



Phil Mullin

## *Bill Analysis*

Legislative Service Commission

### **H.B. 776**

123rd General Assembly  
(As Introduced)

**Reps. Terwilleger, Damschroder, Peterson, Willamowski, Calvert, Goodman, Grendell, Van Vyven, Roman, Jolivette**

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### **BILL SUMMARY**

- Permits the Department of Administrative Services to purchase supplies through a competitive reverse auction process via the Internet.

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### **CONTENT AND OPERATION**

#### **Purchase of supplies by competitive reverse auction**

The bill authorizes the Director of Administrative Services, in accordance with rules the Director must adopt, to purchase supplies by reverse auction whenever the Director determines that the use of competitive sealed bidding and competitive sealed proposals is not possible or advantageous to the state (sec. 125.072(B)). The bill defines a "reverse auction" to mean a purchasing process in which bidders submit bids in competing to sell supplies in an open environment via the Internet and the "Internet" to mean the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the World Wide Web (sec. 125.072(A)).

Under the bill, bids must be *solicited* through a *request for bids*, which must state the relative importance of price and other evaluation factors. Notice of the request for bids must be given in accordance with rules the Director must adopt. (Sec. 125.072(C).)

As provided in the request for bids and under the rules the Director must adopt, *discussions* may be conducted with reasonable bidders who submit bids determined to be reasonably susceptible for being selected for award for the purpose of ensuring full understanding of, and responsiveness to, solicitation requirements. Bidders must be accorded fair and equal treatment with respect to any opportunity for discussion regarding any clarification, correction, or revision of bids. (Sec. 125.072(D).)

Under the bill, an *award* may be made to the bidder whose bid is determined to be the most advantageous to the state, taking into consideration factors such as price and the evaluation criteria set forth in the request for bids. The contract file must contain the basis on which the award is made. (Sec. 125.072(E).)

**Conforming changes**

The bill includes the competitive reverse auctions under "competitive selection," a term defined in the current State Purchasing Law to include competitive sealed bidding and competitive sealed proposals (sec. 125.01(I)(3)). The Department of Administrative Services, and those state agencies that the Department allows to make purchases directly, generally must make purchases above specified amounts through competitive selection (secs. 125.05 and 125.06, not in the bill).

The bill further amends the State Purchasing Law (1) to provide that the *mailing of a notice* of a request for bids in a competitive reverse auction must be completed at least 15 calendar days prior to the scheduled opening date for bids received in the auction (sec. 125.07(C)(1)) and (2) to authorize the Director of Administrative Services to require that all bids received in a competitive reverse auction be accompanied by a *performance bond or other cash surety* that is acceptable to the Director, in the sum and with the sureties the Director prescribes, payable to the state, and conditioned that the person submitting the bid, if it is accepted, will faithfully execute the terms of the contract and promptly deliver the supplies involved (sec. 125.10(A)). The Director may impose the same bond or surety requirement under existing law when a purchase of supplies is made by competitive sealed bids or competitive sealed proposals.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	09-12-00	p. 2237

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