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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Pettigrew **ORIGINAL DATE** 3/18/2025

BILL

SHORT TITLE Transparency in Gov't Contracting Act **NUMBER** House Bill 509

ANALYST Hernandez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------------------------|-------------------------|-------------------------|---------------------------|---------------------------|---------------------------|---------------------|
| State Ethics Commission | No fiscal impact | No fiscal impact | Indeterminate but minimal | Indeterminate but minimal | Recurring | General Fund |
| GSD | See Fiscal Implications | See Fiscal Implications | See Fiscal Implications | | | |

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 State Ethics Commission
 General Services Department (GSD)
 Commission of Public Records (SRCA)

Agency Analysis was Solicited but Not Received From
 Department of Administration and Finance

SUMMARY

Synopsis of House Bill 509

House Bill 509 (HB509) creates a new section in statute requiring that the state and its political subdivisions provide public access to information related to government contracts, including those made through the Procurement Code and disbursements of state or federal grants. Additionally, the bill requires that a directory of public contracts is listed on the Sunshine Portal. A government entity's knowing and willful failure to make available information related to a particular public contract creates a presumption that the contract is invalid. Enforcement of these requirements may be done by the Attorney General, district attorney in the relevant district, or an individual.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The State Ethics Commission reports that while HB509 creates a minimal workload, it should not meaningfully impact the commission's budget.

The General Services Department states, "This legislation includes new systems not currently in place which will require additional staff and fiscal resources. The costs of updating agency systems to be able to provide information from the previous month or year for comparison purposes cannot be determined at this time."

SIGNIFICANT ISSUES

The Ethics Commission notes:

One of the laws within the State Ethics Commission's remit is the Procurement Code. When the Commission investigates alleged violations of the Procurement Code details are sometimes hard to find, usually leading to staff sending the municipality an IPRA request for documents related to the procurement. This bill would make investigation into possible procurement code violations easier by having relevant documents publicly available."

GSD contends Section 4 of HB509 is "unintentionally" unfair to the contractor and may not be in the best interest of the state:

Since a government body could be the actor (the person violating the act), the contractor may play no part in the violation. Additionally, the goods or services which are the subject of the contract at issue could still need to be provided to the public or for the public benefit. Automatically deeming a contract invalid could cause the government body to perform an emergency procurement to cover the needed goods or services. If the initial procurement was via an invitation for bids or request for proposals, then an emergency procurement allows a government body to procure the requisite goods or services without engaging in a competitive procurement method. As Section 13-1-29(C) NMSA 1978 calls for the fair and equitable treatment of all persons involved in public procurement, the automatic presumption to invalidate a contract does not facilitate fair treatment of affected contractors.

AEH/hj/hg