

**ASSEMBLY BILL**

**No. 740**

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**Introduced by Assembly Member Blumenfield**

February 17, 2011

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An act to add Section 19135 to the Government Code, relating to personal services contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 740, as introduced, Blumenfield. Personal services contracts.

Existing law authorizes state agencies to use personal services contracts if specified standards are satisfied, including, among other things, the contract does not cause the displacement of civil service employees and the contract is awarded through a publicized, competitive bidding process. The State Personnel Board is required to review a proposed contract upon the request of an employee organization for compliance with those standards.

This bill would require a state agency to immediately discontinue a contract disapproved by action of the board or its delegate unless ordered otherwise by the board or its delegate. The bill would prohibit the state agency from circumventing or disregarding the board's action by entering into another contract for the same or similar services or to continue the services that were the subject of the contract that was disapproved. The bill would require the state agency to serve notice of the discontinuation of the contract to the vendor within 15 days from the board's final action, and to serve a copy of the notice on the board and the employee organization that filed the contract challenge. The bill would make a related statement of legislative findings.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Article 4 (commencing with Section 19130) of Chapter 5 of  
4 Part 2 of Division 5 of Title 2 of the Government Code specifies  
5 the conditions under which state agencies may contract for services  
6 rather than use civil servants to perform specified work and the  
7 procedures for reviewing and amending contracts for that  
8 permissive contracting.

9 (b) A union challenging the appropriateness of a personal  
10 services contract with the State Personnel Board must provide  
11 adequate evidence to support its challenge, and state agencies are  
12 given the opportunity to demonstrate how the contract meets one  
13 or more of the conditions permitted under Article 4 (commencing  
14 with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title  
15 2 of the Government Code.

16 (c) The Legislature recognizes that the State Personnel Board  
17 is best able to determine the appropriateness of whether a state  
18 agency or department may contract for services, and the conditions  
19 for amending or continuing the contract for permissive services.

20 (d) In a September 2009 report, the State Auditor found “faults  
21 in the State’s oversight of the California Constitution’s implied  
22 civil service mandate. In particular, the [State Personnel Board]  
23 currently has no mechanism for determining whether state agencies  
24 are complying with its decisions.” The State Auditor concluded  
25 that departments experienced no repercussions for failing to  
26 terminate contracts disapproved by the board.

27 (e) The State Auditor recommended that the State Personnel  
28 Board specify that contracts disapproved by the board must be  
29 terminated and require state agencies to provide documentation to  
30 the board and the applicable unions to demonstrate to the  
31 satisfaction of the board the termination of these contracts. The  
32 recommended changes would provide clarity to departments about  
33 the results of the State Personnel Board decisions.

34 (f) Implementing the recommendation of the State Auditor  
35 regarding contracts reviewed by the State Personnel Board would  
36 provide greater governmental accountability and transparency  
37 without reducing the ability of state agencies to enter or continue  
38 valid contracts.

1 SEC. 2. Section 19135 is added to the Government Code, to  
2 read:

3 19135. (a) If a contract is disapproved by action of the board  
4 or its delegate, a state agency shall immediately discontinue that  
5 contract unless ordered otherwise by the board or its delegate. The  
6 state agency shall not circumvent or disregard the board's action  
7 by entering into another contract for the same or similar services  
8 or to continue the services that were the subject of the contract  
9 disapproved by the board or its delegate.

10 (b) A state agency ordered to discontinue a contract shall serve  
11 notice of the discontinuation of the contract to the vendor within  
12 15 days from the board's final action unless a different notice  
13 period is specified. A copy of the notice also shall be served on  
14 the board and the employee organization that filed the contract  
15 challenge. Failure to serve this notice may be grounds for rejection  
16 of future contracts for the same or similar services that were  
17 discontinued.

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