

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: August 27, 2009
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agencies Prepare Annual Report Available On Internet Web site 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 introduced/amended _____.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO _____.

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

_____ OTHER – See comments below.

SUMMARY

This bill would require Franchise Tax Board (FTB) and other state agencies to provide a link to a state run Internet Web site that contains a listing of the personal services and consulting services contracts entered into by the agency, as specified.

SUMMARY OF AMENDMENTS

The August 27, 2009, amendments removed the existing provisions of the bill and replaced it with provisions that require state agencies to provide specified information to the Department of General Services (DGS) regarding personal services and consulting services contracts entered into by FTB. The August 17, 2009, amendments resolved the “Implementation Considerations” identified in the departments analysis of the bill as amended August 17, 2009. The “Technical Considerations” discussion is repeated for convenience. The “Effective/Operative Date”, ”This Bill”, “Fiscal Impact”, and “Implementation Considerations” discussions are revised. The remainder of the department’s analysis of the bill as introduced March 31, 2009, still applies.

Board Position:	Asst. Legislative Director	Date
_____ S		
_____ SA		
_____ N		
_____ NA		
_____ O		
_____ OUA		
_____ NP		
_____ NAR		
_____ X PENDING	Patrice Gau-Johnson	09/09/09

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2010, and would be specifically operative for any contract solicited on or after that date. The bill specifies that the requirement to report contract allocation information and the requirement for contractors to electronically provide staffing and cost information would become operative January 1, 2011.

Position

Pending.

THIS BILL

This bill would require a state agency to provide a link to a centrally located and accessible state run Internet Web site that includes a listing of the personal services and consulting services contracts that are entered into during the fiscal year. The Director of DGS would maintain the Internet Web site and would establish the publishing of the contract listing information required by the bill. The bill would specify that DGS may use the services of any state agency to implement the requirements of this bill.

The bill would provide Legislative intent language that the contract listing information be made available to the public in an electronic format that is searchable and easy to use to promote and support government transparency.

The bill would require contract listings to be organized and reported in one of the following manners:

1. Using the maximum level of specificity available through the United Nations Standard Products and Services Code (UNSPSC), or
2. Covering the following broad categories:
 - Architectural, engineering, and environmental services and consulting services.
 - Information technology, personal services, and consulting services.
 - Other personal services and consulting services.

The contract listing would require the following information:

- The name and license, registration, certification, or identification number of each contractor, including whether the contractor is a for profit, nonprofit, small business, micro-business, disabled veteran, or nonprofit veteran's service agency;
- 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 reason why low bid was not accepted;
- The reason for noncompetitive bidding; and
- The total amount of the contract allocation 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 that would be associated with each type of contract, employee retained during the most recently completed fiscal year. For time and material contracts, staffing levels would be required to be described or accounted for in personnel years or full-time equivalent terms. For deliverables based contracts, average staffing levels and bill rates would be required to be available and reportable 90 days after the completion of the contract or after one year, whichever occurs first. To facilitate state agency reporting of information for the listings, the bill would require contractors to electronically provide all of the staffing and cost information specified to the agencies 90 days after the completion of the contract or after one year for each and every personal services and consulting services contract operative during that fiscal year. This requirement is specifically operative January 1, 2011.

The bill would require that a summary of a contract be initially posted within 30 working days of the contract being signed by all parties. Beginning on or after January 1, 2012, the summary of a contract would be initially posted within 15 working days of the contract being signed by all parties. The bill would require the contract summary to be updated as necessary to include any information required that is not available by the time of posting. The bill would require contracts entered into by a special fund agency to be posted beginning July 1, 2010, upon consultation with DGS and Department of Finance. A summary of a contract entered into by all other agencies is required to be posted beginning July 1, 2011.

The bill specifies it is applicable to contracts solicited after the effective date of the bill and specifically exempts contracts for confidential expert consulting services that constitute an attorney work product or is protected by the attorney-client privilege or results from a court order. Inquiries regarding a specific contract are to be handled by the contracting state agency by including contact information for the contracting agency with each contract listed on the Web site. State agencies exempt from reporting under the State Contract and Procurement Registration System (SCPRS) are exempt from the requirements of this bill.

The bill would provide definitions for “consulting services contracts”, “deliverables”, “personal services contracts”, and “time and material contracts”.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department’s programs or operations.

TECHNICAL CONSIDERATIONS

On page 3, lines 26 and 28, “In” should be stricken and “For” inserted

FISCAL IMPACT

Because the provisions of the bill would be prospective, the department's costs to implement the bill would be insignificant.

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