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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/2/2008	.	
	.	
	.	

1 The Committee on Finance and Tax (Storms) recommended the
2 following **amendment**:

3
4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
6 and insert:

7 Section 1. Section 218.315, Florida Statutes, is created to
8 read:

9 218.315 Local government transparency; contracts.--

10 (1) As used in this section, the term:

11 (a) "Contract" means any legally binding agreement executed
12 by a local government and a corporation or an individual for the
13 purchase of commodities or contractual services, which requires
14 the expenditure of \$5,000 or more. The term excludes the
15 contractual rights of local government employees and retirees who
16 are members of the Florida Retirement System or who are members
17 of a local government retirement system.



898986

18 (b) "Corporation" means all corporations registered to do
19 business in the state, whether for profit or not for profit;
20 foreign corporations qualified to do business in this state or
21 actually doing business in this state, whether for profit or not
22 for profit; limited liability companies under chapter 608;
23 partnerships under chapter 620; a sole proprietorship as defined
24 in s. 440.02; or any other legal business entity, whether for
25 profit or not for profit.

26 (c) "County officer" means a sheriff, tax collector,
27 property appraiser, supervisor of elections, and a clerk of the
28 circuit court.

29 (d) "Local government" means counties, municipalities,
30 water management districts, and special taxing districts that
31 have the authority to levy ad valorem taxes or non-ad valorem
32 assessments, but the term excludes school districts.

33 (e) "Individual" means a person, but excludes an employee
34 of a local government or an employee of the federal government
35 while acting in the capacity as employee.

36 (2) In accordance with the schedule provided in subsection
37 (5), the Department of Financial Services shall develop and
38 maintain a portal linking to websites maintained by the local
39 governments subject to the requirements of this section.

40 (3) (a) Each local government that has a website must
41 electronically post contract information relating to each
42 contract executed between the local government and a corporation
43 or an individual, or, for a county officer, between the county
44 officer and a corporation or an individual. The information must
45 be posted using the basic expenditure categories required in the
46 uniform format established under paragraph (c). The website must



898986

47 be accessible without charge to any individual who has Internet
48 access using standard browsing software.

49 (b) To the extent possible, each local government's website
50 shall provide a link to an electronic copy of the contract. The
51 portion of a public record that is confidential or exempt shall
52 be redacted prior to posting.

53 (c) The Department of Financial Services shall develop a
54 uniform format to be used by each local government when posting
55 contract information. The uniform format must include:

56 1. The name of the local government or county officer who
57 is a party to the contract.

58 2. The name of each corporation or individual who is a
59 party to the contract;

60 3. The date and amount of the contract;

61 4. The purpose of the contract; and

62 5. The basic expenditure categories reported by local
63 governments in the annual financial report submitted to the
64 department under s. 218.32.

65 (4) Except as provided in this subsection, each local
66 government shall designate one central office to maintain all
67 contract information required to be reported. The county shall
68 maintain all contract information required to be reported by a
69 county officer. In cases where a local government does not have
70 an official website, the contract information must be maintained
71 in a local government office that is reasonably accessible to the
72 general public during normal business hours and capable of
73 providing contract information to a member of the general public
74 as a public-records request.

75 (5) (a) Information concerning contracts executed by a local
76 government or a county officer shall be reported at least



898986

77 quarterly by each local government according to the following
78 schedule and in a uniform reporting format:

79 1. On or before December 31, 2009, all five water
80 management districts, any county having a population of 300,000
81 or more, any municipality having a population of 50,000 or more,
82 and any special taxing authority within such a county or
83 municipality shall report contract information required by this
84 section for contracts executed on or after October 1, 2009.

85 2. On or before December 31, 2010, any county having a
86 population of at least 50,000 but fewer than 300,000, any
87 municipality having a population of at least 10,000 but fewer
88 than 50,000, and any special taxing authority within such a
89 county or municipality shall report contract information required
90 by this section for contracts executed on or after October 1,
91 2010.

92 3. On or before December 31, 2011, any county having a
93 population of fewer than 50,000, any municipality having a
94 population of fewer than 10,000, and any special taxing authority
95 within such a county or municipality shall report contract
96 information required by this section for contracts executed on or
97 after October 1, 2011.

98 (b) The population estimates used by counties and
99 municipalities to meet the schedule requirements of this
100 subsection shall be those reported on April 1, 2009, by the
101 Office of Economic and Demographic Research to the Executive
102 Office of the Governor under s. 186.901.

103 (6) The Department of Financial Services may adopt rules
104 pursuant to ss. 120.536(1) and 120.54 to implement the provisions
105 of this section requiring the development and maintenance of the
106 state portal that links to the local government website and



898986

107 requiring the development and distribution of the uniform
108 reporting format.

109 Section 2. State government transparency; contracts.--

110 (1) As used in this section, the term:

111 (a) "Contract" means any legally binding agreement executed
112 by a state agency and a corporation or an individual for the
113 purchase of commodities or contractual services which requires
114 the expenditure of \$5,000 or more. The term excludes the
115 contractual rights of state employees and retirees who are
116 members of the Florida Retirement System.

117 (b) "Corporation" means all corporations registered to do
118 business in this state, whether for profit or not for profit;
119 foreign corporations qualified to do business in this state or
120 actually doing business in this state, whether for profit or not
121 for profit; limited liability companies under chapter 608;
122 partnerships under chapter 620, Florida Statutes; a sole
123 proprietorship as defined in s. 440.02, Florida Statutes; or any
124 other legal business entity, whether for profit or not for
125 profit.

126 (c) "Expenditure" means a payment that a state agency makes
127 to a corporation or an individual under a contract.

128 (d) "Individual" means a person, but excludes an employee
129 of a state agency or an employee of the federal government while
130 acting in the capacity as employee.

131 (2) The Executive Office of the Governor is directed to
132 develop and maintain a portal linking to the state agency
133 contract expenditures report maintained by the Department of
134 Financial Services and required under this section.



898986

135 (3) (a) The Department of Financial Services is directed to
136 develop and maintain a contract expenditures report that provides
137 the following information:

138 1. The name of the state agency that is a party to a
139 contract;

140 2. The name of each corporation or individual who is a
141 party to a contract;

142 3. The date, amount, and purpose of the contract; and

143 4. Each expenditure made under the contract.

144 (b) The contract expenditures report must be maintained by
145 the department in a searchable website containing a navigation
146 bar that allows an individual having Internet access to search
147 for expenditure reports by governmental function, state agency,
148 or appropriation category.

149 (4) (a) Each state agency shall record each contract
150 executed between the agency and a corporation or an individual
151 and each payment made under the contract along with the contract
152 number in the department's Florida Accounting and Information
153 Resources contract subsystem as provided in s. 215.94(2), Florida
154 Statutes.

155 (b) To the extent possible, each state agency shall provide
156 a link to an electronic copy of the contract. The portion of a
157 public record that is confidential or exempt from inspection and
158 copying shall be redacted prior to posting.

159 Section 3. This act shall take effect July 1, 2008.

160

161 ===== T I T L E A M E N D M E N T =====

162 And the title is amended as follows:

163 Delete everything before the enacting clause
164 and insert:



898986

165 A bill to be entitled
166 An act relating to transparency in government contracts;
167 creating s. 218.315, F.S.; defining the terms "contract,"
168 "corporation," "county officer," "local government," and
169 "individual," for purposes of the act; providing that
170 contractual rights of local government employees and
171 retirees who are members of the Florida Retirement System
172 or a local government retirement system may not be
173 considered contracts; directing the Department of
174 Financial Services to develop and maintain a portal
175 linking to websites maintained by local governments;
176 requiring local governments with a website to
177 electronically post contract information relating to
178 certain contracts; providing that portions of a public
179 record which are confidential and exempt shall be redacted
180 prior to posting; requiring that access to the website be
181 provided at no cost; requiring that electronic copies of
182 contracts be provided in certain circumstances; requiring
183 the Department of Financial Services to develop a uniform
184 format to be used by local governments when posting
185 contract information; requiring specific information be
186 provided under the uniform format; requiring each local
187 government to designate a central office to maintain all
188 contract information; providing reporting requirements for
189 local governments without a website; requiring that
190 contract information be posted at least quarterly using
191 the uniform format; establishing a schedule for local
192 governments to meet requirements of the act; providing
193 rulemaking authority; defining the terms "contract",
194 "corporation", "expenditure" and "individual" for purposes

Bill No. CS for CS for SB 392



898986

195 of state government contract reporting; providing that
196 contractual rights of state employees and retirees who are
197 members of the Florida Retirement System may not be
198 considered contracts; directing the Executive Office of
199 the Governor to develop and maintain a port linking to the
200 state agency contract expenditures report maintained by
201 the Department of Financial Services; directing the
202 department of develop and maintain a contract information
203 report containing specified information; directing that
204 the report be maintained by the department in a searchable
205 website; directing that access to the website be provided
206 at no charge to a user who has Internet access; directing
207 each state agency to record information relating to
208 contracts between the agency and a corporation or an
209 individual; directing each agency to record payment
210 information on specified contracts in the Florida
211 Accounting and Information Resources contract subsystem;
212 requiring that electronic copies of contracts be provided
213 in certain circumstances; providing that portions of
214 public records which are confidential and exempt from
215 inspection and copying shall be redacted prior to posting;
216 providing an effective date.

Financial transparency sweeps nation

David M. Dickson (Contact)

When Texas Gov. Rick Perry began posting all of his office expenses on the Internet two years ago, he kicked off the financial transparency trend that many state and local governments now are joining.

In 2006, the items listed by Mr. Perry, a Republican, ranged from how much he paid his secretary to how much he spent for lunch.

Texas Comptroller Susan Combs quickly expanded the program to cover more than a dozen state agencies, and state Rep. Mark Strama, a Democrat, then led a bipartisan drive to codify Mrs. Combs' efforts into a statewide law.

Since then, 11 other states - Kansas, Oklahoma, Hawaii, Minnesota, Washington, Utah, Mississippi, Louisiana, Georgia, Maryland and Arizona - have passed financial transparency laws, placing records of government expenditures within the reach of the curious on the Internet.

"I've always been amazed at the ability of technology to make very difficult processes so much easier," said Mr. Strama, whose business background included devising an online procedure that registered 700,000 new Texas voters "without breaking a sweat."

"Government budgets are too large for any individual to absorb," Mr. Strama said, "but large networks of people working independently online can now do this."

Through the Internet, he said, "diffuse populations are capable of doing amazing things." He cited the blogosphere's role in publicizing the holds that Sens. Ted Stevens, Alaska Republican, and Robert C. Byrd, West Virginia Democrat, placed on 2006 legislation, which radically increased the financial transparency of the federal government.

Sponsored by Sens. Tom Coburn, Oklahoma Republican, and Barack Obama, Illinois Democrat, the bill required full disclosure of all entities or organizations receiving federal funds. Once their holds were identified publicly, Mr. Stevens and Mr. Byrd relented, allowing the Coburn-Obama transparency bill to sail through the Senate.

Last year, Ralph Nader, the consumer advocate, and Grover Norquist, the president of Americans for Tax Reform, formed their own alliance to urge governors to duplicate at the state level what Mr. Coburn and Mr. Obama achieved at the federal level.

"We urge you to work expeditiously to make the full text of all your written state expenditures and contracts, ranging from procurement of goods and services to grants, leaseholds and labor contracts, available to the public on the Internet in a clear and searchable manner," Mr. Nader and Mr. Norquist wrote to the governors in July 2007.

Texas, Kansas and Oklahoma have implemented their laws.

Executive orders requiring Web-based financial transparency have been issued by Republican Govs. Matt Blunt of Missouri, Mark Sanford of South Carolina, Jim Gibbons of Nevada, Bobby Jindal of Louisiana and Sarah Palin of Alaska, who put her state's check register online.

Missouri, South Carolina and Alaska have gone live online since their governors issued executive orders. Most other states with transparency laws will begin implementing them in January.

"In July 2007, Missouri put online every transaction involving state money over the past eight years," said Ed Martin, who was chief of staff to Mr. Blunt at the time.

Mr. Martin said the state Web site revealed that "our own team had been wasting money." It was a "gotcha" moment that was quickly fixed, he said. In its first year, the Missouri transparency Web site received 7.5 million hits.

The Oklahoma site also identifies "corporate welfare," including investment tax credits and economic development funds doled out to millionaire businessmen, said state Sen. Randy Brogdon, a Republican who spearheaded the legislative effort. "Open it up and let the sunshine in" is his motto.

The transparency movement "is almost impossible to publicly politically oppose," said Mr. Norquist, who expects more than a dozen states to adopt transparency laws over the next year.

"Things that happened in the past will not happen in the future" because government contracts will be online for all to see, including competing bidders, Mr. Norquist said.

The Texas comptroller's office saved \$2.3 million by examining the information that is on the state's transparency Web site. "We consolidated five contracts for toner and saved \$73,000," said a spokesman.

Once citizens see how their neighbors are spending their tax money, the transparency wave likely will have its greatest impact at the local level, where it is now spreading, Mr. Norquist said.

"School board candidates will be armed with \$1 million worth of opposition research," he said. "Transparency Web sites will bring more turnover to local governments that term limits brought to state government."