

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: September 4, 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/AMENDED _____ 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 September 4, 2009, amendments would remove provisions exempting contracts related to confidential expert consulting services from the bill’s requirements and would instead exempt the posting of information relating to the disclosure of any information that would jeopardize peace officer safety, criminal intelligence information, ongoing investigatory activities, or any security procedures. The September 4, 2009, amendments would also require all other contracts that include personal services and consulting services to be included in the listing prescribed under this bill. The “This Bill” discussion is revised. The remainder of the department’s analysis of the bill as amended August 27, 2009, still applies.

Board Position:	Asst. Legislative Director	Date
<input type="checkbox"/> S <input type="checkbox"/> NA <input type="checkbox"/> NP <input type="checkbox"/> SA <input type="checkbox"/> O <input type="checkbox"/> NAR <input type="checkbox"/> N <input type="checkbox"/> OUA <input checked="" type="checkbox"/> PENDING	Patrice Gau-Johnson	09/10/09

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 is entered into during the fiscal year. The Director of Department of General Services (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 in order 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.
 - All other contracts that include 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. 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 not require the posting any information in the contract that is confidential pursuant to a court order, the attorney client privilege, or the attorney work product exemption. The bill would further exempt the posting of information that, if posted, would jeopardize peace officer safety, intelligence information, ongoing investigator activities, or any security procedure, or any information the disclosure of which is prohibited by law. The bill specifies that it is not to be construed to limit the rights of the public to access information under the California Public Records Act or the California Constitution.

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

LEGISLATIVE STAFF CONTACT

Legislative Analyst

Deborah Barrett

(916) 845-4301

deborah.barrett@ftb.ca.gov

Revenue Director

Jay Chamberlain

(916) 845-3375

jay.chamberlain@ftb.ca.gov

Asst. Legislative Director

Patrice Gau-Johnson

(916) 845-5521

patrice.gau-johnson@ftb.ca.gov