

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Eng, et al. Analyst: Janet Jennings Bill Number: AB 172
Related Bills: See Legislative History Telephone: 845-3495 Amended Date: May 27, 2011
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agencies Post Specified Audits & Contracts To The Reporting Transparency In Government Internet Web Site

SUMMARY

This bill would codify Executive Orders S-08-09 and S-20-09, which require state agencies to post various reports to the Reporting Transparency in Government Web site.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

Summary of Amendments

The May 27, 2011, amendments removed provisions related to the public contract code and added provisions that would require state agencies to post certain reports on the Reporting Transparency in Government Web site.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

The legislative intent language of this bill indicates the purpose is to continue the Legislature's commitment to promoting transparency in state government.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2012. The operative dates of the various provisions are different and will be discussed separately in this analysis.

ANALYSIS

STATE LAW

Executive Order S-08-09 ordered state agencies and departments to post to the Reporting Transparency in Government Web site audits of their operations performed by outside entities dating back to January 1, 2008. Additionally, agencies must post financial and programmatic audits that they and other departments have done on their own operations and audits they have performed on other governmental entities dating back to January 1, 2008.

Board Position:

_____ S _____ NA X NP
_____ SA _____ O _____ NAR
_____ N _____ OUA

Executive Officer

Date

Selvi Stanislaus

07/19/11

Executive Order S-20-09 requires posting to the Reporting Transparency in Government Web site for the following items:

- Program reviews
- Monitoring, and accountability reports
- Evaluations
- Inspections
- Assessments and studies of operations

Documents are to be posted within five working days of finalization.

Existing state law prohibits the disclosure of any taxpayer information, except as specifically authorized by statute. Generally, disclosure is authorized to other state tax agencies, federal tax agencies, and the Multistate Tax Commission solely for tax administration purposes. Additionally, the FTB is authorized to publish statistical data related to taxpayer information so long as no individually identifiable information is revealed. Unauthorized disclosure of state tax information is a misdemeanor and unauthorized disclosure of federal tax information is a felony.

Each state agency is responsible for its own services acquisitions program. This responsibility includes ensuring the necessity of the services, securing appropriate funding, complying with laws and policies, writing the contract in a manner that safeguards the state's interests, and obtaining required approvals. State agencies use contracts, purchase orders, interagency agreements, and memorandums of understanding to implement services acquisition programs.

THIS BILL

This bill would require a state agency to post to the State's Reporting Transparency in Government Web site the following:

1. Operations audits, as defined, conducted by the agency itself or another agency finalized between January 1, 2009, and December 31, 2011, shall be posted by February 15, 2012. For reports finalized on or after January 1, 2012, posts must be done within 15 calendar days of finalization.
2. On or before February 15, 2012, the Department of General Services (DGS) and the California Technology Agency (CTA) will post summary data, as defined, regarding any contract awarded by the state on or after March 31, 2010, valued at \$5,000 or more.
3. Within 15 calendar day of signing by all parties to the contract, a state agency must post summary data regarding any contract it awarded on or after January 1, 2012, valued at \$5,000 or more, within 15 calendar days of signing by all parties to the contract.
4. The DGS and the CTA are required to assist a state agency to comply with these requirements.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations. Contract information is currently posted to the e-Procurement system as discussed below under Program Background.

LEGISLATIVE HISTORY

AB 1899 (Eng, 2009/2010) contained the same provisions as this bill. AB 1899 was vetoed by Governor Schwarzenegger, who stated in his veto message the bill was unnecessary due to executive orders in place.

AB 1194 (Strickland, 2009/2010) would have required a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds. This bill would have required the Web site to be available by July, 2010, and be updated monthly. This bill failed to pass out of the Assembly Business and Professions committee by the constitutional deadline.

SB 502 (Walters, 2009/2010) would have required a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds. This bill would have required the Web site to be available January 1, 2010, and updated annually. This bill failed to pass out of the Senate Governmental Organization committee by the constitutional deadline.

SB 719 (Huff, et al., 2009/2010) would have required a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds. This bill failed to pass out of the Senate Appropriations committee by the constitutional deadline.

SB 1494 (McClintock, 2007/2008) would have required a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds. This bill would have required the Web site to be available by July 1, 2009, and be updated annually. This bill failed to pass out of the Senate Appropriations committee by the constitutional deadline.

PROGRAM BACKGROUND

The e-Procurement system is a centralized database of information on state contracts and purchases over \$5,000. This database is available on the California Department of General Services Web site, and the State's Reporting Transparency in Government Web site. Each state agency is required to report its contracts to DGS. The public can download information on the procurement expenditures of each state department and agency.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

SUPPORT/OPPOSITION

Support: Service Employees International Union (SEIU) Local 1000, American Federation of State, County, and Municipal Employees (AFSCME)

Opposition: None on file.

ARGUMENTS

Pro: This bill provides transparency in how the State spends its resources.

Con: This bill duplicates the contract reporting currently available on the DGS Web site.

LEGISLATIVE STAFF CONTACT

Janet Jennings

Legislative Analyst, FTB

(916) 845-3495

janet.jennings@ftb.ca.gov

Anne Maitland

Interim Legislative Director, FTB

(916) 845-6333

anne.maitland@ftb.ca.gov