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AMENDED IN SENATE JULY 13, 2011

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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 172

Introduced by Assembly Member Eng
(Principal coauthor: Assembly Member Gatto)
(Coauthors: Assembly Members Portantino and Solorio)
(Coauthor: Senator Leno)

January 20, 2011

An act to add Sections 11004.4, 11004.5, 11004.6, ~~and 11004.7~~
~~11004.7, and 11004.8~~ to the Government Code, relating to state
agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 172, as amended, Eng. State agencies: information: Internet Web
site.

Existing law requires, subject to specific exemptions, public records
to be open to public inspection.

This bill would require the California Technology Agency to create
and maintain a Reporting Transparency in Government Internet Web
site, as prescribed. It would require, subject to specific exemptions,
state agencies to post specified audits to that Internet Web site *for a*
period of 3 years, and would require the Department of General
Services, the California Technology Agency, and other state agencies
to post specified summary data regarding contracts awarded by the state

to that Internet Web site, *for the length of the contract*. It would also require the *Department of General Services and the California Technology Agency to post to the Internet Web site, pursuant to policies and procedures developed by the office of the Governor to post*, specified financial statements and reports ~~to that Internet Web site, for the entire term of the Governor for whose administration the information has been reported~~. The bill would exempt certain state officers from the requirement of posting the information to the Reporting Transparency in Government Internet Web site, if that officer posts the required information to his or her official Internet Web site, as specified.

This bill would specify that the Reporting Transparency in Government Internet Web site shall only remain in operation until the Financial Information System for California (FI\$Cal) is operative and available for public use.

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) Transparency is fundamental to promoting efficiency and
- 4 effectiveness in state government and strengthening the democratic
- 5 process by giving citizens enough information to reach their own
- 6 conclusions about how their tax dollars are being spent.
- 7 (b) Audits of state agencies and their operations can provide
- 8 objective and measurable performance reviews and identify and
- 9 correct inefficient or wasteful practices.
- 10 (c) Californians seeking information on state governmental
- 11 operations are often frustrated because a myriad of oversight
- 12 entities perform audits of state agencies, and the information can
- 13 be difficult to access due to the lack of an Internet Web-based,
- 14 central inventory of audits.
- 15 (d) Many internal audits that state agencies perform on their
- 16 own operations are finalized but never made public.
- 17 (e) Billions of dollars in state contracts are entered into each
- 18 year to purchase goods and services for the people of California,
- 19 and posting summary data regarding contracts on the Internet is
- 20 an effective way to help ensure that taxpayers are getting the best
- 21 value and that services are being provided in an efficient manner.

1 (f) The Legislature’s continuing commitment to promoting
2 transparency in state government is especially critical while
3 California’s economy continues to struggle.

4 SEC. 2. Section 11004.4 is added to the Government Code, to
5 read:

6 11004.4. (a) (1) The California Technology Agency, or its
7 successor, shall create and maintain a Reporting Transparency in
8 Government Internet Web site for the purposes described in
9 Sections 11004.5, 11004.6, and 11004.7.

10 (2) *The Reporting Transparency in Government Internet Web*
11 *site shall only remain in operation until the Financial Information*
12 *System for California (FI\$Cal) is operative and available for*
13 *public use.*

14 (b) In addition to the information required pursuant to Sections
15 11004.5, 11004.6, and 11004.7, the Reporting Transparency in
16 Government Internet Web site shall also include instructions for
17 the public that describe how a person may obtain more detailed
18 information for a contract.

19 (c) (1) Neither the Lieutenant Governor, nor the Attorney
20 General, Secretary of State, Treasurer, Insurance Commissioner,
21 or Controller is required, pursuant to Sections 11004.5 and 11004.6,
22 to post information to the Reporting Transparency in Government
23 Internet Web site, if that officer posts the information required by
24 those sections on his or her official Internet Web site.

25 (2) If the officer, acting pursuant to paragraph (1), determines
26 that information in a contract is exempt from disclosure pursuant
27 to the California Public Records Act (Chapter 3.5 (commencing
28 with Section 6250) of Division 7 of Title 1), then the officer shall
29 post the following information on his or her official Internet Web
30 site:

31 (A) The contract number.

32 (B) The phrase “CPRA exemption claimed.”

33 (C) Other identifying information sufficient to enable a person
34 to submit a request for the information pursuant to the California
35 Public Records Act, for purposes of testing the exemption claimed
36 for the information.

37 (3) If an officer listed in paragraph (1) chooses, pursuant to this
38 subdivision, to post the required information to his or her official
39 Internet Web site, then the Secretary of California Technology

1 shall provide a clearly labeled link to that Internet Web site on the
2 Reporting Transparency in Government Internet Web site.

3 SEC. 3. Section 11004.5 is added to the Government Code, to
4 read:

5 11004.5. (a) On or before February 15, 2012, a state agency
6 shall post to the Reporting Transparency in Government Internet
7 Web site every audit of its operations finalized from January 1,
8 2009, to December 31, 2011, inclusive.

9 (b) Within 15 calendar days of finalization, a state agency shall
10 post to the Reporting Transparency in Government Internet Web
11 site every audit of its operations finalized from January 1, 2012,
12 and forward.

13 (c) For purposes of this section, “audit” shall mean any review
14 or evaluation performed by a state agency on itself, or on the state
15 agency by another entity, including, but not limited to, the Bureau
16 of State Audits, the Controller, the Department of Finance, a federal
17 agency with oversight responsibility of the operations of the state
18 agency, or any nongovernmental organization that monitors or
19 oversees the state agency and that has received public funds *for*
20 *the purpose of auditing that state agency*.

21 (d) The Department of General Services and the California
22 Technology Agency shall assist a state agency in complying with
23 the requirements of this section.

24 (e) This section shall not require the posting of information
25 contained in an audit, including, but not limited to, the identity of
26 any undisclosed expert consultant, that is confidential pursuant to
27 a court order, the attorney-client privilege, or the attorney work
28 product exception; or information that, if posted, would jeopardize
29 peace officer safety, criminal intelligence information, ongoing
30 investigatory activities, or any security procedure; or any
31 information the disclosure of which is prohibited by law. Nothing
32 in this section shall be construed to limit the rights of the public
33 to access information pursuant to the California Public Records
34 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
35 of Title 1), or Section 3 of Article I of the California Constitution.
36 Any information withheld from posting shall be replaced with the
37 phrase, “CPRA exemption claimed.”

38 SEC. 4. Section 11004.6 is added to the Government Code, to
39 read:

11004.6. (a) On or before February 15, 2012, the Department of General Services and the California Technology Agency shall post summary data regarding any contract awarded by the state on or after March 31, 2010, valued at five thousand dollars (\$5,000) or more to the Reporting Transparency in Government Internet Web site. For purposes of this section, summary data regarding a contract shall include, but not be limited to, all of the following:

- (1) The department name.
- (2) The contract or order number.
- (3) The total price.
- (4) The contract start and termination dates.
- (5) The supplier name.
- (6) Any special instructions.
- (7) The supplier classification codes.
- (8) The acquisition type.
- (9) The acquisition method.
- (10) The item total.
- (11) The quantity.
- (12) The description.
- (13) The classification codes.

(b) Within 15 calendar days of signing by all parties to the contract, a state agency shall post to the Reporting Transparency in Government Internet Web site summary data regarding any contract it awarded from January 1, 2012, and forward that is valued at five thousand dollars (\$5,000) or more.

(c) The Department of General Services and the California Technology Agency shall assist a state agency in complying with the requirements of this section.

(d) This section shall not require the posting of information in a contract, including, but not limited to, the identity of any undisclosed expert consultant, that is confidential pursuant to a court order, the attorney-client privilege, or the attorney work product exception; or information that, if posted, would jeopardize peace officer safety, criminal intelligence information, ongoing investigatory activities, or any security procedure; or any information the disclosure of which is prohibited by law. Nothing in this section shall be construed to limit the rights of the public to access information pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), or Section 3 of Article I of the California Constitution.

1 Any information withheld from posting shall be replaced with the
2 phrase, "CPRA exemption claimed."

3 SEC. 5. Section 11004.7 is added to the Government Code, to
4 read:

5 ~~11004.7. The office of the Governor shall post every statement~~
6 ~~of economic interest and travel and expense report of its senior~~
7 ~~staff and deputies, agency secretaries and undersecretaries, and~~
8 ~~department directors to the Reporting Transparency in Government~~
9 ~~Internet Web site.~~

10 *11004.7. The Department of General Services and the*
11 *California Technology Agency shall post to the Reporting*
12 *Transparency in Government Internet Web site, pursuant to*
13 *policies and procedures developed by the office of the Governor,*
14 *every statement of economic interest and travel and expense report*
15 *for the Governor's senior staff and deputies, and for agency*
16 *secretaries and undersecretaries and department directors.*

17 SEC. 6. Section 11004.8 is added to the Government Code, to
18 read:

19 *11004.8. The information required to be posted on the*
20 *Reporting Transparency in Government Internet Web site pursuant*
21 *to Sections 11004.5 to 11004.7, inclusive, shall be posted and*
22 *maintained at the site for the following periods of time:*

23 *(a) For information required pursuant to Section 11004.5, three*
24 *years.*

25 *(b) For information required pursuant to Section 11004.6, the*
26 *entire length of the contract.*

27 *(c) For information required pursuant to Section 11004.7, the*
28 *entire term of the Governor for whose administration the*
29 *information has been reported.*