



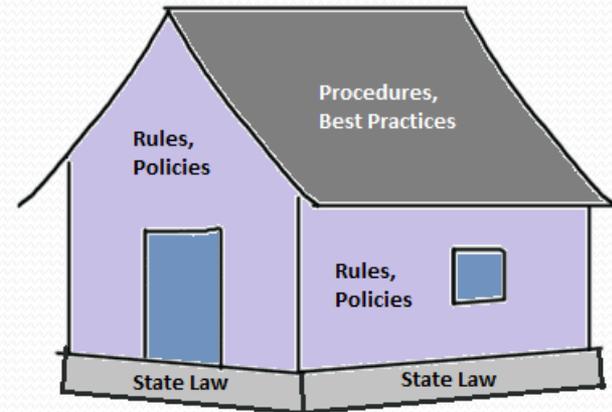
# Office of State Procurement

## *2020 Legislative Update*



# Why Should We Care?

- State law has the final say in disputes
- State law sets the outer limits on what's OK (rules, policies, procedures fill in the gaps)
- Because it's so foundational, it can (and should) inform and affect everything built on top of it
- Legislation reflects and affects the public mood re. procurement
- Historical tone of firm skepticism re. state contracts (less of a focus in recent years so far though)





# Session Focus / Mood

- *Tort Reform / Insurance Claim Reductions*
  
- *Coronavirus*
  - *Session delay(s) / impacts*
  - *Response activities*
  - *Economic impacts*
  - *Authority of the Governor*
  - *Unemployment*
  - *Economic relief funds / programs*



# What Passed

## 1. Act 155 by Rep. Freiberg

- Titles 38, 39, and 48 (all state/local contracting)
- Requires all contractors who have "access to state or local government information technology assets" to complete cybersecurity training during the term of the contract and any renewal periods
- "Access" = deep/sensitive access (e.g. network closets; state systems, VPN, etc.)





# What Passed

## 2. Act 111 by Sen. Gary Smith

- Title 38 only
- Increases the Title 38 Public Works contract limit (bid threshold) from \$150,000 to \$250,000
- Suspends FP&C inflation factor through 2025





# What Passed

## 3. Act 265 by Rep. LaCombe



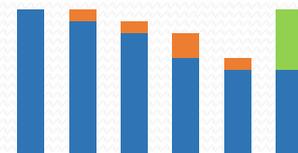
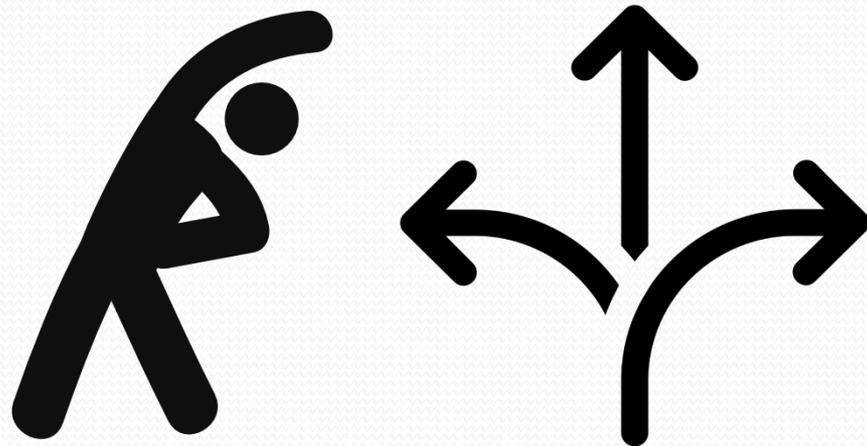
- Title 38 only
- Further expands school boards' ability to purchase directly from group purchasing organizations (GPOs)
- Previously OK only if goods offered by GPO are comparable to goods on State contract, but cheaper
- Now also OK if goods not available on State contract



# What Passed

## 3. Act 273 by Rep. Ivey

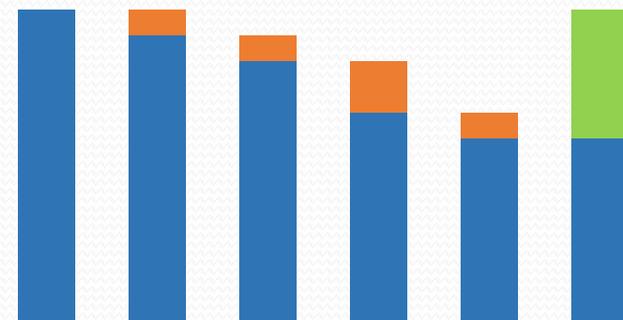
- Title 39 only
- Aims to increase procurement flexibilities in two ways:
  1. Authorizes Legislature to approve alternate procurement methods for case-by-case IT projects requested by OTS
  2. Increases five outdated procurement thresholds eroded by inflation, to restore their original purchasing power





# What Passed

## 3. Act 273 by Rep. Ivey *(continued)*



- Five thresholds increased at OSP's request:
  1. **University IT** purchases w/o OSP review: \$100,000
  2. **Complex** service / **IT PST** requirement: \$100,000
  3. **Consulting** service **PST** requirement: \$140,000
  4. **Consulting** service **RFP** req.: \$50,000/12mos
  5. **Intentional violation** of the Procurement Code: \$500



# What *Didn't* Pass



## 1. HB 698 by Rep. Freeman

- Would have created a process where certain goods / services provided by the State Use Program (EDS) could qualify to be designated as mandatory use items, with narrow exceptions

## 2. HB 772 by Rep. Deshotel

- Would have prohibited the use of GSA schedule contracts unless the GSA price is 10+% cheaper than other contracts available

## 3. HB 774 by Rep. Deshotel

- Would have required that all procurements in the 8mos following an emergency be sourced from Louisiana-based suppliers



# What *Didn't* Pass



## 4. HB 800 by Rep. Deshotel

- Would have put a stricter version of the LaPS rule into statute, requiring secondary (RFR/bake-off) competition for large orders, with mandatory inclusion / consideration of LA suppliers.

## 5. SB 77 by Sen. Bouie

- Would have required contractors to certify equal pay compliance

## 6. SB 132 by Sen. Henry

- Would have required JLCB approval of all contracts and CEAs over \$25 million per year, and notification of \$25+ million RFPs
- Vetoed by Governor Edwards – Separation of Powers



# Special Session

## 1. SB 30 by Sen. Milligan (*passed, not yet signed*)

- *Titles 38 and 39: Prohibits purchase by schools and higher ed. of video surveillance and telecoms. equipment manufactured by or including components manufactured by certain Chinese manufacturers (Huawei, ZTE, Hytera, Hangzhou Hikvision, and Dahua)*
- *National Security / Cybersecurity concerns – 2019 NDAA 889(a)*
- *Expected to expand to State agencies and other PoliSubs in 2021*
- *OSP will modify statewide contracts proactively for compliance*



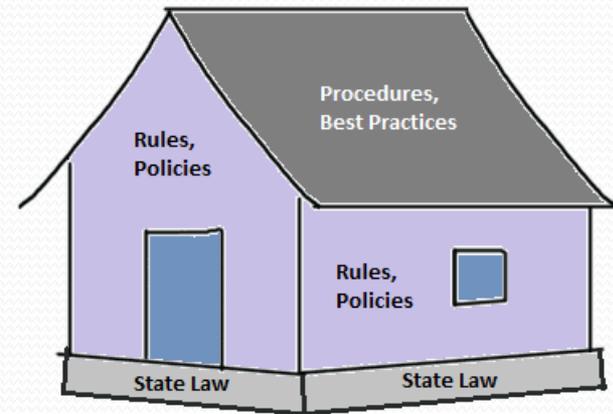
# Special Session

2. HCR 31 by Rep. Lyons (*House Floor this afternoon*)
  - *"Urge and request" agencies procuring supplies, services and major repairs (Title 39) to introduce additional competition and transparency into disaster-related emergency procurements.*
  - *RFQ process (posted to LaPac) instead of bare-minimum emergency three-quotes*
  - *"Where practicable" – three quotes still OK when needed*
  - *Not state law – just a formal request*
  - *OK in its current form – OSP is actively monitoring/managing*



# Why Should We Care?

- Some failed bills reflect good ideas.
- Some, unfortunately, do not.
- Some reflect a flawed or partial understanding of how the procurement process works.
- Some will be back next year.
- Some will be State law one day.





# Next Steps / Considerations

- *OSP finalizing rulemaking/guidance re. new Acts*
- *Electronic signatures / e-procurement tools*
- *2<sup>nd</sup> Special Session: 9/28 – 10/27*
- *Contract management*