

Assembly Bill No. 172

Passed the Assembly September 9, 2011

Chief Clerk of the Assembly

Passed the Senate September 8, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 172, 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. 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 (FISCAL) is operative and available for public use.

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

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

(a) Transparency is fundamental to promoting efficiency and effectiveness in state government and strengthening the democratic process by giving citizens enough information to reach their own conclusions about how their tax dollars are being spent.

(b) Audits of state agencies and their operations can provide objective and measurable performance reviews and identify and correct inefficient or wasteful practices.

(c) Californians seeking information on state governmental operations are often frustrated because a myriad of oversight entities perform audits of state agencies, and the information can be difficult to access due to the lack of an Internet Web-based, central inventory of audits.

(d) Many internal audits that state agencies perform on their own operations are finalized but never made public.

(e) Billions of dollars in state contracts are entered into each year to purchase goods and services for the people of California, and posting summary data regarding contracts on the Internet is an effective way to help ensure that taxpayers are getting the best value and that services are being provided in an efficient manner.

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

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

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

(2) The Reporting Transparency in Government Internet Web site shall only remain in operation until the Financial Information System for California (FISCal) is operative and available for public use.

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

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

(2) If the officer, acting pursuant to paragraph (1), determines that information in a contract is exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), then the officer shall

post the following information on his or her official Internet Web site:

- (A) The contract number.
- (B) The phrase “CPRA exemption claimed.”
- (C) Other identifying information sufficient to enable a person to submit a request for the information pursuant to the California Public Records Act, for purposes of testing the exemption claimed for the information.

(3) If an officer listed in paragraph (1) chooses, pursuant to this subdivision, to post the required information to his or her official Internet Web site, then the Secretary of California Technology shall provide a clearly labeled link to that Internet Web site on the Reporting Transparency in Government Internet Web site.

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

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

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

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

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

(e) This section shall not require the posting of information contained in an audit, 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. Any information withheld from posting shall be replaced with the phrase, “CPRA exemption claimed.”

SEC. 4. Section 11004.6 is added to the Government Code, to 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. Any information withheld from posting shall be replaced with the phrase, “CPRA exemption claimed.”

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

11004.7. The information required to be posted on the Reporting Transparency in Government Internet Web site pursuant to Sections 11004.5 and 11004.6 shall be posted and maintained at the site for the following periods of time:

- (a) For information required pursuant to Section 11004.5, three years.
- (b) For information required pursuant to Section 11004.6, the entire length of the contract.

Approved _____, 2011

Governor