

SUMMARY ANALYSIS OF AMENDED BILL

Author: Eng/Lieu Analyst: Deborah Barrett Bill Number: AB 756
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: June 1, 2009
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agencies Prepare Annual Report Available On Internet Website Of Personal Services & Consulting Services Contracts

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as amended March 31, 2009.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 31, 2009, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would require state agencies to post an annual report on its Web site relating to personal services and consulting services contracts entered into by the agency.

SUMMARY OF AMENDMENTS

The June 1, 2009, amendments removed provisions that a contractor who failed to provide information required under this bill would be deemed in breach of contract and replaced it with provisions that would stop payments on ongoing contracts to the contractor and make the contractor ineligible for additional services contracts with the state until they were in compliance. The “Implementation Considerations” identified in the department’ analysis of the bill as amended March 31, 2009, have not been resolved and are repeated below for convenience. The “Summary of Suggested Amendments”, “This Bill”, and “Fiscal Impact” discussions have been revised. The remainder of the department’s analysis of the bill as amended March 31, 2009, still applies.

POSITION

Pending.

Board Position:	Asst. Legislative Director	Date
<input type="checkbox"/> S		
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> NA		
<input type="checkbox"/> O		
<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input checked="" type="checkbox"/> PENDING	Patrice Gau-Johnson	06/24/09

Summary of Suggested Amendments

Amendment 1 is provided to suggest appropriation language to fund the department's costs to implement the provisions of this bill.

THIS BILL

This bill would require each state agency to prepare an annual report listing the personal services and consulting services contracts entered into during the fiscal year. The bill would require the state agency to make the report available on its Web site, be organized to ensure transparency, and include the following information:

- The name and identification number of each contractor;
- The statutory basis for the authorization of each contract;
- The duration of each contract;
- The number of amendments to each contract and the number of renewals of each contract, where applicable;
- The total amount of the contract price over the duration of the contract, including all known amendments to the contract, the total amount paid by the state agency during the most recently completed fiscal year, and the number, cost, bill rate, and staffing levels associated with each type of contract employee retained during the most recently completed fiscal year. Staffing levels shall also be described or accounted for in personnel years or full-time equivalent terms.

The bill would require costs and relevant staffing information to be organized and reported using specified contract categories. The bill would further require the contractor to electronically provide specific staffing and cost information at the end of each fiscal year for each contract operative in that fiscal year. If a contractor fails to provide the information required, any payments due to the contractor on ongoing contracts would cease and the contractor would be ineligible for any additional personal services contracts with the state until that contractor has complied with the requirements of the bill.

The bill would require each agency to provide electronically a written copy of the annual report to the Department of Finance and the Legislature.

The bill would provide definitions for terms used, such as "consulting services contracts" and "personal services contract".

IMPLEMENTATION CONSIDERATIONS

Because state agencies are already required to report contracts and purchases over \$5,000 to the Department of General Services (DGS) for posting in the State Contracting and Procurement Registration System, the requirement to place information derived from those personal services or consulting services contracts on agency Web sites could be duplicative. The author may want to consider using the actual contracts on the DGS Web site as a resource for the public, which could accomplish the same level of transparency without unnecessarily duplicating information or maintenance on all state agency Web sites.

The bill would require the name and identification number of a contractor to be included in the report that is made public. Because the identification number is often a social security number for individuals holding personal services or consulting services contract, FTB would redact that information from the report to prevent disclosure of confidential tax data and to guard against potential identity theft.

This bill would require an agency to withhold payments on a contract when a contractor does not provide information required under this bill's provisions. It is unclear if the author intends these provisions to apply to all new contracts entered into after the effective date of the bill, or expects all existing contracts to be amended to include the requirements of the bill. It is recommended that express operative date language be added to the bill to ensure its provisions are implemented as the author intended.

Staff resources would be required to collect the required information and develop the report for purposes of making it available on the Web site. The impact is discussed in the Fiscal Impact section below.

FISCAL IMPACT

The department would be required to gather and post the required information at the existing Web site, which would require an effort to collect and assemble the required information from various sources throughout the department. The department estimates this effort would cost approximately \$68,000 in one time costs with absorbable ongoing annual costs. Appropriation language to fund the department costs is included in this analysis.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 756
As Amended June 1, 2009

AMENDMENT 1

On page 4, after line 12, insert:

The sum of sixty eight thousand dollars (\$68,000) is hereby appropriated to the Franchise Tax Board in augmentation of item 1730-001-0001 of the Governor's Budget Chapter XX, Statutes of XXXX.