

PROPOSAL FOR FINANCIAL TRANSPARENCY FOR LEGISLATIVE ACCOUNTS (Draft by Will Brownsberger, March 2, 2010)

Background

The legislature's procurement procedures contrast with those of municipalities and executive branch departments. In those other agencies (and in many private business contexts), any major expenditure must go through a competitive bid process and when that process is complete, the records of the process are public. Invoices and related contract progress documents are also public records in those agencies.

The statutory bases for the differences are as follows:

- The legislature exempts itself from rules requiring sound business practices by state agencies in General Laws, Chapter 22, Section 7.
- The legislature exempts itself from requirements to disclose business records -- although the legislature's electronic check register is available from the controller's office, legislative documents that would evidence what the public gets for its money -- contracts and invoices -- are exempt from the public records law. See General Laws, Chapter 4, Section 7, Clause twenty-sixth.

Proposal

For separation of powers reasons, it might not be appropriate to simply eliminate the legislative exemptions from the purchasing and public records laws -- these laws include executive branch oversight. However, language like the following would be appropriate in the budget. Note that the account numbers referenced are the House and Joint legislative operations accounts -- the language, as written, would not affect the Senate account.

- "Procurements to be funded from accounts 9600-0000 and 9700-0000 shall be conducted according to the regulations, standards and procedures developed by the executive branch pursuant to General Laws Chapter 22, Section 7, provided however, that in no respect shall said procurements be subject to oversight by any executive branch agency or officer and that failure to comply with said standards and procedures shall not create a cause of action or subject any party to penalties of any kind."
- "All records related to procurements funded from accounts 9600-0000 and 9700-0000, including, without limitation, requests for proposals, contracts and invoices, shall be made available for public inspection as if they were public records under General Laws, Chapter 4, Section 7, Clause twenty-sixth, provided, however, that in no respect shall a refusal to make said records available be reviewable by the courts or by any agency or officer outside the legislative branch."

Related measures

As to disclosure of staff assignments (again an area of contrast with other agencies), language like the following would improve transparency:

- "The speaker shall publish on a quarterly basis a staff roster including all House staff showing their titles assignments and reporting relationships."

Additionally, as other members have advocated, a breakdown of intended spending in accounts 9600-0000 and 9700--0000 should be offered at the time of the budget votes. That breakdown would be non-binding as to actual spending, but there should be year end reporting showing the variances. Note that the existing audit of House spending makes no examination of the objects of House spending.