

# ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Conway Analyst: Janet Jennings Bill Number: AB 2091  
Related Bills: See Legislative History Telephone: 845-3495 Introduced Date: February 18, 2010  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Public Records/Exempts Public Agency Information Security Records From Disclosure

## SUMMARY

This bill would exempt the information security reports of a state agency from the California Public Records Act (PRA).

## PURPOSE OF THE BILL

The legislative findings state the purpose is to protect the integrity of public agency information systems.

## EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2011, and operative as of that date.

## POSITION

Pending.

## ANALYSIS

### STATE LAW

The PRA provides the following:

- Requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee, unless those records are exempt from disclosure.
- Exempts investigatory or security files compiled by a public agency, as defined, for correctional, law enforcement, or licensing purposes.

Section 3 of Article I of the California Constitution requires that a statute that limits the public's right of access to information concerning the public's business be adopted with findings demonstrating the interest protected and the need for protecting that interest.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA        X   PENDING

Department Director

Date

Selvi Stanislaus

06/18/10

## THIS BILL

This bill would exempt the information security reports of a state agency from the PRA. It would also add a section that defines information security to include the following:

- Information security plans,
- Information security risk assessments,
- Information security audit and evaluation reports,
- Information security incident reports,
- Disaster recovery plans, and
- Records relating to the information security program.

The bill makes legislative findings and declarations relating to information security.

## IMPLEMENTATION CONSIDERATIONS

Proprietary information is currently redacted from any response to a PRA request. Therefore, implementing this bill would not impact the department's programs and operations.

## **LEGISLATIVE HISTORY**

AB 1682 (Torres, 2009/2010) would have authorized city and county governing bodies to authorize their sheriffs and police chiefs to establish a procedure to protect the confidential personal information of a victim or alleged victim of a crime. This bill failed to pass out of the Assembly Committee on Public Safety by the constitutional deadline.

AB 2220 (Silva, 2009/2010) designates regional centers as a local agency and requires them to be subject to the PRA. This bill is in the Assembly Appropriations Committee.

SB 330 (Yee, 2009/2010) and SB 218 (Yee, 2009/2010) would have redefined auxiliary organizations of the California State University, California Community Colleges, and the University of California as a "local agency" and a "state agency" under the PRA. SB 330, is in the Assembly Higher Education Committee, SB 218 was vetoed by the Governor on October 11, 2009. The veto message can be found in Appendix 1.

SB 359 (Romero, Stats. 2009, Ch. 584)\_updates the statute within the PRA that contains an alphabetical list of records exempt from disclosure. This law also requires that a standing committee of the Legislature introduce a bill at the beginning of each two-year session to update this alphabetical list of records exempt from disclosure under the PRA

## **FISCAL IMPACT**

This bill would not impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue or the Franchise Tax Board's administration of state income tax.

## **LEGISLATIVE STAFF CONTACT**

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## Appendix 1

BILL NUMBER: SB 218  
VETOED DATE: 10/11/2009

To the Members of the California State Senate:

I am returning Senate Bill 219 without my signature.

I strongly support correcting the current problem with existing law concerning the availability of judicial review for employees of the University of California that file claims of retaliation against the University of California for violations of the Whistleblower Protection Act. Unfortunately, rather than extending the same protections as provided for California State University employees and other state employees to employees of the University of California, this measure, as drafted, could discourage employees of the University of California from exhausting their administrative remedies before filing claims in the superior court.

For this reason I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger