
DEPARTMENT OF ADMINISTRATIVE SERVICES

Procurement law; revenue received

- Modifies procurement law to require that the value of cost, in both payment from the state and in revenue received by the supplier, must be considered when determining if a purchase is subject to competitive selection procedures.

DAS and state agency purchasing

- Modifies DAS and state agency purchasing preference selection criteria and makes other changes and clarifications to state procurement law.

Opening of competitive bids

- Requires DAS to open competitive sealed bids and competitive sealed proposals in the standardized system of electronic procurement rather than publicly opened in the DAS office.
- Removes the requirement that a representative of the Auditor of State be present at and certify the opening of certain bids and proposals.

Competitive sealed proposals

- Clarifies DAS authority to award a contract to multiple offerors whose competitive sealed proposals are determined to be most advantageous to the state.

State agency direct purchasing authority

- Clarifies state agency direct purchasing authority.

Electronic procurement system

- Specifies that a purchase, by DAS or a state agency through the electronic procurement system established by DAS, constitutes a competitive selection procedure.
- Removes the requirement that DAS make an annual report to the House and Senate finance committees regarding the effectiveness of electronic procurement.
- Removes an outdated provision that required DAS to implement relevant recommendations regarding electronic procurement from the "2000 Management Improvement Commission Report to the Governor."

Requisite procurement programs

- Modifies the requisite procurement process and management.

Increased parental leave benefits

- Increases parental leave benefits for certain state employees by eliminating the 14-day unpaid waiting period and tripling the paid leave period, resulting in a total of 12 weeks of leave paid at the current rate of 70% of the employee's base rate of pay.

Bereavement leave

- Specifies that a permanent employee paid by OBM warrant must begin bereavement leave granted under continuing law not more than five days after the death of the family member that forms the basis for the leave, or not more than five days before or after the funeral of the person whose death formed the basis for the leave.
- Allows an employee to take bereavement leave on the basis of a miscarriage or the stillbirth of a child by providing appropriate medical documentation (in the case of a miscarriage) or a fetal death certificate (in the case of a stillbirth).
- Specifies that an employee who takes bereavement leave on the basis of a stillbirth is ineligible to take parental leave or benefits granted under continuing law based on the same stillbirth.

DAS Director land conveyance authority

- Increases, from \$100,000 to \$1 million, the maximum appraised value of state-owned land (other than land held for the benefit of a state institution of higher education) that may be sold by the DAS Director, with CEB approval.

DAS reports regarding public works

- Repeals a requirement that the DAS Director make an annual report to the Governor related to public works expenses under the Director's supervision, including moneys expended, moneys received, estimated appropriations necessary for maintenance and repair, and a list of employees and their compensation.
- Repeals law requiring the DAS Director make other reports, upon the Governor's request, regarding the condition and welfare of public works and related drainage, leaseholds, and water powers.

Professions Licensing System Fund

- Eliminates the Professions Licensing System Fund and deposits transaction fees from the electronic issuance of licenses to the Occupational Licensing and Regulatory Fund instead.

Report and website regarding grants and rewards

- Eliminates the requirement that the DAS Director submit to the General Assembly an annual report regarding implementation of DAS's website publishing information on state awards.
- Eliminates the requirement that agencies awarding grants establish and maintain a separate website publishing information on the grants, and eliminates the requirement that DAS establish a separate website containing links to these agency websites.

MARCS Steering Committee

- Modifies the membership of the Multi-Agency Radio Communications System (MARCS) Steering Committee.

- Repeals the uncodified law that originally created and modified the Committee in the 120th and 121st General Assemblies, clarifying that the most recent uncodified law governs the membership, name, purpose, and responsibilities of the Committee.

Procurement law; revenue received

(R.C. 125.01 and 125.05)

The bill expands the definition of “purchases” within state procurement law to include revenue received from supplies or services. Under current law, a state agency may, without competitive selection, make any purchase of supplies or services that cost less than \$50,000, after first complying with a procedure under the requisite purchasing program. The bill appears to modify this requirement to specify that the determination of cost includes payment and revenue. Therefore, if a supplier receives a benefit, in the form of revenue, as a result of a contract, in addition to or in lieu of a payment from the state, the amount of that revenue must be considered in determining whether a state agency may, without competitive selection, make the purchase. This provision appears to subject certain benefit based contracts to competitive selection.

Additionally, the bill requires the Department of Education or the Ohio Education Computer Network to purchase software services or supplies for specified school districts when it has determined that it can make the purchase at a cost in payment and revenue for less than the district could make the purchase.

DAS and state agency purchasing

(R.C. 125.01, 125.09, 125.11, 153.54, 307.87, 307.90, and 3345.10; repealed R.C. 505.103 and 717.21)

The bill modifies DAS and state agency purchasing preference selection criteria for awarding a contract. Instead of generally requiring the purchaser to select the lowest responsive and responsible bid, from among the bids that offer products that have been produced or mined in the U.S. or Ohio, the bill requires that the purchaser evaluate the bids and offers according to criteria and procedures for determining if a product is mined, excavated, produced, manufactured, raised, or grown in the U.S., is a Buy Ohio product, and if the bid or offer was received from a Buy Ohio supplier or a certified veteran-friendly business. The bill specifies that the requirements must be applied where sufficient competition can be generated to ensure compliance with the requirements will be in the best interest of the state unless otherwise prohibited. In that regard, continuing law requires bidders and offerors claiming a preference to designate that information in their bid or offer.

The bill requires the DAS Director to adopt rules to establish criteria for applying a purchasing preference to bids received from certified veteran-friendly business enterprises. It also codifies the classification of “Buy Ohio” products, eligible for preference in state purchasing,

to include products from a state bordering Ohio. Currently, this classification is included in DAS rules.⁵

The bill eliminates the following provisions of current state purchasing law:

- A requirement that “insurance” is a type of supply expressly subject to certain state purchasing laws. Under continuing law, DAS generally must purchase any policy of insurance covering offices or employees of a state agency for which the annual premium is more than \$1,000.⁶
- A provision that DAS may require each bidder or offeror to provide sufficient information about the energy efficiency or energy usage of the bidder’s or offeror’s product, supply, or service.
- A requirement, regarding contracts for certain meat and poultry products, that DAS only accept bids from vendors under inspection of the U.S. Department of Agriculture or who are licensed by the Ohio Department of Agriculture. Under current federal law, all meat sold commercially must be inspected for safety.
- A requirement that DAS award certain contracts to qualified nonprofit agencies under the Office of Procurement from Community Rehabilitation Programs. Continuing law requires state agencies to purchase supplies or services that are on the procurement list maintained by that Office.
- A requirement that the DAS Director publish a model act for use by political subdivisions in establishing a system of preferences for purchasing Buy Ohio products, and eliminates the authority for a board of county commissioners, a board of township trustees, or the legislative authority of a municipality to adopt the model system of preferences.

Opening of competitive bids

(R.C. 125.10)

The bill requires DAS to open competitive sealed bids and competitive sealed proposals in the standardized system of electronic procurement rather than publicly opened in the DAS office. Continuing law requires that a sealed copy of each competitive sealed bid or competitive sealed proposal be filed with DAS before the time specified in the notice for opening of the bids or proposals. The bill removes the requirement in current law that a representative of the Auditor of State be present at and certify the opening of all such bids and proposals.

Competitive sealed proposals

(R.C. 125.071)

Under continuing law, the DAS Director may make purchases by competitive sealed proposal whenever the Director determines that using competitive sealed bidding is not possible

⁵ Ohio Administrative Code (O.A.C.) 123:5-1-01 and 123:5-1-06.

⁶ R.C. 125.02(G), not in the bill.

or not advantageous to the state. The bill clarifies DAS authority to award a contract to multiple offerors whose proposals are determined to be the most advantageous to the state. Continuing law requires the contract file to contain the basis on which the award is made.

State agency direct purchasing authority

(R.C. 125.01, 125.05, and 127.16)

The bill clarifies that a state agency's direct purchasing authority under existing law, which authorizes the agency to make a purchase without competitive selection, requires the agency to use a selection process that complies with all applicable laws, rules, or regulations of DAS.

Electronic procurement system

(R.C. 125.01, 125.035, 125.05, and 125.073)

The bill specifies that a purchase, by DAS or a state agency through the electronic procurement system established by DAS, constitutes a competitive selection procedure. Under continuing law, competitive selection also includes purchases under the procedures outlined in procurement law for competitive sealed bidding, competitive sealed proposals, and reverse auctions.

The bill specifically authorizes a state agency that has been granted a release and permit from DAS to make the purchase by utilizing the electronic procurement system.

The bill removes the requirement, originally implemented in July 2004, that DAS make an annual report to the finance committees in each house of the General Assembly on the effectiveness of electronic procurement, as part of DAS's statutory requirement to "actively promote and accelerate the use of electronic procurement."

The bill also removes an outdated law that requires DAS to implement recommendations concerning electronic procurement from the "2000 Management Improvement Commission Report to the Governor."

Requisite procurement programs

(R.C. 125.035, 125.041, and 125.05)

The bill modifies the requirements for DAS to manage the review and determination process for purchase requests as it relates to requisite procurement programs. The bill requires the representative of the first and second requisite procurement programs to review a request to determine whether the request can be fulfilled based on the products and services the program can provide. When the representative has made its determination, and within five days of receipt of a request, the representative must either direct the agency to use it or provide the agency with a waiver.

Under current law, upon receipt of a purchase request, DAS must determine whether the request can be fulfilled through the first requisite procurement program and either direct the agency to make the purchase through that program or determine whether the purchase can be fulfilled through a second requisite procurement program. In determining that a purchase is subject to a second requisite procurement program, DAS must identify potentially applicable

programs and notify them of the requested purchase. The notified programs must respond within two business days. If the second requisite procurement program can provide the requested purchase, the DAS must direct the requesting agency to use that program. If DAS has not received notification from a second requisite procurement program within two business days and has made the determination that the purchase is not subject to a second requisite procurement program, DAS must provide a waiver to the requesting agency.

Under continuing law, the following are first requisite procurement programs that must be given preference in that order: (1) Ohio Penal Industries and (2) Community Rehabilitation Programs. The following are second requisite procurement programs: (1) Business Enterprise Program, (2) Office of Information Technology, (3) Office of State Printing and Mail Services, (4) Ohio Pharmacy Services, (5) Ohio Facilities Construction Commission, and (6) any other program within, or administered by, a state agency that, by law, requires purchases to be made by, or with the approval of, the state agency.

Increased parental leave benefits

(R.C. 124.136)

The bill increases parental leave benefits for certain state employees. Current law provides six weeks of parental leave for those employees, including a 14-day unpaid waiting period followed by four consecutive weeks of leave paid at 70% of the employee's base rate of pay. The bill eliminates the unpaid waiting period and triples the current four-week paid leave period. Thus, the bill increases the benefits to a total of 12 weeks of parental leave paid at the current 70% rate.

Continuing law provides that parental leave benefits may be granted to eligible state employees who satisfy either of the following criteria:

- They are the parent of a newly born or stillborn child and are listed as such on the birth certificate or fetal death certificate;
- They are the legal guardian of a newly adopted child who resides in their household, and they have not elected to receive the \$5,000 lump sum for adoption expenses in lieu of the parental leave benefits.

To be eligible for parental leave benefits under continuing law, a state employee must fall into a category described below:

- A full- or part-time employee paid in accordance with the exempt salary schedule (generally, those who are subject to the state job classification plan but are exempt from collective bargaining);⁷
- Unclassified employees of the Office of the Secretary of State, Auditor of State, Treasurer of State, or Attorney General who are exempt from collective bargaining;

⁷ R.C. 124.152, not in the bill.

- Legislative employees and employees of the Legislative Service Commission, the Supreme Court, and the Office of the Governor;
- Employees of the Bureau of Workers' Compensation whose compensation is established by the Administrator of Workers' Compensation; and
- Employees who hold a position for which the authority to determine compensation is given by law to an individual entity other than the DAS Director.⁸

The bill retains current law that allows employees to use balances of other forms of paid leave to supplement benefits during the parental leave period, thus enabling them to attain 100% of their base rate.

Under continuing law, the paid parental leave must be taken within one year of the birth, stillbirth, or placement for adoption of a child.

Bereavement leave

(R.C. 124.387)

Under continuing law, each full-time permanent and part-time permanent employee paid by warrant of the OBM Director is entitled to three days of paid bereavement leave due to the death of an immediate family member. The bill requires an employee to begin the leave during one of the following time periods:

- Not more than five days after the death of the family member that forms the basis for the leave;
- Not more than five days before or five days after the funeral of the person whose death formed the basis for the leave.

The bill also allows an employee entitled to bereavement leave to use the leave on the basis of a miscarriage or the stillbirth of a child. The employee must produce appropriate medical documentation (in the case of a miscarriage) or a fetal death certificate (in the case of a stillbirth). If an employee who is eligible for parental leave (which includes leave for a stillbirth) takes bereavement leave on the basis of a stillbirth, under the bill the employee is ineligible for parental leave based on the same stillbirth.

DAS Director land conveyance authority

(R.C. 123.01)

Under existing law, DAS has the responsibility to exercise general custodial care of state-owned land. It has the authority, with CEB approval, to sell state land that is not held for the benefit of a state institution of higher education and is worth \$100,000 or less, as determined by an independent third-party appraiser. The bill increases this maximum amount from \$100,000 to \$1 million.

⁸ R.C. 124.14(B)(2), (3), and (4), not in the bill.

Under continuing law, unchanged by the bill, the DAS Director may sell property on behalf of a state institution of higher education if it is valued at \$10 million or less, and the sale is approved by both CEB and the board of trustees of the institution.

DAS reports regarding public works

(Repealed R.C. 123.14)

The bill repeals a requirement that the DAS Director make an annual report to the Governor “containing a statement of the expenses of the public works under the director’s supervision during the preceding year, setting forth an account of moneys expended on each of the public works during the year, and such other information and records as the director deems proper.” The report also must contain “a statement of the moneys received from all sources and an estimate of the appropriations necessary to maintain the public works and keep them in repair,” as well as “a list of all persons regularly employed, together with the salary, compensation, or allowance paid each.”

This information generally may now be found at checkbook.ohio.gov (see R.C. 113.71, not in the bill).

The bill repeals an additional provision of law requiring the DAS Director to make “such other reports as are proper, touching on the general condition and welfare of the public works and the drainage, leaseholds, and water powers incident thereto” when the DAS Director deems it necessary, or when called upon by the Governor.

Professions Licensing System Fund

(R.C. 125.18)

The bill eliminates the Professions Licensing System Fund, which currently receives transaction fees from the electronic issuance of a license or registration. Instead, those fees are to be deposited into the existing Occupational Licensing and Regulatory Fund.⁹

Report and website regarding grants and rewards

(R.C. 125.112)

The bill eliminates a requirement that the DAS Director annually submit to the General Assembly a report describing DAS’s implementation of a searchable website containing information on DAS awards (continuing law still requires DAS to maintain the website). The report, under current law, includes data on the usage of the website and public comments on the utility of the website. Current law also requires the report to be posted on the website.

The bill also eliminates a requirement that state agencies awarding grants maintain a separate website listing information on each grant, with a link to the above-described DAS website. Finally, the bill eliminates law requiring DAS to maintain a separate website containing links to all those agency websites.

⁹ R.C. 4743.05, not in the bill.

MARCS Steering Committee

(Section 610.10)

The bill modifies the membership of the Multi-Agency Radio Communications System (MARCS) Steering Committee. Specifically, it authorizes either the Directors of DAS, DPS, DNR, ODOT, DRC, and OBM, or their designees, to serve as members of the Committee. Current law authorizes only the Director's designees to serve, rather than the Directors themselves (with the exception of the State Fire Marshal).

Additionally, the bill adds the following members to the Committee, with the Governor appointing the first four:

1. A representative of the Ohio Chapter of the Association of Public Safety Communications Officials;
2. A representative of the Buckeye State Sheriff's Association;
3. A representative of the Ohio Chiefs of Police Association;
4. A representative of the Ohio Fire Chiefs Association;
5. Two members of the House (one majority party, one minority party), appointed by the Speaker; and
6. Two members of the Senate (one majority party, one minority party), appointed by the Senate President.

Related to the MARCS Steering Committee, the bill repeals the uncodified sections that originally created and modified the Committee in the 120th and 121st General Assemblies (1993-1996).¹⁰ By doing so, the bill clarifies that the most recent uncodified law that continues the Committee's existence govern its membership, name (it was once renamed a "Council"), purpose, responsibilities, and use of funding.

¹⁰ Section 21 of H.B. 790 of the 120th General Assembly, as amended by Section 11 of H.B. 670 of the 121st General Assembly.