

**REVISED CONDITIONAL FISCAL IMPACT**

(replaces fiscal note dated February 25, 2010)

**Drafting Number:** LLS 10-0335

**Date:** March 9, 2010

**Prime Sponsor(s):** Rep. Ferrandino  
Sen. Morse

**Bill Status:** Senate Second Reading

**Fiscal Analyst:** Jason Schrock (303-866-4720)

**TITLE:** CONCERNING AUTHORIZATION FOR AGENCIES OF THE STATE TO ENTER INTO PUBLIC-PRIVATE INITIATIVE AGREEMENTS WITH NONPROFIT ENTITIES.

<b>Fiscal Impact Summary</b>	<b>FY 2010-2011</b>	<b>FY 2011-2012</b>
<b>State Revenue</b>		
<b>State Expenditures</b>	See State Expenditures Section	
<b>FTE Position Change</b>		
<b>Effective Date:</b> August 11, 2010, assuming the General Assembly adjourns as scheduled and no referendum petition is filed.		
<b>Appropriation Summary for FY 2010-2011:</b> None required.		
<b>Local Government Impact:</b> None.		

**This fiscal note has been revised to reflect amendments adopted by the Senate SVMA Committee.**

**Summary of Legislation**

This bill, which was recommended by the interim Fiscal Stability Commission, authorizes nonprofit organizations to submit proposals to state executive agencies, boards, or commissions to enter into public-private initiative agreements to provide a state service or project. The bill provides a structure for nonprofits to work with the state if they have a proposal to help the state provide a service or undertake a project.

Proposals from nonprofits must meet certain criteria in order for agencies to be able to consider, evaluate, and accept them, such as whether the agreement will help the agency carry out its duties in a cost-effective and efficient manner without replacing existing state employees. The bill also provides criteria that a state agency must use to base its evaluation and acceptance of the proposals.

If a proposal is expected to cause an agency to spend over \$50,000 in public money annually, agencies are required, with certain exceptions, to provide public notice that they will consider other comparable proposals for public-private agreements and evaluate them to determine if they are more beneficial to the state. Finally, the bill allows state agencies to retain a certain portion of any money that it does not expend from its General Fund appropriations from cost savings as a result of a public-private initiative agreement. This money would otherwise revert to the General Fund. Departments that have entered into public-private agreements are required to provide information regarding the agreements to the Joint Budget Committee (JBC) with their annual budget requests.

## **State Expenditures**

This bill may cause expenditures for state executive agencies to increase or decrease. It is assessed as having a conditional state fiscal impact because any impact depends on whether nonprofits submit proposals to the state and whether any agencies choose to consider them.

Any change in expenditures cannot be determined at this time because it depends on the volume, nature, and complexity of proposals submitted by nonprofits, whether state agencies choose to evaluate and accept proposals and to negotiate agreements, and whether the agreements result in cost savings. It is assumed that any need for an increase or decrease in appropriations for an agency due to proposals and agreements will be addressed through the annual budget process. Alternatively, legislation may be required to implement a public-private agreement. In this scenario, any need for a change in appropriations will be addressed in the legislation.

### **State costs may increase for:**

- added staff time and resources to consider and evaluate proposals, especially those that will result in state costs in excess of \$50,000;
- negotiating and implementing an agreement;
- responding to appeals when a proposal is denied;
- legal services to state agencies; and
- preparing reports for the JBC on public-private agreements.

It should be noted that two state agencies have the potential to experience the largest fiscal impact as a result of this bill:

- *Department of Personnel and Administration (DPA)* — each state agency's procurement officer (or designee) is required to perform the actions outlined in the bill. DPA serves as the procurement officer for 10 state agencies that do not have their own. Under the bill, each agency is required to determine their own process for considering, evaluating, and accepting or rejecting proposals. It is possible that agencies without their own procurement officer may ask for assistance from DPA if they wish to pursue nonprofit proposals. For example, DPA may be asked by these agencies to review the proposals, post notices for competing proposals, and negotiate and contract agreements. However, it is also possible that agencies will perform most or all the necessary functions to implement such agreements. Regardless, DPA would likely still be required to help develop contracts for agreements with nonprofits for these agencies and also hear appeals from nonprofits whose proposals were not accepted; and
- *Office of Information Technology (OIT) in the Governor's Office* — OIT is responsible for information technology-related projects and procurement for executive agencies. Thus, it is assumed that any nonprofit proposals regarding information technology-related projects will be at least partially handled by OIT.

**State costs may decrease when:**

- a nonprofit can leverage private moneys with public moneys to provide services; and
- a nonprofit can deliver services more efficiently due to unique or innovative capabilities the state does not or cannot employ.

**Departments Contacted**

All Departments