AMENDED IN SENATE AUGUST 23, 2004

AMENDED IN SENATE JULY 27, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL No. 2120

Introduced by Committee on Budget (Steinberg (Chair), Bermudez, Chan, Diaz, Dymally, Goldberg, Hancock, Jackson, Levine, Liu, Montanez, Nakano, Pavley, Reyes, Simitian, and Wolk)

February 18, 2004

~~An act to amend Sections 16920 and 16929 of, and to add Chapter 8 (commencing with Section 16940) to Part 3 of Division 4 of Title 2 of, the Government Code, relating to public pension obligations, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~ *An act to amend Section 12101.5 of the Public Contract Code, relating to state contracts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2120, as amended, Committee on Budget. ~~Public pension obligations: bond financing~~ *Information technology grants*.

Existing law generally sets forth the requirements governing state contracts for information technology goods and services.

This bill would additionally provide that, for contracts related to information technology integration or development projects that generate revenues or achieve savings over a quantifiable baseline of existing costs, state agencies would be required to consider, and would be authorized to incorporate, performance-based or share-in-savings *contract terms to manage risks and create incentives for successful contract performance.*

~~Under existing law, the state is required to make specified employer contributions to the Public Employees' Retirement Fund on behalf of state employee members of the Public Employees' Retirement System. Existing law establishes the Pension Obligation Bond Committee, which is authorized to issue bonds and take other specific actions under the California Pension Obligation Financing Act.~~

~~This bill would enact the California Pension Restructuring Bond Act of 2004, that would authorize the issuance, during any 2 fiscal years after June 30, 2004, of up to $2 billion of bonds and the creation of ancillary obligations, as defined, for the purpose of funding or refunding the state's obligations to the Public Employees' Retirement Fund. The bill would authorize the issuance of the bonds only after the Department of Finance determines that those obligations are anticipated to be reduced as a result of changes to the Public Employees' Retirement Law, as specified. The bill would continuously appropriate from the General Fund, without regard to fiscal year, the amount necessary to pay the principal and interest on the bonds and other obligations incurred in connection with the bonds, subject to certain limits.~~

~~The bill would authorize the Pension Obligation Bond Committee to bring an action to determine the validity of the bonds issued pursuant to the act. The bill would also authorize the Department of Finance to pay, on behalf of the committee, from funds previously appropriated to the department, specified attorneys' fees and costs in connection with the prior validation action under the California Pension Obligation Financing Act, there by making an appropriation.~~

~~The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ *majority*. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. It is the intent of the Legislature and the~~

SECTION 1. Section 12101.5 of the Public Contract Code is amended to read:

12101.5. (a) It is the intent of the Legislature that agencies of the ~~State of California~~ *state* use an acquisition method that is compatible with their short- and long-term fiscal needs in contracts relating to commodities and information technology goods and services. State agencies should be able to specify their anticipated life cycle requirements that would become one of the criteria for contractor selection. These agencies should be given the choice of suppliers to meet statewide standardization needs, unique service requirements, application requirements, and long-term satisfaction criteria. There is a need for the ~~State of California~~ *state* to enter into long-term contracts with annual cancellation and fund-out clauses, as required, to protect the state's interests as well as provide the option for multiyear renewals to encourage suppliers to develop higher levels of service and support throughout the contracts.

(b) The state may utilize multiple awards, including federal General Service Administration Multiple Awards Schedules and master agreements or contracts for goods, information technology, services, or consulting services. For purposes of this subdivision, a multiple award is an award of an indefinite quantity contract for one or more similar goods, information technology, or services to more than one supplier. Except for possible multiple awards as permitted by this subdivision, *and except as described in subdivision (d),* all the requirements of this chapter pertaining to other types of information technology acquisitions shall be followed. The department shall ensure that multiple award schedules are in compliance with all other applicable statutes.

(c) Notwithstanding any other provision of law, state agencies, in exercising their contracting authority delegated by the department, may contract with suppliers who have multiple award schedules with the General Services Administration of the United States on the same terms, conditions, and prices if the supplier is willing to do so. The department may also develop multiple award schedules or agreements for use by state agencies in the same manner. The department shall determine the delegation contracting authority for agencies wishing to use multiple award schedules.

(d) For contracts related to information technology integration or development projects that generate revenues or achieve savings over a quantifiable baseline of existing costs, state agencies shall consider and may incorporate performance-based or share-in-savings contract terms to manage risks and create

incentives for successful contract performance. Performance-based or share-in-savings contracts may have the following characteristics, among others:

(1) Contract terms that specify business outcomes to be achieved, not the solution to be provided.

(2) Contract terms that structure the contract to maintain maximum vendor commitment to project success and minimize risk to the state by sharing risk with the private sector.

(3) Utilization of "best value" evaluation methods, which means to select the solution that will achieve the best result based on business performance measures, not necessarily the lowest price.

(4) Contract terms that base payments to the vendor primarily on achieving predefined performance measures.

All matter omitted in this version of the bill appears in the bill as amended in the Senate July 27, 2004. (JR 11)

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