
DIGEST

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HB 141 Original

2022 Regular Session

McCormick

Abstract: Prohibits certain state and local entities from contracting with companies that boycott fossil fuel companies.

Proposed law creates certain restrictions with respect to the ability of the state and its political subdivisions to contract pursuant to: the Public Bid Law (R.S. 38:2181 et seq.), state information technology (IT) procurement laws (R.S. 39:196 et seq.), the La. Procurement Code (R.S. 39:1551 et seq.), and Dept. of Transportation and Development (DOTD) construction procurements (R.S. 48:250 et seq.).

PUBLIC BID LAW

Present law establishes the Public Bid Law to govern the letting of contracts for the erection, construction, alteration, improvement, or repair of any public facility or land owned, used, or leased by a public entity. Defines "public entity" to mean the state of La. or any agency, board, commission, department, or public corporation of the state, or any political subdivision of the state, and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision. (Pursuant to present law, the term does not include a public body or officer where the particular transaction of the public body or officer is governed by the provisions of the model procurement code.)

Proposed law adds an additional restriction to contracts let by public entities pursuant to present law. Prohibits a public entity from entering into a contract, the letting of which is governed by the provisions of present law, with a company for the purchase of goods or services unless the contract contains a written verification from the company of both of the following:

- (1) The company does not boycott fossil fuel companies.
- (2) The company will not boycott fossil fuel companies during the term of the contract.

Further defines the term "boycott fossil fuel companies" to mean , without an ordinary business purpose, refuse to deal with, terminate business activities with, or otherwise take any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, transportation, sale, or manufacture of fossil-fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law or (b) does business with such a company.

Further provides that proposed law applies only to a contract with a value of \$100,000 or more that meets all of the following criteria:

- (1) Is to be paid partly or wholly from public funds.
- (2) Is between a public entity and a company with at least 10 full-time employees.
- (3) Is entered into on or after Aug. 1, 2022.

Further establishes exceptions to proposed law for:

- (1) Sole-source provider contracts.
- (2) Circumstances where the public entity determines the requirements of proposed law are inconsistent with the public entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

STATE IT PROCUREMENT

Present law establishes special procurement mechanisms for all state agencies in the executive branch—except those of a statewide elected official—for the purchase, lease, and rental of IT equipment, related services, and software. Present law defines "agency" for the purposes of state IT procurement to mean the boards, commissions, departments, agencies, offices, officers, and other instrumentalities, or any or all of these, within the executive branch of state government pursuant to present law (Title 36) or transferred to and placed within the office of the governor as provided by present law.

Proposed law prohibits procurements pursuant to present law with a company that boycotts fossil fuel companies, with the same requirements and exemptions as provided in proposed law for the Public Bid Law.

Present law further allows an agency to use an alternative IT procurement procedure in certain circumstances. Proposed law requires any such alternative procedure to comply with proposed law's Procurement Code prohibition on contracting with a company that boycotts fossil fuel companies.

LOUISIANA PROCUREMENT CODE

Present law establishes the La. Procurement Code to govern buying, purchasing, renting, leasing, or otherwise obtaining supplies, services, or major repairs by any governmental body of the state. Present law defines "governmental body" as any department, office, division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch of state government. Present law further authorizes political subdivisions to participate in certain contracts let pursuant to present law.

Present law (R.S. 39:2191 et seq.) establishes restrictions on contracting that apply to any bid or award resulting from present law (the La. Procurement Code). Proposed law adds an additional restriction for contracts let by public entities pursuant to the La. Procurement Code. Defines "public entity" as:

- (1) A department, office division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch of state government.
- (2) A political subdivision who has adopted all or any part of this Chapter and its accompanying regulations as authorized by present law (R.S. 39:1554(E)).
- (3) A local public procurement unit participating in a cooperative purchasing agreement pursuant to present law (R.S. 39:1702).

Present law (R.S. 39:1556) defines "local public procurement unit" to mean any parish, city, town, governmental body, and any other subdivision of the state or public agency thereof, public authority, public educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the acquisition or leasing of supplies, services, major repairs, and construction, and any nonprofit corporation operating a charitable hospital.

Proposed law prohibits procurements pursuant to present law with a company that boycotts fossil fuel companies, with the same requirements and exemptions as provided in proposed law for the Public Bid Law.

DOTD CONSTRUCTION CONTRACTS

Present law provides authority, requirements, and restrictions relative exclusively to certain DOTD construction contracts. Proposed law prohibits procurements pursuant to present law with a company that boycotts fossil fuel companies, with the same requirements and exemptions as provided in proposed law for the Public Bid Law.

Effective August 1, 2022.

(Amends R.S. 39:199.1; Adds R.S. 38:2216.1, R.S. 39:200.1 and 1602.2, and R.S. 48:251.1.1)