

AMENDED IN ASSEMBLY JUNE 24, 1999

AMENDED IN SENATE MAY 17, 1999

AMENDED IN SENATE APRIL 5, 1999

SENATE BILL

No. 794

Introduced by Senator Speier

February 25, 1999

An act to add Sections 7210 and 10108.6 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 794, as amended, Speier. State agencies: contract provisions.

Existing law governing employment contracts with the state does not limit the amount of compensation that may be paid to an employee on contract termination.

This bill would provide that a state employment contract cannot provide for *a severance* payment to the employee, on contract termination, of an amount greater than 4 weeks of compensation. This provision would not apply to termination for specified reasons and would not apply to employment contracts governed by collective bargaining.

The State Contract Act generally governs contracting between state agencies and private contractors.

This bill would require the Department of Corrections or the Department of Transportation, when it ~~enters into a contract with a value of over \$200,000 that provides for~~ *does not obtain* a prompt payment discount or a ~~rebate~~, pays a penalty in connection with ~~a contract~~ *certain contracts* for

goods or services, or uses operating budget funds to pay a legal settlement or judgment in excess of \$10,000 in an employee-related matter, to provide specified information in a report to be filed with the Department of Finance and the budget committee of each house of the Legislature.

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. Section 7210 is added to the Public
2 Contract Code, to read:

3 7210. (a) No state employment contract may contain
4 a *severance* provision under which an employee, upon
5 termination, would be paid an amount that exceeds four
6 weeks of compensation, based on the employee's ~~current~~
7 salary at the time of termination.

8 ~~For purposes of this section only, "termination" does~~

9 (b) *For purposes of this section:*

10 (1) "*Severance*" does not include payment for work
11 performed or unused vacation time.

12 (2) "*Termination*" does not include employment that
13 ends due to retirement, including a monetary incentive
14 to encourage early retirement from a public retirement
15 plan, or a disability. ~~"State~~

16 (3) "*State employment contract*" means an
17 employment contract that involves the use of public
18 funds or a contract that is ratified by state officials or their
19 representatives.

20 ~~This~~

21 (c) *This* section does not apply to employment
22 contracts that are subject to collective bargaining rules.

23 SEC. 2. Section 10108.6 is added to the Public
24 Contract Code, to read:

25 ~~10108.6. (a) If the Department of Corrections or the~~
26 ~~Department of Transportation enters into a contract that~~
27 ~~provides a discount if payment is made prior to a date~~
28 ~~specified in the contract, or provides a rebate, that agency~~
29 ~~shall file a report with the Department of Finance and the~~
30 ~~budget committee of each house of the Legislature. The~~



1 ~~report shall be filed within 30 days of the contract's~~
2 ~~effective date. This subdivision does not apply to a~~
3 ~~contract or series of related contracts with a value of two~~
4 ~~hundred thousand dollars (\$200,000) or less, nor does it~~
5 ~~apply to the Medi-Cal fee-for-services drug program.~~

6 ~~(b) Each agency that files a report pursuant to~~
7 ~~subdivision (a) shall inform the Department of Finance~~
8 ~~and the budget committee of each house of the~~
9 ~~Legislature of any contract with a rebate provision in~~
10 ~~which a full rebate was not received, nor a discount~~
11 ~~earned. The report shall be filed within 30 days of contract~~
12 ~~completion and shall contain an explanation of why a full~~
13 ~~rebate was not issued, or why a pay discount was not~~
14 ~~earned.~~

15 ~~(c) If the Department of Corrections or the~~
16 ~~Department of Transportation pays a penalty in~~
17 ~~connection with a contract for goods or services, it shall~~
18 ~~report the amount of the penalty and the reason it was~~
19 ~~assessed to the Department of Finance and the budget~~
20 ~~committee of each house of the Legislature. The report~~
21 ~~shall be filed within 10 business days after the agency~~
22 ~~becomes aware of the penalty. This subdivision applies to~~
23 ~~a contract of any dollar amount. The loss of a prompt pay~~
24 ~~discount is not a penalty for purposes of this subdivision~~
25 ~~only.~~

26 ~~(d) If~~
27 *10108.6. (a) Beginning July 1, 2000, and each year*
28 *thereafter, the Department of Corrections and the*
29 *Department of Transportation shall report to the*
30 *Department of Finance and the budget committee of*
31 *each house of the Legislature on or about July 1 and*
32 *January 31, the completion of a contract or series of*
33 *related contracts with a value of two hundred thousand*
34 *dollars (\$200,000) or more, where a contractual discount*
35 *for prompt payment was not obtained or where a penalty*
36 *was paid due to late payment. The report shall identify*
37 *the dollar amount of the lost discount or penalty*
38 *assessment, and the reason why payment was not prompt*
39 *or why it was late.*



1 (b) When the Department of Corrections or the
2 Department of Transportation uses operating budget
3 funds to pay a legal settlement or judgment in excess of
4 ten thousand dollars (\$10,000) in an employee-related
5 matter, it shall report the payment to the Department of
6 Finance and the budget committee of each house of the
7 Legislature. The report shall be filed ~~within 10 business~~
8 ~~days of payment of the settlement or judgment.~~ *quarterly*
9 *and shall identify the amount of each settlement and*
10 *judgment paid within the past 90 days and the cumulative*
11 *total for the past year and shall identify the facility in*
12 *which the employee-related matter occurred and the*
13 *nature of the employee-related matter; but under no*
14 *circumstances shall individuals involved in the matter be*
15 *disclosed. For purposes of this subdivision,*
16 *“employee-related matter” includes, but is not limited to,*
17 *charges of discrimination and sexual harassment.*

