

BILL NUMBER: Assembly Bill 1899 (Eng) as amended August 10, 2010

SUMMARY

AB 1899 requires state agencies, as specified, the Department of General Services (DGS) and the Office of the State Chief Information Officer (OCIO) to post specified audits and contracts to the state's Reporting Transparency in Government Internet Web site. In addition, the bill requires the Governor's Office to post every Statement of Economic Interest and travel expense claim for its senior staff and deputies, agency secretaries and undersecretaries, and department directors to the same Web site.

BOARD POSITION

Neutral. It is the policy of the Board to be neutral on legislation that does not significantly or adversely impact the benefits or services provided through the funds administered by CalSTRS or the administration of the retirement plans.

CalSTRS supports transparency in government. However, in an effort to prevent duplication of current efforts and reduce cost, CalSTRS suggests that the posting of summary data on contracts signed and audits finalized to the Reporting Transparency in Government Internet Web site be done on a quarterly basis rather than within 15 days of signing or finalization as currently specified in the measure.

Currently, each quarter CalSTRS posts a report on the contracts it issues to the CalSTRS public Internet Web site and similarly biannually posts the results of all audit activities. It would be more cost effective and efficient to post this information to the Reporting Transparency in Government Internet Web site on a quarterly basis to coincide with CalSTRS current practice of posting the information to its public Internet Web site.

PURPOSE OF THE BILL

The bill seeks to continue the Legislature's commitment to promoting transparency in state government and to provide Californians a central location to easily access information on state governmental operations by codifying and expanding the Governor's Executive Orders S-08-09 and S-20-09.

ANALYSIS

Existing Law:

Requires, subject to specific exemptions, public records to be open to public inspection.

This bill:

AB 1899 requires state agencies, as specified, DGS and the OCIO to post audits and summary data regarding contracts valued at \$5,000 or more to the State's Reporting Transparency in Government Internet Web site. In addition, the Governor's Office would be required to post every Statement of Economic Interest and travel expense claims for its senior staff and deputies, agency secretaries and undersecretaries, and department directors to the same Web site.

Specifically, this bill:

1. Requires DGS and the OCIO, by February 15, 2011, to post summary data regarding any contract awarded by the state on or after March 31, 2009, valued at \$5,000 or more to the state's Reporting Transparency in Government Internet Web site.
2. Defines "summary data" for the purposes of this section relating to state contracts to include: department name, contract number, total price, start and termination dates, supplier name, special instructions, acquisition type and method, item total, quantity, description and classification codes.
3. Requires a state agency to post to the Reporting Web site within 15 calendar days of signing by all parties to the contract, any contract valued at \$5,000 or more awarded on and after January 1, 2011.
4. Requires state agencies by February 15, 2011, to post all audits of its operations as defined, finalized from January 1, 2008, through December 31, 2010, to the state's Reporting Transparency in Government Internet Web Site.
5. Requires state agencies to post to the Reporting Web site within 15 calendar days every audit of its operations finalized on and after January 1, 2011.
6. Specifically exempts the constitutional officers, including the Lieutenant Governor, Attorney General, Secretary of State and Controller from the requirement of posting the information to the Reporting Transparency in Government Web site, if that Officer posts the required information to their official Internet Web site.
7. Requires DGS and the OCIO to assist state agencies in complying with the requirements of this bill.
8. Requires the Office of the Governor to post every statement of economic interest and travel and expense report of its senior staff and deputies, agency secretaries and undersecretaries, and department directors to the Reporting Web site.
9. Includes a provision that information deemed confidential as specified would be exempt from the posting requirements. However, the exemption is not meant to limit the rights of the public to access information subject to the CPRA, and any

information withheld from the posting would have to be replaced with the phrase "CPRA exemption claimed."

If AB 1899 were to become law, CalSTRS would no longer be exempt from posting the results of audits performed on CalSTRS operations and contracts valued at \$5,000 or more to the Reporting Transparency in Government Web site. CalSTRS already posts the results of all audits, either as a Board summary or full audit report, on the CalSTRS public Internet Web site. CalSTRS similarly posts a quarterly report on the contracts issued by CalSTRS within 45 days of the close of the quarter. Currently, CalSTRS has more than 1,500 contracts that would have to be posted to the state's Reporting Transparency in Government Web site, from March 2009 to present, in addition to all audits from January 1, 2008, to present if AB 1899 was enacted. There would be both one time and ongoing administrative costs associated with the additional workload to:

- Develop a new contract reporting process to ensure the timely reporting of completed contracts within the prescribed 15 day reporting period,
- Include the additional contract information not currently imposed on the current quarterly report, and
- Address the requirement for agencies to post all audits from January 1, 2008, and contracts valued at \$5,000 or more from March 1, 2009, through December 31, 2010, in order to comply with the provisions of these measures.

In a related measure, AB 756 (Eng), that was vetoed in 2009 and required state agencies to provide a link to a centrally located and accessible state-run Internet Web site for personal services and consulting services contracts entered into by the state, Governor Schwarzenegger stated in his Veto Message:

"While I am supportive of greater transparency in government, this legislation would be duplicative of current reporting practices and increases workload and costs to departments at a time when the state continues to experience a significant budget shortfall. My administration is currently implementing many of the provisions of this legislation within the existing appropriation of the Department of General Services to increase transparency."

Currently, the public can request any of the records that would be automatically published pursuant to this bill. But a notable constraint on the public's present ability to make requests is their lack of familiarity with the internal structure and functioning of their state agencies, including CalSTRS.

Although CalSTRS supports transparency in government, AB 1899 seems duplicative of current efforts and practices as the information required in the measure is already available to the public through CalSTRS Web site. In an effort to prevent duplication of current efforts and practices and to reduce cost, CalSTRS suggests that the posting of summary data on contracts signed and audits finalized to the Reporting Transparency in Government Internet Web site be done on a quarterly basis rather than within 15 days of signing or finalization as currently specified in the measure. With this amendment,

the estimated ongoing annual costs incurred in order to comply with the measure could be reduced from \$85,000 to approximately \$5,000.

LEGISLATIVE HISTORY

AB 2403—Strickland (2010, Held in Assembly Appropriations Committee) would have required state agencies, DGS and the OCIO to post specified audits and contracts to the state's Reporting Transparency in Government Internet Web site. Required the Governor's Office to post every State of Economic Interest and travel expense claim for its staff, Agency Secretaries and department heads and officials under the direct supervision of the Governor to the same Web site.

AB 756—Eng (2009, Vetoed) would have required state agencies to provide a link to a centrally located and accessible state Internet Web site that includes a list of the personal services and consulting services entered into by the agency. Required listings on the state's Internet Web site to include specified information, and requires, on and after January 1, 2012, a summary of a contract to be initially posted within 15 days of being signed by all parties. Required the Director of DGS to maintain the Internet Web site and to establish the publishing of the contract listing information.

AB 1194—Strickland (2009, Held in Senate Appropriations Committee) would have required each state department and agency to develop and operate an Internet Web site accessible by the public that includes specified information relating to expenditures of state funds, defined to include, among other things, grants, contracts, subcontracts, purchase orders, and tax refunds, rebates, and credits.

SB 502—Walters (2009, Held in Senate Governmental Organization Committee) would have required a state agency to develop and operate a publicly accessible and searchable 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, 2010, and be updated annually.

SB 719—Huff (2009, Held in Senate Appropriations Committee) would have enacted the Taxpayer Transparency Act of 2009 and would have required each state department and agency to develop and operate a searchable Internet Web site accessible by the public that includes specified information relating to expenditures of state funds including contracts, grants, purchase orders, subcontracts, and tax refunds, rebates, and credits.

SB 1494—McClintock (2008, Held in Senate Appropriations Committee) would have required a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds and required the Web site to be available by July 1, 2009, and be updated annually.

PROGRAM BACKGROUND

Currently, 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. In 2003, DGS established the State Contract and Procurement Registration System, a centralized database of information on state contracts and purchases over \$5,000. 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 on DGS's Internet Web site. (CalSTRS has been exempt from this requirement as well as all state contract and state administrative manual regulations and procedures due to the Board's oversight and plenary authority for administration of the system as prescribed in Article 16, Section 17 of the California Constitution.)

In 2009, the Governor issued Executive Orders S-08-09 and S-20-09 that ordered state agencies and departments under the direct executive authority of the Governor, DGS and the OCIO to post audits and contracts to the state's Reporting Transparency in Government Web site as specified.

CalSTRS was exempted from complying with either of the two Executive Orders as CalSTRS is not under the direct executive authority of the Governor. Furthermore, CalSTRS currently posts the results of all audit activities, either in the form of a Board summary or full audit report, to the CalSTRS public Internet Web in April and September of each year. CalSTRS similarly posts a report on the contracts issued by CalSTRS on a quarterly basis. Additionally, subject to the California Public Records Act (CPRA), the public can currently request any of the records that would be available pursuant to this measure.

OTHER STATES' INFORMATION

According to the non-profit organization, US Public Interest Research Group (US-PIRG), at least 32 states currently mandate that residents be able to access an online database of government expenditures with "checkbook-level" detail. 29 of these states also enable residents to search expenditures by vendor name or type of service purchased. Seven of these states: Kentucky, Ohio, Texas, Illinois, Minnesota, Missouri and Pennsylvania, have become leaders in the drive toward transparency launching easy-to-use, searchable Web sites that provide comprehensive information on a wide range of spending transparency information, such as tax subsidies and economic development grants.

- 25 states are "emerging states" with transparency Web sites that provide less comprehensive information and, in some cases, are not searchable by vendor or service.
- 18 other states are "lagging states" whose online transparency efforts fail to meet the contemporary standards established by non-profit public interest groups like US PIRG.
- The remaining 14 states do not host government spending transparency Web sites.

- 39 states have searchable databases that show campaign finance contributions, expenditures and gifts reported by elected officials and registered lobbyists.
- Only 17 states include spending data prior to Fiscal Year 2009.

Source: US PIRG: *“How the 50 States Rate in Providing Online Access to Government Spending data,”* (April, 2010).

50-States Transparency Survey:

The following consolidated review of all fifty states transparency in government Web sites was performed by non-profit organizations dedicated to state and local government transparency like, U.S. Public Interest Group (US-PIRG), the Sunshine Review, and Governing magazine, who collect and share transparency information and use transparency checklists to evaluate the content of every state and more than 5,000 local government websites.

50 States Evaluation/Grading of State Transparency Websites
(April 2010)

States:	Budget:	Usability:	Audits:	Contracts:	Governing Grade:	US-PIRG Grade:	Sunshine Review Grade:
Alabama	Yes	Good	Yes	Yes	C	C	B
Alaska	Yes	Good	Yes	Partial	C	F	C
Arizona	Yes	Fair	Yes	Partial	B	F	C
Arkansas	Yes	Good	Yes	Yes	C	F	B
California	Yes	Good	Yes	Yes	C	D	A
Colorado	Yes	Good	Yes	No	C	D	B
Connecticut	Yes	Fair	No	Partial	B	D	C
Delaware	Yes	Good	Yes	Partial	B	C	B
Florida	Partial	Fair	Yes	Yes	B	F	C
Georgia	Partial	Good	Yes	Yes	B	C	B
Hawaii	Yes	Good	Yes	Yes	C	C	B
Idaho	Yes	Good	Yes	Yes	B	F	B
Illinois	Yes	Fair	Yes	Yes	C	B	C
Indiana	Yes	Good	Yes	Yes	B	F	A
Iowa	No	Fair	Yes	Partial	B	F	C
Kansas	Yes	Fair	Yes	Yes	B	C	B
Kentucky	Yes	Fair	Yes	No	B	A	B
Louisiana	Yes	Poor	Yes	Yes	B	C	B
Maine	Yes	Good	Yes	Yes	C	F	A
Maryland	Yes	Good	Yes	Yes	B	C	B
Massachusetts	Yes	Good	Yes	Yes	C	F	A
Michigan	Yes	Fair	Yes	Yes	B	F	C
Minnesota	Yes	Good	Yes	Yes	B	B	B
Mississippi	Yes	Good	Yes	Yes	C	C	B

Missouri	Yes	Good	Yes	Yes	B	B	B
Montana	Yes	Good	Yes	Partial	C	F	B
Nebraska	Yes	Fair	Yes	Yes	B	D	C
Nevada	Yes	Good	Yes	Yes	C	C	B
New Hampshire	Yes	Fair	Yes	Yes	D	F	C
New Jersey	Yes	Good	Yes	Yes	C	F	A
New Mexico	Yes	Fair	Yes	Partial	B	C	C
New York	Yes	Good	Yes	Yes	B	C	B
North Carolina	Yes	Fair	Yes	No	B	C	C
North Dakota	Yes	Good	Yes	Yes	B	F	B
Ohio	Yes	Good	Yes	Yes	B	B	B
Oklahoma	Yes	Good	Yes	Yes	C	C	B
Oregon	Yes	Fair	Yes	Partial	C	D	C
Pennsylvania	Yes	Good	Yes	Yes	B	B	A
Rhode Island	Yes	Fair	Yes	Partial	C	C	C
South Carolina	Yes	Fair	Yes	Yes	B	D	B
South Dakota	Yes	Good	Yes	Yes	B	F	B
Tennessee	Yes	Good	Yes	Partial	B	D	B
Texas	Partial	Fair	Yes	Yes	A	B	B
Utah	Yes	Poor	Yes	Yes	B	C	C
Vermont	Yes	Good	Yes	Yes	B	F	B
Virginia	Yes	Fair	Yes	Yes	A	C	C
Washington	Yes	Good	Yes	Yes	A	F	A
West Virginia	Yes	Good	Yes	Yes	C	F	B
Wisconsin	Yes	Good	Yes	Yes	B	F	A
Wyoming	Yes	Fair	Yes	No	B	D	C

FISCAL IMPACT

Benefit Program Cost – None.

Administrative Costs/Savings – One time cost of \$20,000 to ensure compliance with the reporting requirements as specified by the initial February 1, 2011, deadline and ongoing annual cost of \$85,000 beginning in 2011-12 to handle the additional duplicated accessibility of audit reports and semi-annual audit follow-up on audit findings to the state Reporting Web site. Additionally, CalSTRS would need to develop a new contract reporting process to ensure the timely reporting of completed contracts within the prescribed 15 day reporting period.

SUPPORT/OPPOSITION

Support: Californians Aware (Co-sponsor)
 Service Employees International Union, Local 1000 (Co-sponsor)
 California Labor Federation
 California Newspaper Publishers Association
 California Public Interest Research Group

Opposition: Department of Finance
Department of General Services

ARGUMENTS

Pro:

- Posting information to the Transparency in Government Web site would demonstrate CalSTRS' continued commitment to transparency in its business and administrative processes.

Con:

- Adds additional administrative costs at a time when agencies are reducing costs, with only a small incremental benefit from additional transparency.
- Duplicates the current process of posting the results of all audit activities on the CalSTRS public Internet Web site.

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