

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-286—sSB 1096

Education Committee

Government Administration and Elections Committee

**AN ACT REQUIRING GREATER TRANSPARENCY AND A
TRANSITION PLAN FOR THE GOVERNANCE OF THE STATE
EDUCATION RESOURCE CENTER**

SUMMARY: This act explicitly applies state laws for (1) awarding contracts through competitive bidding, (2) awarding personal service agreements (PSAs), (3) reviews by 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, material, and contractual services, but it does so by linking them to an inoperative statute.

The act 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 whether SERC should be a state agency, quasi-public agency, or nonprofit organization.

EFFECTIVE DATE: Upon passage

STANDARDS FOR AWARDING CONTRACTS

By law, the State Board of Education (SBE) established SERC to help it provide programs and activities that promote educational equity and excellence. Most of SERC's duties focus on professional development and special education. The law does not address SERC's status as an agency or its degree of independence from SBE.

Contracts for Supplies, Material, Equipment, and Contractual Services

The act requires SERC to comply with the competitive bidding requirements that state agencies must meet when purchasing supplies, material, equipment, and contractual services. Under these requirements, SERC must 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 act makes SERC and any RESC a

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“state contracting agency” and, thus, subject to SCSB’s regulations. But SCSB, which was created in 2007, has never been fully functioning and has not adopted regulations.

Personal Service Agreements

The act 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 agreement awards (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 other information.

AUDITORS OF PUBLIC ACCOUNTS

The act also explicitly subjects SERC to audits by the Auditors of Public Accounts, under the law creating that office. The law requires the auditors, biennially, or as frequently as they deem necessary, to audit the books and accounts of each agency, and agencies are required, upon request, to make all records and accounts available to them. The auditors are required to report on any unauthorized, illegal, irregular, or unsafe handling of state funds.

FOIA

The act 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 act 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 PSAs, with private vendors and RESCs during the previous year for purposes of fulfilling 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 in 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

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By January 15, 2014, the act requires the education commissioner to submit a plan to the Education Committee to transition SERC from its status under existing law to becoming a quasi-public agency, state agency, or nonprofit corporation (see BACKGROUND). The plan must include the option the commissioner recommends and an analysis of 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, PSAs, 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 state auditors make; and
7. any legislation necessary to implement the option the commissioner recommends.

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

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 reviews of SERC by state auditors 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 nonprofit corporation under the federal tax code.

OLR Tracking: JM:KM:VR:RO