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38

Revised

**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
JULY 22, 2005**

SUBJECT: STATE LEGISLATION

ACTION: APPROVE STAFF RECOMMENDATION ON STATE LEGISLATION

RECOMMENDATION

Adopt the following position:

SB 682 (Simitian): Senate bill regarding Identity Information Protection Act of 2005--
~~WORK WITH AUTHOR~~ **SUPPORT IF AMENDED**

ATTACHMENT

Attachment B: SB 682 Analysis

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ATTACHMENT B

BILL: SB 682

AUTHOR: STATE SENATOR JOSEPH SIMITIAN
(D-PALO ALTO)

SUBJECT: SALES TAX ADMINISTRATION

STATUS: ASSEMBLY REVENUE AND TAXATION COMMITTEE

ACTION: ~~WORK WITH AUTHOR~~ *SUPPORT IF AMENDED*

RECOMMENDATION

Adopt a ~~work with author~~ *support if amended* position on SB 682 (Simitian) – Identity Information Protection Act of 2005, which require certain security measures in government-issued identification documents that incorporate Radio Frequency Identification (RFID).

ISSUE

SB 682 would require certain security measures in government-issued identification documents that incorporate Radio Frequency Identification (RFID).

PROVISIONS

SB 682 would require all IDs created, mandated, purchased, or issued by government agencies to meet the following requirements:

- Contain only a unique personal identifier number instead of personal information,
- Implement strong encryption as specified in the bill,
- Implement mutual authentication to ensure as best as possible that only those who are supposed to have access to the data stored on the ID can read it,
- Contain safeguards to ensure that the ID cannot be read without proper authorization,

SB 682 would also require issuing agencies to communicate in writing that:

- The ID can communicate information using radio waves,
- The use of shield devices can help mitigate the privacy and security risks
- Of the location of the readers
- Of the information that is being collected or stored regarding the individual in a database.

IMPACT ANALYSIS

SB 682 would require IDs created, mandated, purchased or issued by public agencies to follow strict requirements to protect and secure individual's personal information. Metro has been in the process of developing a Transit Access Pass (TAP) which would utilize this technology. As currently drafted, SB 682 would place restrictions on the use of such

technology that would hinder the development of the system and could create restrictions on the ability of Metro to fully develop the TAP system.

SB 682 has been authored by Senator Simitian in response to privacy concerns that have arisen with the use of this technology. The basic concern is that a card which contains personal identifying information and a transmitter, amongst other things, could lend itself to being read surreptitiously.

The bill is supported by groups such as the American Civil Liberties Union, a number of domestic violence prevention groups, and, the Alliance for Consumer Protection. The proponents argue that safeguards are necessary to protect personal privacy. The ease with which personal identifying information could be obtained through this technology poses a substantial risk and safeguards should be put in place to protect personal privacy. Opponents of the bill primarily include technology related companies interested in developing this technology and the University of California who have attempted to develop such a system. A University of California students group is opposed to the bill.

The bill is of concern to the transit industry as the industry has been attempting to develop a 'smart card' technology to facilitate the use of public transit. The development of this technology provides a number of ways in which transit agencies can streamline payment methods, eliminate conflicting fare media and provide a host of other benefits to riders.

Staff recommends that the Board adopt a ~~work with author~~ *support if amended* position on SB 682. Many in the transit industry and the consultants working with transit are urging that transit agencies oppose the bill. Staff recommends that caution is warranted as this technology develops and that opposing this bill outright is not appropriate due to the seriousness of the privacy concerns. Staff therefore recommends a work with author position which would allow staff the ability to work with the author in developing language which does not unduly restrict the use of this technology but still provides an appropriate level of protection of personal identifying information. Additionally, Metro's consultants in this program, Booz-Allen-Hamilton have prepared a thorough technical analysis of the bill which would be useful in working with the author.