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FISCAL IMPACT REPORT

SPONSOR Smith DATE TYPED 01/26/05 HB _____

SHORT TITLE Tax & Revenue Employee Info Disclosure SB 199

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

No Response From

Taxation & Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 199 amends a section of the Motor Vehicle Code (66-2-7.1) to prohibit TRD employees or former employees from disclosing to persons other than fellow TRD employees "trade secrets", "customer information", "proprietary information" or "commercial or financial information" acquired by TRD from contractors having electronic access to MVD records. The bill seems to contain an exception from this prohibition if such information is "disclosed by a public entity". Misdemeanor criminal penalties are imposed for disclosure.

Significant Issues

TRD contracts with several entities which have access to TRD electronic information. For example, Samba Holdings Inc. and Oso Grande Technologies Inc. pay the state for driving record information. They then resell that data to school districts, municipalities, trucking companies or

any company wanting information on employee driving records. Automobile dealers have access to the TRD database when they register vehicles. It appears as if this bill attempts to afford those contractors, and their customers, protection against disclosure of information submitted to TRD during their contracts. TRD employees are already prohibited from disclosing personal information about driver's license or vehicle registration applicants, with certain exceptions. (66-2-7.1A)

It is unclear as to the meaning of the exception for information disclosed by a public entity. The exception seems to imply that if proprietary information or trade secrets, or customer information is received from another governmental body, it may be disclosed.

The terms "trade secrets" and "proprietary information" are also not defined. Those terms are therefore subject to interpretation by either TRD and the contractor, who may not agree.

Certain information covered by this bill may be received by TRD during the procurement and contracting process and as the contract is implemented. For example, payment may be based upon the number of customers serviced. This information would be made confidential under the bill's prohibition against disclosure of "customer information" or "financial information". Generally proposals submitted in response to requests for proposals, executed contracts, and bills submitted for payment by private contractors are public records subject to inspection. It is unclear whether this bill intends to prohibit the release of those documents, thereby creating an exception to the disclosure requirements in the Inspection of Public Records Act.

FISCAL IMPLICATIONS

The AGO believes there may be a cost in defending the actions of TRD employees who interpret the bill to either prohibit or allow disclosure of certain information.

ADMINISTRATIVE IMPLICATIONS

TRD employees will be required to interpret the new prohibition and determine whether the information they receive is subject to disclosure. TRD might be subject to suits from either the contractors seeking to prevent disclosure, the media or the public seeking disclosure.

DW/lg