

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 327aa

50th Legislature, 1st Session, 2011

Tracking Number: .184089.3

Short Title: Certain Public School Info on Sunshine Portal

Sponsor(s): Senator Sander Rue and Others

Analyst: Ally Hudson

Date: March 8, 2011

AS AMENDED

The Senate Floor amendment:

- **adds a definition for the term *contract* to mean an agreement with a state agency for:**
 - **the rendition of services, including professional services;**
 - **the furnishing of any material, supplies, or equipment;**
 - **the construction, alteration, or repair of any public building or public work;**
 - **the acquisition, sale, or lease of any land or building;**
 - **a licensing arrangement;**
 - **a loan or loan guarantee; or**
 - **the purchase of financial securities or instruments; and**

- **removes the requirement that the Sunshine Portal access a link to the State Auditor's web site for the purpose of accessing financial audits.**

The Senate Public Affairs Committee amendments remove the requirement that the Sunshine Portal access a link to the list of individuals who are delinquent in child support payments, as published by the Human Services Department.

Original Bill Summary:

SB 327 amends the *Sunshine Portal Transparency Act* to:

- require that certain public school information be available on the Sunshine Portal;
- clarify certain provisions; and
- allow access to additional information.

Specifically, SB 327:

- amends certain definitions to clarify that:
 - *department* means the Department of Information Technology (DoIT), or its successor agency;
 - *expenditure* means:

- for a state agency, a disbursement of state or federal funds by the state agency, whether or not the funds have been appropriated by the Legislature; or
 - for a local education provider, a disbursement of federal, state, or other funds by the local education provider;
- *local education provider* means:
- a school district, including the local school board for that school district; or
 - a locally chartered or state-chartered charter school, including the governing body of that charter school; and
- *revenue* means:
- for a state agency, money received by the state agency and deposited into the General Fund or another state fund. Revenue includes money from taxes, fines, fees, royalties, federal funds and other sources, but does not include money deposited into a state suspense fund; or
 - for a local education provider all money received by the local education provider, including federal and state grants, state distributions, property tax revenues, and donations;

SB 327 also amends certain department duties to clarify that, among other provisions, the Sunshine Portal shall provide, at a minimum, access to the following information:

- contracts that a state agency enters into for the lease, sale, or development of state land and state contracts that have a total contract price of more than \$20,000, naming the recipient of the contract, the purpose of the contract, and the amounts expended;
- quarterly consensus revenue estimates;
- information relating to local education providers compiled and published by the Public Education Department (PED) pursuant to Section 10-16D-6 NMSA 1978;
- a link to the list of individuals who are delinquent in child support payments, as published by the Human Services Department pursuant to Section 40-4A-17 NMSA 1978;
- a link to the website maintained by the Regulation and Licensing Department for the purpose of accessing information relating to occupational licenses;
- a link to the state auditor's website for the purpose of accessing financial audits; and
- an annual summary within three months after the end of the fiscal year, or as soon thereafter as the information becomes available, of the state's fiscal health, including the state budget, revenues and expenditures for the previous fiscal year, and projected revenues and operating budgets for the current fiscal year.

SB 327 also includes new material specifying required information, including:

- a requirement that, no later than July 1, 2012, and on a continuing basis thereafter, each local education provider shall provide the following information to PED for online publication on the Sunshine Portal, in a downloadable format, for free public access:
 - the annual operating budget;
 - salary schedules and policies;

- a directory of the local education provider's employee positions by school name, title, and salary;
 - monthly expenditures by category;
 - monthly revenue by source; and
 - an inventory of all real property owned by the local education provider;
- as soon as practicable after July 1, 2011, PED shall begin working with DoIT to create a monthly data extract from applicable computer database systems, and shall publish the information on the Sunshine Portal; and
 - PED and each local education provider that maintains a website shall have a link to the Sunshine Portal on its website.

Finally, SB 327 includes:

- a temporary provision that information relating to local education providers be compiled and published by PED and be available on the Sunshine Portal as soon as possible, but no later than October 1;
- a temporary provision that a link to the list of individuals who are delinquent in child support payments, the website maintained by the Regulation and Licensing Department; and the state auditor's website be available on the Sunshine Portal as soon as possible, but no later than January 1, 2012; and
- an effective date of July 1, 2011.

Fiscal Impact:

SB 327 does not contain an appropriation.

Fiscal Issues:

According to an analysis by the Human Services Department (HSD), it is difficult to determine the data-related costs.

According to an analysis by DoIT:

- SB 327 will require significant modification to the Sunshine Portal's web application to include administrative and technical efforts;
- a significant portion of the cost will derive from the education data feeds and associated development efforts to extract, transform, load, and render data on the Sunshine Portal;
- a minimum external cost of \$100,000 is anticipated to implement the new functionality; and
- thus far, total expenditures and obligations on the Sunshine Portal are \$237,943 contractual plus associated staff time and resources.

Substantive Issues:

The HSD analysis suggests that the required link to the list of individuals who are delinquent on their child support payments may violate federal regulations regarding the safeguarding of confidential information. Confidential information includes:

- residential and mailing addresses;
- employment information; and
- financial information.

Additionally, the HSD analysis states:

- In an effort to reduce identity theft, the New Mexico Supreme Court has implemented measures limiting the amount of information that is considered public in family law cases.
- Jointly, the federal law and the actions taken by the New Mexico Supreme Court conflict with the mandate outlined in SB 327 to publish names, addresses, and the amount owed by child support obligors.
- Consequently, “if the Child Support Enforcement Division (CSED) is mandated to continue publishing the information and the Office of Child Support Enforcement determines that it is in violation of the federal law, CSED could face penalties or fines.”

Finally, the DoIT analysis suggests an alternative way to achieve the purpose outlined in SB 327: include a link to data on the PED website on the Sunshine Portal. Few costs would be associated with this approach.

Technical Issues:

The DoIT analysis states that contractual expenditures are included in the existing law; as a result, “new material in Section 3-D-4 is duplicative.”

Related Bills:

HB 436a *Public School Info on Sunshine Portal* (Identical)