service previously provided. In addition, the potential exists for a vendor or supplier with an existing contract to claim that any action which requires their contract to be terminated is inconsistent with the terms of the original bid solicitation.

In order to determine if the representations made by any vendor or bidder that they have not made contributions prohibited by the act are accurate and that there are no material breaches of any contract, the OPC states that the Kansas Governmental Ethics Commission would need to provide reports to the agency on a continuing basis. Because campaign contribution reports are not filed on an ongoing basis, the possibility exists that contracts could be awarded only to be cancelled at a later date. The OPC does not currently have the resources to monitor for compliance with the provisions of the bill; thus, it would need to increase the level of staffing in order to provide ongoing reviews of Commission reports and bid events. Without such monitoring, the agency states that the possibility exists that vendors that are ineligible to enter into agreements might inadvertently be permitted to do so. When this happens, terminating the contract at a later date would be disruptive to the business of the state and could present additional, unforeseen expense.

The agency estimates that fulfilling the requirements of SB 105 would result in expenditures of \$239,000 from the State General Fund in FY 2018. These expenditures would consist of \$200,000 for salaries and wages for 4.00 FTE positions and one-time expenditures of \$15,000 for office furniture, computers, and telephones. There would also be a one-time expense of \$10,000 to remodel the current office space occupied by the OPC to make room for the additional personnel. Because the space currently used for files would be used for personnel, the agency would experience increased costs for filing and recovering files from storage at an annual cost of \$2,000. Ongoing communication costs associated with the new positions is also expected to be \$2,000. The agency indicates that it would need a multi-functional copier at a cost of \$8,000 per year, as well as additional paper and office supplies at a cost of \$2,000 per year. (\$200,000 salaries and wages + \$15,000 furniture + \$10,000 remodeling + \$2,000 file storage + \$2,000 communications + \$8,000 copier + \$2,000 office supplies = \$239,000). For FY 2019, the cost to the agency is estimated to be \$214,000, which would consist of \$200,000 for salaries and wages for 4.00 FTE positions and \$14,000 for ongoing file storage, communications, copier leasing and office supplies.

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The Governmental Ethics Commission indicates that passage of SB 105 would have no fiscal effect on its budget. Although the agency states that there is no possible way for it to track individual donors on a statewide basis, the reports that the OPC would need to monitor would be available on the agency's website

According to the League of Kansas Municipalities, enactment of SB 105 could cause cities to seek contractual agreements for services or materials from businesses outside their jurisdictions as many of the businesses within their jurisdictions make local campaign contributions or pledge to do so. This change in sourcing could lead to increased costs for shipping, travel or other administrative costs, but the League is unable to estimate what those costs might amount to. The agency does not address the issue of contractual agreements with businesses that make contributions to candidates for statewide offices.

The Kansas Association of Counties indicates that passage of the bill could result in additional staff time for review of contracts valued at \$10,000 or more in order to remain in compliance with the bill. The Association is unable, however, to estimate the statewide fiscal effect. Any fiscal effect associated with SB 105 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Carol Williams, Governmental Ethics
Colleen Becker, Department of Administration
Brock Ingmire, League of Municipalities
Melissa Wangemann, Association of Counties