

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Leslie Analyst: Roger Lackey Bill Number: SB 1386

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 07-06-98

Attorney: Doug Bramhall

Sponsor:

**SUBJECT:** State Agencies/Information Gathering On Websites/Disclosure Requirements

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/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

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

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 16, 1998, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

This bill would require that every state agency that maintains or operates a Internet website that uses any method or device to collect personal information, as defined, to prominently display the existence and purpose of such a device on an initial point of communication with the potential user.

### SUMMARY OF AMENDMENT

The July 6, 1998, amendment revised various provisions of the bill and added more language regarding notice to the user and the use of electronically collected information. These changes are addressed in Specific Findings below.

In addition, the amendment resolved the implementation concern regarding the use of electronically collected personal information by providing that such information may be used as authorized by the Information Practices Act of 1977, and that "electronically collected personal information" excludes any information manually submitted by a user, in electronic or written form, which would allow the department to continue to share income tax return information with other appropriate state agencies.

### SPECIFIC FINDINGS

**This bill** would provide that whenever an agency electronically collects personal information, the agency shall maintain the sources of the information, unless the source is the data subject that has requested that the information be discarded or the data subject has received a copy of the source document.

**This bill** would specify that nothing should be construed to require disclosure of records of electronically collected information.

### Board Position:

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

Department/Legislative Director

Date

Johnnie Lou Rosas

7/20/98

**This bill** would provide that every state agency that utilizes any method, device, identifier, or other data base application on the Internet to electronically collect personal information shall prominently display the following at at least one initial point of communication with the potential user.

- Notice to the user of the usage or existence of the information gathering method, device, identifier, or other data base application.
- Notice to the user of the type of information being collected and the purpose for collecting the information.
- Notice to the user of the length of time the information gathering device etc. would exist in the user's hard drive, if applicable.
- Notice to the user that he or she has the option of having his or her personal information discarded without reuse provided the user notifies the appropriate agency official. The title, business address, telephone number, and electronic mail address of the agency official responsible for such records requests would be provided.
- Notice to the user that that any information acquired by the state agency is subject to the Information Practices Act of 1977.
- Notice to the user that electronically collected personal information, as defined by this bill, is exempt from requests made pursuant to the California Public Records Act.

**This bill** would provide that a state agency shall not distribute or sell any electronically collected personal information about users to any third party without prior written permission from the user, except as required to investigate a possible violation of the Penal Code or as authorized under the Information Practices Act of 1977. Nothing is to be construed to prohibit a state agency from distributing electronically collected information to another state agency or to a public law enforcement organization in any case where the security of the network operated by the state agency has been breached.

**This bill** would provide that a state agency shall discard without reuse or distribution any electronically collected personal information, if requested by the user.

**This bill** defines "electronically collected personal information" as any information that is maintained by an agency that identifies or describes an individual user, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, medical or employment history, password, electronic mail address, and information that reveals any network location or identity, but excludes any information manually submitted to a state agency by a user, whether electronically or written form, and information on or relating to individuals who are users serving in a business capacity.

**This bill** defines "user" as an individual who communicates with a state agency or with an agency employee or official electronically.

**This bill** would provide that it shall not be construed to permit an agency to act in a manner inconsistent with the standards and limitations adopted pursuant to the California Public Records Act or the Information Practices Act. Except for

the resolved implementation concerns and discussion in this analysis, the department's analysis of SB 1386 as amended June 16, 1998, still applies.