

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Florez Analyst: Darrine Distefano Bill Number: SB 403

Related Bills: See Prior Analysis Telephone: 845-6458 Amended Date: September 2, 2003

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Information Technology Act of 2003

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended June 23, 2003.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 23, 2003.

STILL APPLIES.

OTHER - See comments below.

**SUMMARY**

This bill would:

- Create the Information Technology Act of 2003, the Office of the State Chief Information Officer (officer), and the Information Technology Board (board), and
- Make various changes to the current responsibilities of a director of a state agency for information technology (IT).

**SUMMARY OF AMENDMENTS**

The September 2, 2003, amendments:

- Add several terms and definitions.
- Revise the board's function to oversee and guide the state's IT activities according to the vision and direction provided in the strategic plan, instead of coordinating IT activities of the state's control agencies.
- Change the membership of the board to the officer (chairperson of the board), the Director of Finance (DOF), the Director of General Services, and four members that have expertise in management, large complex organizations, or IT but who are not employees of the state or employees or representatives of the IT and telecommunications industries.
- Require appointments to be made by the Governor and confirmed by the Senate.
- Require the board to meet, at the minimum, quarterly in open and public sessions according to the Bagley-Keene Open Meeting Act.

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- Transfer some of the duties of DOF to the officer.
- Require the control agencies to advise the board on fiscal, state personnel, and procurement matters.
- Establish timeframes for the approval and authorization of strategic plans.
- Require the board to monitor the consolidation of the California Health and Human Services Agency Data Center with the Stephen P. Teale Data Center.
- Require the board to examine opportunities to establish common systems that more than one department could use to meet their program or operational needs.
- Require the Bureau of State Audits on or before January 1, 2008, to evaluate the performance of the officer, the board, and the control agencies in following the instructions of this bill.
- Add the Legislature as one of the reporting agents for DOF on IT projects.
- Make various other technical changes.

The September 2<sup>nd</sup> amendments resolve the department's technical considerations from the June 23, 2003, analysis. However, the amendments did not resolve the implementation considerations. Those concerns are repeated below for the author's convenience. The remainder of the department's analysis of the bill from June 23<sup>rd</sup> still applies.

## **POSITION**

Pending.

### Implementation Considerations

This bill requires an agency to submit a report on its internal accounting and administrative controls by January 31, 2004. Franchise Tax Board (FTB) is currently conducting an audit of these controls, as required under Financial Integrity and State Managers Accountability Act (FISMA). The results of this audit will be reported by December 31, 2003, as required under current law. Due to the close proximity of the due dates between the current law and this bill, FTB would treat the report it submits on December 31, 2003, under current law, as complying with the requirement to submit the same report on January 31, 2004.

This bill requires the report on the information security controls system to be submitted on January 31, 2004. The operative date of this bill is January 1, 2004. This would allow FTB (and other agencies) only 30 days to conduct an audit of this additional control system and prepare the report. The timeframe would make it difficult for the department to conduct an adequate audit of its information security controls system.

DOF has issued guidelines for the internal accounting and administrative controls report. It is unclear if DOF would issue new guidelines or if agencies would apply the current guidelines to the information security control report. If DOF is required to issue new guidelines for the information security control report, it is unclear if these guidelines would be available to agencies in time to conduct an audit and prepare a report by January 31, 2004.

Current state law (AB 700, Stats. 2000, Ch. 1054) requires agencies to notify California residents if there has been a security breach in an agency's system and of the possibility that their unencrypted personal information may have been acquired. This requirement appears to conflict with this bill's provision that would prohibit DOF from disclosing an unauthorized access to the public if the disclosure poses a threat or potential threat. State law does allow notification to be delayed if law enforcement determines it will hinder the investigation. It is not clear if an agency would still be permitted to notify the affected person(s) or if notification would be delayed until the threat has been removed.

#### **LEGISLATIVE STAFF CONTACT**

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