

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 195a

49th Legislature, 2nd Session, 2010

Tracking Number: .180729.5SA

Short Title: Sunshine Portal Transparency Act

Sponsor(s): Senator Sander Rue and Others

Analyst: James Ball

Date: February 19, 2010

AS AMENDED

The House Floor amendment:

- **strikes the House Judiciary Committee and Senate Floor amendments related to providing the names of employees;**
- **requires the directory of employee positions, other than exempt employee positions, to identify the state agency, position title, and salary; and**
- **requires the directory of all exempt employee positions to identify the state agency, position title, salary, and name of the individual who holds the position.**

The House Judiciary Committee amendments:

- **add contracts entered into by state agencies for the lease, sale, or development of state lands to the list of information to be provided by the sunshine portal; and**
- **strike the Senate Floor amendment.**

The Senate Floor amendment adds language to specify that the directory of all employee positions will be “by name.”

Original Bill Summary:

SB 195 creates the *Sunshine Portal Transparency Act* (SPTA), which requires the Department of Information Technology (DoIT) to develop, operate, and maintain a single internet website to be known as the Sunshine Portal (SP). The purpose of SP is to provide government transparency and accountability to taxpayers regarding the state’s financial information.

SB 195 requires DoIT to promulgate rules necessary to implement the architecture and information exchange process of SP. All state agencies are required to comply with the provisions of the SPTA and the DoIT rules, while nothing will require disclosure of information that is legitimately confidential by state or federal law.

Information to be posted on SP includes:

- state cash balances by account or fund;
- monthly summaries of the state's investment accounts under the control of the State Investment Council;
- annual operating budgets for each state agency with monthly expenditures by category;
- state agency contracts with a total value of more than \$20,000, naming both the recipients and purposes of the contracts;
- a monthly revenue report by source;
- special appropriations received outside the *General Appropriations Act*, including their amounts and purposes;
- approved state agency budget adjustment requests;
- reversions and cash balances by state agency and fund;
- appropriations for capital projects, identified by location, type, and funding source;
- a directory of all employee positions, including exempt employees by state agency, showing each position's title and salary;
- links to an open meetings website upon which each agency will post all scheduled open meetings;
- links to New Mexico statutes, administrative code, and lobbyist regulation;
- an annual summary of the state's fiscal health, including the state budget, revenue projections, and expenditures for the previous fiscal year; and
- additional information that will assist the public in understanding state government operations and use of tax dollars.

The SP shall be available to the public no later than July 1, 2011.

Fiscal Impact:

SB 195 makes no appropriation.

Fiscal Issues:

According to the Legislative Finance Committee Fiscal Impact Report (FIR) research on other state's portals and data gathered by the Center for Fiscal Accountability:

- Missouri spent about \$293,000 of internal resources for its portal and did not require additional appropriations.
- South Carolina and Texas reallocated existing resources to build their sites.
- Oklahoma purchased software for \$8,000 and the site was built and loaded using existing staff.

The FIR also states that it is highly likely that DoIT can replicate the experiences of these other states, although the Department of Finance and Administration (DFA) notes in its analysis of HB 195 that DoIT would need to accomplish the task with existing agency resources, which have been reduced due to solvency restraints.

The FIR further notes that state agencies may recognize some savings from not having to take time to fulfill public records requests since requestors will be able to get information from the website themselves.

Substantive Issues:

The DFA in its analysis of SB 195, anticipates that the majority of the financial and budgeting information required by the bill could easily be produced by posting existing Statewide Human Resources Accounting and Management Reporting System (SHARE) reports or writing new SHARE queries to extract information already being tracked within the system. After the initial development of the website, DFA believes that the process for keeping the site current would be manageable.

Technical Issues:

The State Treasurer's analysis of SB 195 points out that given the SHARE-related issues with timely reconciliations, it would be difficult to provide some of the financial information on a monthly basis. The FIR also states that providing an annual summary of the state's overall financial health within three months of the end of a fiscal year may be overly ambitious due primarily to DFA procedures that give state agencies time periods beyond the three-month window to ensure that transactions are properly posted.

DFA's analysis indicates that outstanding warrant information is not a public record. The state uses a banking process call "positive pay" to prevent fraudulent warrants from being accepted by the state's fiscal agent. If outstanding warrant information became publicly accessible it would compromise the state's ability to prevent fraudulent warrants.

Background:

The FIR indicates that to date 31 states have initiated transparency projects either through state statute or by executive order.

Regarding government transparency related to public education, the Public Education Department (PED) indicates in its analysis of SB 195 that the agency already posts individual school district budgets on its own website through the *Annual Statistics Report*. This report contains in-depth information on school districts' state and federal funding and distributions in all categories.

According to PED, its own operating budget and monthly expenditures, contracts over \$20,000, revenue received, special appropriations received outside of the *General Appropriations Act*, budget adjustment requests, reversions, cash balances, and appropriations for capital projects, are input on a regular basis through SHARE. A report on employee positions by title with salary is regularly reported within the agency. Both the SHARE and personnel information could easily be provided to DoIT and DFA.

Related Bill(s):

SB 42 *Transparency in Government Act*