

2021 Regular Session

SENATE BILL NO. 15

BY SENATOR MILLIGAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROCUREMENT CODE. Provides relative to purchase of telecommunication and video equipment or services by all state agencies. (8/1/21)

1 AN ACT

2 To amend and reenact R.S. 38:2237.1, and R.S. 39:1753.1, to enact R.S. 39:15.3(F) and
3 200(M), and to repeal R.S. 39:1755(5), relative to the procurement of
4 telecommunications or video surveillance equipment or services by state agencies
5 and certain educational entities; to require the procurement of telecommunications
6 or video surveillance equipment or services to comply with federal guidelines under
7 Section 889(a) of the John S. McCain National Defense Authorization Act for Fiscal
8 Year 2019; to provide for violations; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 38:2237.1 is hereby amended and reenacted to read as follows:

11 §2237.1. ~~Purchase~~ **Procurement** of ~~approved~~ telecommunications **or video**
12 **surveillance** equipment **or services** by **state agencies and** certain
13 educational entities

14 A. ~~No telecommunications or video surveillance equipment as described in~~
15 ~~Section 889(a) of the Fiscal Year 2019 National Defense Authorization Act shall be~~
16 ~~purchased by public elementary, secondary, and postsecondary education schools,~~
17 ~~institutions, and governing authorities; nonpublic elementary, secondary, and~~

1 ~~postsecondary schools, institutions, and governing authorities that receive state~~
 2 ~~funds; and proprietary schools that receive state funds unless the equipment is from~~
 3 ~~a manufacturer who is in compliance with Section 889(a) of the Fiscal Year 2019~~
 4 ~~National Defense Authorization Act as provided in this Section.~~ **Agencies and**
 5 **certain educational entities of the state, as defined in R.S. 39:1753.1(A), shall not**
 6 **procure prohibited telecommunications or video surveillance equipment or**
 7 **services as defined in R.S. 39:1753.1(A).**

8 B. Prior to the purchase of equipment **procurement of telecommunications**
 9 **or video surveillance equipment or services**, the vendor shall provide
 10 documentation by affidavit that the ~~telecommunications and video surveillance~~
 11 ~~equipment~~ **or services** to be purchased **procured** is from a manufacturer that is in
 12 compliance with Section 889(a) of the Fiscal Year 2019 National Defense
 13 Authorization Act **not prohibited telecommunications or video surveillance**
 14 **equipment or services as defined in R.S. 39:1753.1(A).**

15 C. No award of any bid or purchase **procurement** shall be made from a
 16 vendor or other entity who fails to provide the documentation required in Subsection
 17 B of this Section. Any award of a bid to a contractor or purchase or contract to
 18 ~~purchase~~ **procurement of prohibited telecommunications or video surveillance**
 19 **equipment or services as defined in R.S. 39:1753.1(A), or other procurement** in
 20 violation of this Section, shall be null and void.

21 **D. This Section shall apply only to procurements initiated on or after**
 22 **August 1, 2021, by state agencies, certain educational entities, and their service**
 23 **providers.**

24 Section 2. R.S. 39:1753.1 is hereby amended and reenacted and R.S. 39:15.3(F) and
 25 200(M) are hereby enacted to read as follows:

26 §15.3. Office of technology services; offices and staff; duties

27 * * *

28 **F. On or before October first of each year, the chief information officer**
 29 **shall report to the Joint Legislative Committee on Technology, in executive**

1 session, regarding the operational readiness and procurement requirements of
 2 the state in cybersecurity and other information security related categories
 3 including but not limited to the relationship to applicable and prevailing
 4 industry standards.

* * *

5 §200. General provisions

6 The following general provisions shall apply to all procurements under this
 7 Part:

* * *

8 M. The provisions of R.S. 39:1753.1 shall apply to all procurements of
 9 telecommunications or video surveillance equipment or services pursuant to this
 10 Part.

* * *

11 §1753.1. ~~Purchase of approved~~ Procurement of telecommunications or video
 12 surveillance equipment or services by state agencies and certain
 13 educational entities

14 A. ~~No telecommunications or video surveillance equipment as described in~~
 15 ~~Section 889(a) of the Fiscal Year 2019 National Defense Authorization Act shall be~~
 16 ~~purchased by public elementary, secondary, and postsecondary education schools,~~
 17 ~~institutions, and governing authorities; nonpublic elementary, secondary, and~~
 18 ~~postsecondary schools, institutions, and governing authorities that receive state~~
 19 ~~funds; and proprietary schools that receive state funds unless the equipment is from~~
 20 ~~a manufacturer who is in compliance with Section 889(a) of the Fiscal Year 2019~~
 21 ~~National Defense Authorization Act as provided in this Section.~~ Definitions. For the
 22 purposes of this Section, the words defined in this Subsection shall have the
 23 meanings set forth below:

24 (1) "Agency" shall have the same meaning as provided in R.S. 36:3.

25 (2) "Certain educational entities" means all public elementary,
 26 secondary, or postsecondary education schools, institutions, and governing

1 authorities; nonpublic elementary, secondary, and postsecondary schools,
2 institutions, and governing authorities that receive state funds; and proprietary
3 schools that receive state funds.

4 (3) "Procure" and "procurement" shall have the same meaning as
5 provided in R.S. 39:1556.

6 (4) "Prohibited telecommunications or video surveillance equipment or
7 services" includes all of the following:

8 (a) Telecommunications equipment produced by Huawei Technologies
9 Company or ZTE Corporation, or any subsidiary or affiliate of such entities, as
10 described in Section 889(f)(3)(A) of the John S. McCain National Defense
11 Authorization Act for Fiscal Year 2019.

12 (b) Video surveillance equipment or telecommunications equipment
13 produced by Hytera Communications Corporation, Hangzhou Hikvision Digital
14 Technology Company, Dahua Technology Company, or any subsidiary or
15 affiliate of such entities, as described in Section 889(f)(3)(B) of the John S.
16 McCain National Defense Authorization Act for Fiscal Year 2019.

17 (c) Telecommunications or video surveillance equipment or services
18 produced or provided by an entity found to be owned, controlled, or otherwise
19 connected to the government of the People's Republic of China, as described in
20 Section 889(f)(3)(D) of the John S. McCain National Defense Authorization Act
21 for Fiscal Year 2019.

22 (d) Any product or equipment, regardless of manufacturer, containing
23 as a component any equipment identified by Subparagraphs (a) through (c) of
24 this Paragraph. This may include but is not limited to the following:

25 (i) Computers or other equipment containing a component which
26 enables any form of network connectivity or telecommunications regardless of
27 whether the equipment is regularly connected to a network.

28 (ii) Building automation, environmental controls, access controls, or
29 facility management and monitoring systems.

1 (iii) Voting machines, peripherals, and election systems.

2 (e) Any services provided using any equipment identified by
 3 Subparagraphs (a) through (d) of this Paragraph.

4 B. Agencies and certain educational entities of the state, as defined in
 5 Subsection A of this Section, shall not procure prohibited telecommunications
 6 or video surveillance equipment or services as defined in Subsection A of this
 7 Section.

8 C. ~~Prior to the purchase of equipment~~ procurement of telecommunications
 9 or video surveillance equipment or services, the vendor shall provide
 10 documentation by affidavit that the ~~telecommunications and video surveillance~~
 11 ~~equipment~~ or services to be ~~purchased~~ procured is from a manufacturer that is in
 12 compliance with ~~Section 889(a) of the Fiscal Year 2019 National Defense~~
 13 ~~Authorization Act.~~ is not prohibited telecommunications or video surveillance
 14 equipment or services as defined in Subsection A of this Section.

15 ~~D.~~ D. No award of any bid or purchase procurement shall be made from a
 16 vendor or other entity who fails to provide the documentation required in Subsection
 17 B C of this Section. Any award of a bid to a contractor or purchase or contract to
 18 ~~purchase~~ procurement of prohibited telecommunications or video surveillance
 19 equipment or services as defined in Subsection A of this Section, or other
 20 procurement in violation of this Section shall be null and void.

21 E. This Section shall apply only to procurements initiated on or after
 22 August 1, 2021, by state agencies, certain educational entities, and their service
 23 providers.

24 Section 3. R.S. 39:1755(5) is hereby repealed.

The original instrument was prepared by Martha Hess. The following digest,
 which does not constitute a part of the legislative instrument, was prepared
 by Cheryl Serrett.

Defense Authorization Act for Fiscal Year 2019 (National Defense Authorization Act) unless such equipment is from a manufacturer that is in compliance with this federal provision:

- (1) Public elementary, secondary, and postsecondary schools, institutions, and governing authorities.
- (2) Nonpublic elementary, secondary, and postsecondary schools, institutions, and governing authorities that receive state funds.
- (3) Proprietary schools that receive state funds.

Proposed law broadens present law to prohibit all agencies and certain educational entities of the state from procuring any prohibited telecommunications or video surveillance equipment or services as defined in proposed law.

Present law requires the vendor of such equipment to provide an affidavit that the equipment is from a manufacturer that is in compliance with such federal provisions. Proposed law retains present law and makes present law applicable to the procurement of telecommunications or video surveillance equipment or services by state agencies.

Proposed law defines "agency", "certain education entities", and "procure". Also defines "prohibited telecommunications or video surveillance equipment or services" to include all of the following:

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities, as described in Section 889(f)(3)(A) of the National Defense Authorization Act.
- (2) Video surveillance equipment or telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, or any subsidiary or affiliate of such entities, as described in Section 889(f)(3)(B) of the National Defense Authorization Act.
- (3) Telecommunications or video surveillance equipment or services produced or provided by an entity found to be owned, controlled, or otherwise connected to the government of the People's Republic of China, as described in Section 889(f)(3)(D) of the National Defense Authorization Act.
- (4) Any product or equipment, regardless of manufacturer, containing as a component any equipment identified by Subparagraphs (1) through (3) above. This may include but is not limited to the following:
 - (a) Computers or other equipment containing a component which enables any form of network connectivity or telecommunications regardless of whether the equipment is regularly connected to a network.
 - (b) Building automation, environmental controls, access controls, or facility management, and monitoring systems.
 - (c) Voting machines, peripherals, and election systems.
- (5) Any services provided using any equipment identified by Subparagraphs (1) through (4) in this Subsection.

Proposed law provides that any procurement of prohibited telecommunications or video surveillance equipment or services or other procurement in violation of proposed law shall be void.

Proposed law repeals present law provision that with respect to the procurement of telecommunications systems or services, present law supersedes conflicting provisions of present law.

Proposed law requires the chief information officer to report to the Joint Legislative Committee on Technology by October 1 of each year regarding the operational readiness and procurement requirements of the state in cybersecurity.

Proposed law applies only to procurements initiated on or after August 1, 2021, by state agencies, certain educational entities, and their service providers.

Effective August 1, 2021.

(Amends R.S. 38:2237.1, R.S. 39:1753.1; adds R.S. 39:15.3(F) and 200(M); and repeals R.S. 39:1755(5))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Finance to the original bill

1. Defines the terms "agency", "certain education entities", "prohibited telecommunications or video surveillance equipment or services", and "procure".
2. Provides that proposed law applies only to procurements initiated on or after August 1, 2021, by state agencies, certain educational entities, and their service providers.

Senate Floor Amendments to engrossed bill

1. Provides for annual reporting to the Joint Legislative Committee on Technology.
2. Makes technical changes.