

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Maze Analyst: Deborah Barrett Bill Number: AB 721
Related Bills: See Legislative History Telephone: 845-4301 Introduced Date: February 22, 2007
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Public Records/Requests From Legislature/State Agencies Make Determination & Notification No Later Than 3 Business Days

SUMMARY

This bill would shorten the timeframe in which public agencies must respond to Public Records Act (PRA) requests when a request comes from a Member of the Legislature.

PURPOSE OF THE BILL

According to the author's staff, the purpose of the bill is to service constituent needs more timely, which is the primary reason legislative requests for PRA information are made.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2008, and be operative for any PRA request received on or after that date.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Under federal law, The United States (U.S.) Freedom of Information Act (FOIA) ensures public access to U.S. government records. FOIA carries a presumption of disclosure; the burden is on the government to substantiate why information may not be released. Upon written request, federal agencies are required to disclose the requested records, unless they can be lawfully withheld from disclosure under one of the specific exemptions in the FOIA. Federal agencies are given 20 days to determine whether the agency is able to comply with the information request and notify the requestor of their determination.

Board Position:

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Department Director

Date

Lynette Iwafuchi
for Selvi Stanislaus

5/4/07

Under state law, the PRA is designed to give the public access to information in possession of public agencies. The state agency bears the burden of justifying nondisclosure of requested information. The agency must justify the withholding of any record by demonstrating that the record is exempt or that the public interest in confidentiality outweighs the public interest in disclosure. The state agency is given 10 days to determine whether the department possesses records responsive to the request that may be disclosed and to notify the requestor accordingly along with the estimated date and time when the records will be made available.

THIS BILL

This bill would require that state agencies, within three business days of receipt of a PRA request from a Member of the Legislature, to determine whether the agency possesses records responsive to the request that may be disclosed and to notify the requestor accordingly.

PROGRAM BACKGROUND

PRA requests require the Franchise Tax Board (FTB) disclosure office to determine whether the requested documents are available and to coordinate the collection of those documents. Frequently, FTB must work with the requester to clarify the request or to make it more specific. In addition, the volume of the documents requested can determine the amount of time needed to complete with request.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs or operations.

OTHER STATES' INFORMATION

Laws from the states of *Illinois*, *Florida*, *Massachusetts*, *New York*, *Michigan*, and *Minnesota* were reviewed based on their similarities to California's economy, business entity types, and tax laws. *New York* and *Michigan* provide a five-day timeframe for responding to PRA requests. *Massachusetts* allows state agencies ten days to respond, *Illinois* allows seven days to respond, and *Florida* and *Minnesota* provided no timeframe requirement. None of the states made special provisions for requests by members of their respective legislatures.

FISCAL IMPACT

The costs to implement the provisions of this bill would be minor and would be absorbed by the department.

ECONOMIC IMPACT

This proposal would have no impact on state income tax revenue.

LEGISLATIVE STAFF CONTACT

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