

SUMMARY ANALYSIS OF AMENDED BILL

Author: Leno and Maze Analyst: Deborah Barrett Bill Number: AB 1393
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: April 11, 2007

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Public Record Disclosure/State Agency Internet Web Sites/Public Records Center/Authorize Persons To Request To Inspect Or Receive Public Records

- 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 introduced February 23, 2007.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 23, 2007, STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This bill would require a state agency to include specific information on its web site about requesting copies of public records.

SUMMARY OF AMENDMENTS

The April 11, 2007, amendments removed provisions relating to the Attorney General’s review of a state agency’s response to a Public Records Act (PRA) request. The April 11, 2007, amendments do not resolve the “Implementation Concerns” identified in the department’s analysis of the bill as introduced on February 23, 2007, that are restated here for convenience. With the removal of provisions that contained undefined terms (pending proceeding and pending investigation), the technical consideration for undefined terms has been removed, although a new “Technical Consideration” is noted in this analysis. The department costs to implement this bill’s provisions have been developed and are provided under “Fiscal Impact.” Finally, a “Summary of Suggested Amendments” discussion is included in this analysis. The remainder of the department’s analysis of the bill as introduced on February 23, 2007, still applies.

Board Position:	Legislative Director	Date
<input type="checkbox"/> S		
<input type="checkbox"/> SA	Brian Putler	5/30/07
<input type="checkbox"/> N		
<input type="checkbox"/> NA		
<input type="checkbox"/> O		
<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input checked="" type="checkbox"/> PENDING		

SUMMARY OF SUGGESTED AMENDMENTS

Amendment 1 is provided to suggest appropriation language to fund the department's costs.

POSITION

Pending.

IMPLEMENTATION CONSIDERATIONS

This bill would have a significant impact upon the department. The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The PRA currently requires an interactive process between the requester and a state agency to clarify, assist, and identify appropriate records. FTB's Disclosure Officer administers the department's obligations under the PRA by working with a requester if the description of a record is unclear. Under this bill, it appears that the requester could remain anonymous for requests made on the web site. Anonymity of the requester could frustrate the current interactive process of the PRA.

The bill requires that the Public Record Center link be prominently displayed without scrolling on the home page of the web site. FTB cannot ensure that the link would be accessible by all users as prescribed because of the wide variety of devices used to access the web site. For example, taxpayers can access FTB's website through small, hand held instruments, such as a Blackberry device, that would require scrolling for almost any information found on the website due to its small display size. The author may wish to identify a standard for screen placement whose limitations are not dependent on variations in technology among users.

The bill specifies that the form must be designed using the HTML format. Prescribing the format would restrict the use of alternative or future technology that could lead to increased costs to maintain this prescribed format once it is made obsolete. The author may wish to amend the provision to specify HTML, alternate, or successor technology.

Because the HTML form prescribed by this bill makes the requester's postal address and phone number optional, it might be difficult for the department to send the requester paper copies of records. To ensure the requested records are provided in compliance with the provisions of this bill, the form should require the requester's postal address.

TECHNICAL CONSIDERATIONS

On page 4, line 35, the reference to the state should be struck out to be consistent with the other changes that remove the state agency decisions on PRA requests from Attorney General review.

FISCAL IMPACT

The department anticipates a first year cost of approximately \$302,000 to create the online form, conduct usability programming, to test and maintain the web page, and to obtain equipment to store, secure, and verify email addresses. In addition, the department anticipates on-going annual costs of \$283,000 for additional staff to handle anticipated increases in PRA requests in the Disclosure Section and one new PY in the Legal Department to provide legal assistance and guidance to Disclosure staff. It is recommended that the bill be amended to include appropriation language that would provide funding to implement this bill. Lack of an appropriation would require the department to secure the funding through the normal budgetary process, which would delay implementation of this bill.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1393
As Amended April 11, 2007

AMENDMENT 1

On page 11, after line 3, insert:

SEC 7. The sum of three hundred and two thousand dollars (\$302,000) is hereby appropriated to the Franchise Tax Board in augmentation of item 1730-001-0001 of the Governor's Budget, Chapter XX, Statutes of XXXX.