

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1944

SPONSOR: Senator Burt

SUBJECT: Technology; Chief Privacy and Public Access Officer

DATE: April 18, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rhea	Wilson	GO	Favorable
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates the position of the Chief Privacy and Public Access Officer. It requires the officer to review laws that affect privacy of Floridians and to report to the Legislature and the Governor. The officer is also directed to review contracts involving the sharing or sale of personal information and to make recommendations for changes as necessary. The bill also directs the officer to direct a survey of state agencies and universities to determine what types of information they collect in databases, sell or share with third parties. Agencies and state universities are required to conduct the survey.

The bill creates an unnumbered section of law.

II. Present Situation:

On July 31, 2000, pursuant to s. 282.3095, F.S., the Governor appointed 17 citizens to serve on a statewide Task Force on Privacy and Technology (“Task Force”).¹ The Task Force was charged with a three-pronged mission:

- < Defining legal parameters for new identity protection and privacy policies that are consistent with the state and federal constitutions, federal law, and Florida’s traditional openness under the State’s Sunshine Laws and Public Records Act.
- < Strengthening identity protection policies to address threats arising from technology fraud and the increasing ease with which access may be gained to sensitive identity

¹ The members of the Task Force on Privacy and Technology were: Reginald Brown, Chair; Thomas H. Barkdull, Jr., Diane Carr, Melanie Hines, Robert Horowitz, Ed Kennedy, Mike Jennings, Allen McKenna, Tim Moore, Justice Ben Overton, Barbara Petersen, Michael Roby, Annie Neasman, Robert Wight, Brian Yablonski, Maria Beguiristain, and Robert West.

- markers (e.g., medical records, credit, social security numbers, and personal behavioral profiles); and
- < Strengthening and revising privacy policies relating to the collection, sharing, sale or release of sensitive personal and private information collected by governmental entities.

The Task Force held its first meeting and public hearing on August 25, 2000, in Tallahassee. Subsequent meetings were held in Orlando and Miami. The last meeting was held in Tallahassee on December 7, 2000.

The Task Force made a number of recommendations. The first recommendation relevant to the bill was that an audit of state agencies should be conducted to determine what personal information that the State of Florida collects, uses and sells. The Task Force summary report states on page 8:

Privacy Audit: Given the disparate practices among various governmental entities, it may be the case that no one truly knows precisely what sensitive personal information the State of Florida collects, uses and sells. It is vitally important the State develop a better sense of this information, however, so that it can ensure the public that its policies reflect a proper balance between open government and the legitimate privacy interests of Florida's citizens. The Task Force recommends that the Governor and/or Legislature take steps in this direction by authorizing an inventory of major governmental agencies and entities, including the State University System and a representative sampling of clerk of court offices, to determine what types of information they compile in databases or other electronic formats, sell or share with third parties, and provide online. Governmental agencies and entities should also be asked to inventory any types of personal information databases that they might wish to sell or share with third parties in the near future. Such an inventory should be designed and implemented by the Chief Privacy and Public Access Officer described below.

Additionally, the report recommends the appointment of a Chief Privacy and Public Access Officer. The summary report states on page 9:

Chief Privacy and Public Access Officer: Balancing privacy with public access will be an increasingly important issue in coming years as Florida makes a full transition to the New Economy. Accordingly, the Task Force recommends that the Governor and/or Legislature designate a Chief Privacy and Public Access Officer to focus on emerging privacy issues. The Chief Privacy and Public Access Officer could logically be housed in the State Technology Office. The Chief Privacy and Public Access Officer should be responsible for conducting and analyzing the privacy audit recommended above, making reports with policy recommendations to the Legislature, and be engaged in the review of major data sharing/sale contracts between the State and third parties. The Task Force recommends the Legislature consider vesting authority in the Chief Privacy and Public Access Officer to interface with local governmental entities as well.

III. Effect of Proposed Changes:

The bill makes a finding that technological advances have resulted in increased use of computers by governments, businesses, and individuals. The bill notes the long policy of open records and notes that greater consideration should be given to the types of information that state agencies and universities collect. The necessity for collecting specific types of information should be identified.

The bill creates within the State Technology Office one full-time employee who is designated the State's Chief Privacy and Public Access Officer. This officer is assigned the responsibility for continually reviewing the policies, laws, rules, and practices of state agencies which may affect the privacy concerns of state residents and is to advise the Legislature and Governor each year on this issue.

Additionally, the officer is to review proposed contracts between state agencies and third parties involving the sharing or sale of personal information and make specific recommended changes to any such contract to the agency as necessary.

Finally, the bill requires the officer to direct a survey of each state agency and each university to determine what types of information they compile in databases or other electronic formats, sell, share with third parties, or provide online. The bill requires each state agency and university to conduct an internal survey to determine this information. The officer must report his or findings to the Legislature no later than January 15, 2002.

The act takes effect upon becoming law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The costs associated with performing the survey and for creating the Chief Privacy and Public Access Officer are not known.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
