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## OLR Bill Analysis

sSB 1096 (File 543, as amended by Senate "A")\*

### ***AN ACT CONCERNING GOVERNANCE OF THE STATE EDUCATION RESOURCE CENTER.***

#### **SUMMARY:**

This bill explicitly applies state laws for (1) awarding contracts through competitive bidding, (2) awarding personal service agreements (PSAs), (3) the Auditors of Public Accounts, and (4) the Freedom of Information Act (FOIA) to the State Education Resource Center (SERC). In a separate provision, it also applies to SERC and regional education service centers (RESCs) state standards for awarding contracts for supplies, materials, and contractual services, but it does so by linking them to an inoperative statute, thus there is no legal effect.

It also requires:

1. the State Department of Education (SDE) to report annually to the Education and Government Administration and Elections committees on all SDE- or SERC-awarded contracts, private funding sources, and other items, and
2. SDE to submit a transition plan recommending the future status of SERC as either a quasi-public agency, a state agency, or a nonprofit organization.

\*Senate Amendment "A" strikes the original bill that established SERC as a quasi-public agency and replaces it with language that (1) includes applying, among other things, competitive bidding rules, the Auditors of Public Accounts, and Freedom of Information requirements to SERC and (2) imposes new reporting requirements on SDE including requiring it to develop and report on a transition plan to address SERC's status.

EFFECTIVE DATE: Upon passage

## **STANDARDS FOR AWARDING CONTRACTS**

Under current law, the State Board of Education established SERC to assist it in providing programs and activities that promote educational equity and excellence. Much of this focuses on professional development and special education. Current law does not address SERC's status as an agency or its degree of independence.

### ***Contracts for Supplies, Materials, Equipment, and Contractual Services***

The bill requires SERC to comply with the competitive bidding requirements that state agencies must abide by for purchasing supplies, materials, equipment and contractual services. The rules require SERC to solicit competitive bids for contracting opportunities by providing public notice. Some exceptions are permitted, including for minor or emergency purchases.

A separate law requires the State Contracting Standards Board (SCSB) to issue regulations defining, for the above types of contracting opportunities, competitive sealed bidding, competitive sealed proposals, and other types of procurement by state contracting agencies. The bill makes SERC and any RESC a "state contracting agency" and, thus, subject to SCSB's regulations. But SCSB, which was created in 2007, has never been funded and never adopted regulations to define the aforementioned procurement methods. Therefore, this provision of the bill appears to have no effect.

### ***Personal Service Agreements***

The bill also makes SERC a "state agency" under state law regarding PSAs. The law governing PSAs requires these agreements, which are between a state agency and an individual or a firm, to follow:

1. specific standards issued by the Office of Policy and Management (OPM),
2. mandatory competitive negotiation or quotations before making

the agreement award (with some exceptions), and

3. limits on amendments to agreements.

OPM must annually report to the legislature information on each agreement, the name of the contractor, the payments made to the contractor, and a variety of other details.

### **AUDITORS OF PUBLIC ACCOUNTS**

The bill also explicitly subjects SERC to audits by the Auditors of Public Accounts, under the law creating that office. The law requires the auditors to biennially, or as frequently as they deem necessary, audit the books and accounts of each agency, and agencies are required to, upon request, make all records and accounts available to the auditors. The auditors are required to report on any unauthorized, illegal, irregular, or unsafe handling of state funds. (The auditors' office is currently auditing SERC, but it has noted that under current law it is not clear if it has the authority to do this.)

### **FOIA**

The bill explicitly applies FOIA to SERC. With certain exceptions, this makes SERC's meetings public and generally makes all its records available for public inspection.

### **REPORTING REQUIREMENTS**

#### ***Contracts, Funding, and Employee Compensation***

By January 15, 2014 and every year following, the bill requires the education commissioner to submit a report to the Education and Government Administration and Elections committees containing:

1. all SDE- or SERC-awarded contracts, including personal service agreements, with private vendors and RESCs during the previous year for purposes of fulfilling the SDE's duties;
2. all amounts and sources of private funding, including grants, received by SDE and SERC; and
3. the amounts SDE and SERC paid for the salary, fringe benefits,

and other compensation for any department or SERC employee or consultant.

The report must be posted on SDE's and SERC's Internet websites.

***Transition Plan for SERC's Future***

By January 15, 2014, the bill requires the education commissioner to submit a plan to the Education Committee to transition SERC from its status under current law to becoming a quasi-public agency, a state agency, or a nonprofit. The plan must include the option the commissioner recommends and an analysis concerning the following issues as they relate to each of the possible options:

1. a description of how the transition will affect SERC's current programs;
2. which personnel, payroll, and administrative and business office functions being provided for SERC by an entity (i.e., the fiduciary) under contract with SDE will be transferred to SERC staff (see BACKGROUND);
3. how current SERC employees' retirement benefits will be affected, including whether employee participation in the teachers' retirement system and in the deferred compensation plan offered by the fiduciary will continue;
4. how the transition will affect any outstanding workers' compensation claims, personal service agreements, or other personnel issues;
5. whether the transition will change the relationship between SERC and SDE and other educational organizations, including RESCs,
6. how the center will address any recommendations of the Auditors of Public Accounts, and
7. legislation necessary to implement the option the commissioner's recommends.

The commissioner must submit any revisions to the plan to the committee no later than March 1, 2014.

EFFECTIVE DATE: Upon passage

## **BACKGROUND**

### ***State Education Resource Center's Current Status***

Currently SDE has a contract with Rensselaer Hartford Graduate Center, a private institution of higher education, to act as the fiduciary for SERC. Under the contract, Rensselaer must implement appropriate fiscal controls and accounting in order to properly disburse the SERC's funds. SERC has approximately 100 employees and consultants under contract and they are not state employees. Rensselaer handles the payroll and benefits for these employees.

Past Auditors of Public Accounts reviews of SERC included recommendations that its legal status be clarified, possibly by making SERC either a quasi-public agency, a state department (or part of one), or a non-profit corporation under federal tax code.

## **COMMITTEE ACTION**

Education Committee

Joint Favorable Substitute

Yea 25 Nay 0 (03/28/2013)

Government Administration and Elections Committee

Joint Favorable

Yea 10 Nay 0 (04/29/2013)