

ANALYSIS OF AMENDED BILL

Author: Kopp Analyst: Roger Lackey Bill Number: SB 143
 Related Bills: See Legislative History Telephone: 845-3627 Amended Date: 01-20-98
 Attorney: Doug Bramhall Sponsor: _____

SUBJECT: California Public Records Act/Public Records, Agency & Writing Definitions

- 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 INTRODUCED/AMENDED _____ STILL APPLIES.
- OTHER - See comments below.

SUMMARY OF BILL

This bill would make changes to the California Public Records Act including providing for public inspection and copying of public records within specified time periods. This bill would provide that an agency withholding disclosure of a record based on public interest shall provide the reason in writing.

SUMMARY OF AMENDMENT

The January 20, 1998, amendment made a technical change to a Government Code reference.

The January 5, 1998, amendment added the language discussed in this analysis and eliminated language concerning unfair competition litigation.

EFFECTIVE DATE

This bill would be effective January 1, 1999.

LEGISLATIVE HISTORY

SB 74 (97/98), SB 323 (95/96), SB 95 (93/94)

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE		___ GOVERNOR'S APPOINTMENT			
Department Director Position: ___ S ___ O ___ SA ___ OUA ___ N ___ NP ___ NA ___ NAR ___ X ___ PENDING		Agency Secretary Position: ___ S ___ O ___ SA ___ OUA ___ N ___ NP ___ NA ___ NAR DEFER TO _____		GOVERNOR'S OFFICE USE Position Approved ___ Position Disapproved ___ Position Noted ___	
Department/Legislative Director	Date	Agency Secretary	Date	By:	Date:
Gerald H. Goldberg	2/23/98				

SPECIFIC FINDINGS

Currently, the California Public Records Act requires that all state and local agencies make their public records available for public inspection during office hours, except as exempted by law. This act further requires that if a state agency withholds any public record, it must demonstrate that 1) the record was exempt from disclosure or 2) the public interest for nondisclosure outweighed the public interest for disclosure.

This bill would require an agency to provide a copy of an electronic record in the form requested, if that form is used by the agency and, in the light of surrounding circumstances, the request is reasonable. The electronic copies shall be made available upon the payment of fees representing the direct cost of duplication or the statutory fee, unless the request is for commercial purposes. In which case, the records will be made available upon the payment of the actual cost of providing the record, which may include the costs of research, retrieval, review, segregation, and duplication.

This bill would define "commercial purpose" as any use that furthers the commercial, trade, or profit interests of the requester. Commercial purpose would not include requests made by nonprofit organizations or requests by a person who, through contract or employment, is a publisher, editor, or reporter with a news gathering organization and makes the request in that capacity and limits its use to that news gathering purpose.

In addition, **this bill** would revise numerous definitions in the act, including "local agency" and "writing," and define "public agency."

This bill would provide that an agency withholding disclosure of a record based on public interest shall provide the reason in writing as specified.

This bill would provide that any person who has submitted a written request for a public record and has been denied or did not receive a timely response from the agency may institute proceedings to enforce his or her right to inspect or receive that public record.

This bill would specify that the Franchise Tax Board is not required to disclose bank and corporation tax information, personal income tax information, estate tax information, and "auditing and confidentiality" information for purposes of Section 6254 of the Government Code.

This bill would provide that elected members and officers of any state or local agency not acting within the administration of their duties are entitled to the same access to public records of that agency as any other person.

Implementation Considerations

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

Technical Considerations

Amendment 1 is provided to correct a technical error regarding a subdivision reference of the Government Code.

FISCAL IMPACT

Departmental Costs

No departmental costs are associated with this bill.

Tax Revenue Estimate

This bill would not impact the state's income tax revenue.

BOARD POSITION

Pending.

Analyst Roger Lackey
Telephone # 845-3627
Attorney Doug Bramhall

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 143
As Amended January 20, 1998

AMENDMENT 1

On page 44, line 28, strikeout "(h)" and insert:

(i)