

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Sher & Speier Analyst: Roger Lackey Bill Number: SB 48

Related Bills: See Legislative History Telephone: 845-3627 Introduced Date: 12-07-98

Attorney: Doug Bramhall Sponsor: _____

SUBJECT: Public Records Disclosure/State Agencies Provide In Writing
Determination/Allow courts To Impose \$100 Fine on State Agencies

SUMMARY

This bill would amend the California Public Records Act to provide that state agencies provide written documentation regarding a determination on a public record request. In addition, it would provide that the courts may fine a state agency \$100 a day, and reward that amount to the plaintiff (requestor of record) for each day a public record is unlawfully withheld.

EFFECTIVE DATE

This bill would be effective January 1, 2000.

LEGISLATIVE HISTORY

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

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 provide that a state agency justify withholding any record by demonstrating in writing that the record is exempt for disclosure.

This bill would provide that a person may file an action in court regarding the disclosure of a requested record, before the administrative remedies have been exhausted with the Attorney General.

Also, this bill would provide that a plaintiff who prevails in litigation shall be awarded and receive \$100 for each day that the state agency denied the right to copy or inspect the record, in addition, to the award of court costs and reasonable attorney fees.

In addition, this bill made non-substantive technical changes that do not affect the department's ability to administer the income tax law.

Board Position:	Department Director	Date
<input type="checkbox"/> S		
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> NA		
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<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input checked="" type="checkbox"/> PENDING	Gerald Goldberg	1/29/1999

Implementation Considerations

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

FISCAL IMPACT

Departmental Costs

Pending

Tax Revenue Estimate

Pending

BOARD POSITION

Pending.