

54:50-9.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2004 **CHAPTER:** 79
NJSA: 54:50-9.1 (Permits Secretary of State to request Taxation reports)
BILL NO: S1498 (Substituted for A2671)

SPONSOR(S): Rice and others

DATE INTRODUCED: April 29, 2004

COMMITTEE: **ASSEMBLY:** -----
SENATE State Government

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 24, 2004
SENATE: June 24, 2004

DATE OF APPROVAL: July 2, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)

S1498

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

A2671

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

Bill and Sponsors Statement identical to S1498

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: Yes [6/10/04](#)
[6/17/04](#)

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2004, CHAPTER 79, *approved July 2, 2004*

Senate, No. 1498 (*Second Reprint*)

1 AN ACT ¹[permitting] concerning the¹ examination of ¹certain¹ State
2 tax records and files ¹[by certain State contractors]¹ for study of
3 discrimination in State employment and contracting and
4 supplementing chapter 50 of Title 54 of the Revised Statutes.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. a. ¹[Nothing contained in R.S.54:50-8 shall be construed to
10 prevent the Director of the Division of Taxation from permitting the
11 examination of records and files in the custody of the director, as may
12 be necessary, by a consultant contracted pursuant to State law on
13 behalf of the Governor's Study Commission on Discrimination in State
14 Employment and Contracting, established by Executive Order No. 112
15 of 2000, and any subsequent revisions thereto, allocated in but not of
16 the Department of State. The purpose of the examination and use of
17 such records and files shall be to create, update or expand periodically
18 State studies, in compliance with the duties and obligations of the
19 commission to investigate, research and report on the nature and scope
20 of any past or present discrimination in State employment and
21 contracting. This examination and use of records and files in the
22 director's custody shall be subject to applicable State or federal
23 confidentiality provisions, including any State or federal reciprocal
24 agreements authorized by law for the exchange of such information]
25 The Secretary of State, in overseeing the fulfillment of those duties
26 assigned to the Governor's Study Commission on Discrimination in
27 State Employment and Contracting, established by Executive Order
28 No. 112 of 2000, may request that the Director of the Division of
29 Taxation prepare a report which includes only that information which
30 is necessary in order to allow for an assessment of the nature and
31 scope of any past or present discrimination in State employment and
32 contracting. This information shall be limited to the name of a
33 taxpayer that is a vendor; the vendor's trade name; the vendor's
34 address, county and municipality code, business code, size code
35 indicating the number of employees, ownership code, standard
36 industrial classification code, North American industry classification
37 system code, business start date, business end date, and bond
38 information; information on any subsidiaries of the vendor; and the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSG committee amendments adopted June 14, 2004.

² Assembly floor amendments adopted June 21, 2004.

1 income of the vendor. No additional tax information as it pertains to
2 identifiable individuals, businesses or vendors shall be provided to the
3 Secretary of State.

4 Upon receiving the request of the Secretary of State, the Director
5 of the Division of Taxation shall forthwith prepare the report and
6 forward it to the Secretary of State¹.

7 b. Upon receipt of ¹[such records and files, the] the report, the
8 Secretary of State shall make the report available to any consultant or
9 agents and employees thereof who may be under contract with the
10 commission in order to fulfill its responsibilities under the Executive
11 Order. The¹ consultant, and its agents and employees, shall be
12 specifically subjected to the confidentiality provisions of R.S.54:50-8,
13 including criminal penalties for unauthorized use and disclosure of
14 information obtained from the ¹[records and files in the director's
15 custody] report¹. Each such principal, agent and employee shall
16 acknowledge by affidavit: receipt of a copy of the confidentiality
17 provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et
18 seq.; an understanding of the obligation to maintain, and agreement
19 to maintain, the confidentiality of taxpayer information ¹[contained in
20 the records and files in the director's custody]¹; and an awareness that
21 violation of the confidentiality provisions is punishable by law. The
22 consultant shall furnish the director with the affidavit of each of its
23 principals, agents and employees before gaining access to or examining
24 ¹[any records and files in the director's custody] the report¹.

25 c. ¹[The consultant, the commission and any other party shall not
26 publish, disclose or reveal in any interim or final studies or reports, or
27 in any other form, any information contained in the records and files
28 in the director's custody. Pursuant to subsection b. of R.S.54:50-9,
29 such studies and reports can include publication of statistics,
30 summaries or aggregate reports so classified as to prevent the
31 identification of particular taxpayers' reports and files.

32 d.]¹ In the event any portion of a study based on the ¹[records and
33 files] information¹ obtained pursuant to subsection a. of this section
34 is challenged in the context of an administrative or judicial proceeding
35 contesting the validity or accuracy of statistics, summaries or
36 aggregates compiled from such ¹[sources] information¹ to create,
37 update or expand a State study, and when it has been established that
38 such ¹[records and files of the director were] information was¹
39 actually used to create, update or expand the challenged State study,
40 such information shall not be compelled through discovery or
41 introduced into evidence without a prior court order sealing the
42 record, entered after in camera examination of the relevant ¹[records
43 and files] information¹ sought. When appropriate, information from
44 the records and files in the director's custody that is not relevant to the
45 issues in the administrative or judicial proceeding shall be redacted or

1 excluded.

2 ¹d. Upon its completion, copies of the report of the Governor's
3 Study Commission on Discrimination in State Employment and
4 Contracting shall be transmitted to the Senate President, ²the Speaker
5 of the General Assembly, ² the Minority Leader of the Senate, ²the
6 Minority Leader of the General Assembly, ² each member of the Senate
7 State Government Committee ²or its successor, each member of the
8 Assembly Commerce and Economic Development Committee or its
9 successor² and any other member of the State Senate ²or General
10 Assembly² with an interest in the commission's report.¹

11

12 2. This act shall take effect immediately and shall apply to any
13 study begun prior to the effective date.

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18 Permits Secretary of State to request and requires Division of Taxation
19 to prepare report containing certain tax information for the Governor's
20 Study Commission on Discrimination in State Employment and
21 Contracting.

SENATE, No. 1498

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED APRIL 29, 2004

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Co-Sponsored by:

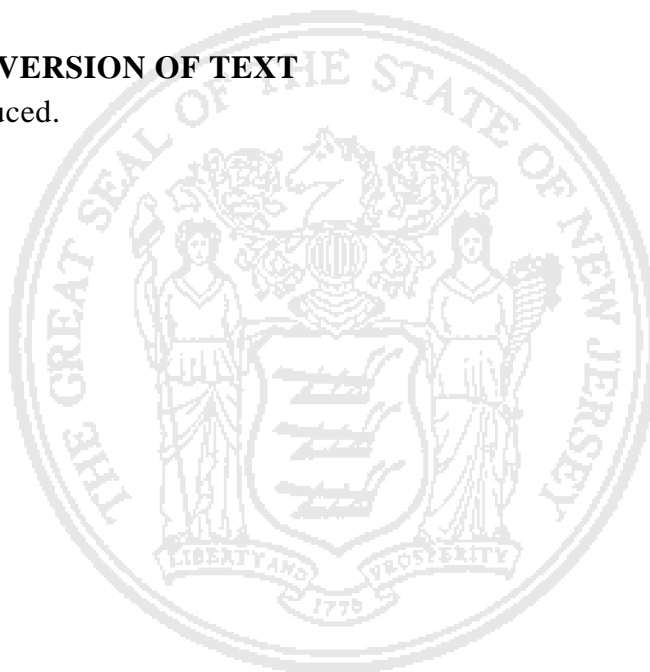
Senators Cunningham and Codey

SYNOPSIS

Permits contractor performing for Governor's Study Commission on Discrimination in State Employment and Contracting to examine State tax records and files.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/14/2004)

1 AN ACT permitting examination of State tax records and files by
2 certain State contractors for study of discrimination in State
3 employment and contracting and supplementing chapter 50 of Title
4 54 of the Revised Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. a. Nothing contained in R.S. 54:50-8 shall be construed to
10 prevent the Director of the Division of Taxation from permitting the
11 examination of records and files in the custody of the director, as may
12 be necessary, by a consultant contracted pursuant to State law on
13 behalf of the Governor's Study Commission on Discrimination in State
14 Employment and Contracting, established by Executive Order No. 112
15 of 2000, and any subsequent revisions thereto, allocated in but not of
16 the Department of State. The purpose of the examination and use of
17 such records and files shall be to create, update or expand periodically
18 State studies, in compliance with the duties and obligations of the
19 commission to investigate, research and report on the nature and scope
20 of any past or present discrimination in State employment and
21 contracting. This examination and use of records and files in the
22 director's custody shall be subject to applicable State or federal
23 confidentiality provisions, including any State or federal reciprocal
24 agreements authorized by law for the exchange of such information.

25 b. Upon receipt of such records and files, the consultant, and its
26 agents and employees, shall be specifically subjected to the
27 confidentiality provisions of R.S. 54:50-8, including criminal penalties
28 for unauthorized use and disclosure of information obtained from the
29 records and files in the director's custody. Each such principal, agent
30 and employee shall acknowledge by affidavit: receipt of a copy of the
31 confidentiality provisions of the State Uniform Tax Procedure Law,
32 R.S. 54:48-1 et seq.; an understanding of the obligation to maintain,
33 and agreement to maintain, the confidentiality of taxpayer information
34 contained in the records and files in the director's custody; and an
35 awareness that violation of the confidentiality provisions is punishable
36 by law. The consultant shall furnish the director with the affidavit of
37 each of its principals, agents and employees before gaining access to
38 or examining any records and files in the director's custody.

39 c. The consultant, the commission and any other party shall not
40 publish, disclose or reveal in any interim or final studies or reports, or
41 in any other form, any information contained in the records and files
42 in the director's custody. Pursuant to subsection b. of R.S. 54:50-9,
43 such studies and reports can include publication of statistics,
44 summaries or aggregate reports so classified as to prevent the
45 identification of particular taxpayers' reports and files.

46 d. In the event any portion of a study based on the records and files

1 obtained pursuant to subsection a. of this section is challenged in the
2 context of an administrative or judicial proceeding contesting the
3 validity or accuracy of statistics, summaries or aggregates compiled
4 from such sources to create, update or expand a State study, and when
5 it has been established that such records and files of the director were
6 actually used to create, update or expand the challenged State study,
7 such information shall not be compelled through discovery or
8 introduced into evidence without a prior court order sealing the
9 record, entered after in camera examination of the relevant records and
10 files sought. When appropriate, information from the records and files
11 in the director's custody that is not relevant to the issues in the
12 administrative or judicial proceeding shall be redacted or excluded.

13

14 2. This act shall take effect immediately and shall apply to any
15 study begun prior to the effective date.

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STATEMENT

19

20 This bill permits access to State tax records and files in the custody
21 of the Director of Division of Taxation in the Department of the
22 Treasury by a consultant contracted on behalf of the Governor's Study
23 Commission on Discrimination in State Employment and Contracting.
24 The purpose of the examination and use of such records and files by
25 the consultant would be to create, update or expand State disparity
26 studies periodically, in compliance with the duties and obligations
27 established for the commission by Executive Order No. 112 of 2000
28 to investigate, research and report on the nature and scope of any past
29 or present discrimination in State employment and contracting. This
30 examination and use of records and files in the director's custody will
31 be subject to applicable State or federal confidentiality provisions,
32 including any State or federal reciprocal agreements authorized by law
33 for the exchange of such information. Penalties would apply for
34 unlawful disclosure of information.

35 This bill is required because such State tax records and files are
36 currently confidential and privileged and access for examination or use
37 is permitted only in limited circumstances.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1498

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 2004

The Senate State Government Committee reports without recommendation and with committee amendments Senate, No. 1498.

This bill allows the Secretary of State to fulfill certain responsibilities set forth in Executive Order 112 of 2000, which created the Governor's Study Commission on Discrimination in State Employment and Contracting. Under the bill as amended, the Director of the Division of Taxation is to prepare a report which includes only that information that is necessary to allow for an assessment of the nature and scope of any past or present discrimination in State employment and contracting. Specifically, the information upon which the report would be based would be limited to the name of a taxpayer who is a vendor, the vendor's trade name, the vendor's address, county and municipality code, business code, size code indicating the number of employees, ownership code, standard industrial classification code, North American industry classification system code, business start date, business end date, and bond information; information on any subsidiaries of the vendor; and the income of the vendor.

The Director of the Division of Taxation, upon receipt of a request from the Secretary of State, would be required to prepare the report and transmit it to the Secretary of State. The Secretary of State would then provide the report to the consultant, or agents and employees thereof, who may be under contract with the commission to conduct studies set forth in the Executive Order.

As amended, the bill also provides that copies of the report of the Governor's Study Commission on Discrimination in State Employment and Contracting, upon its completion, be transmitted to the Senate President, the Minority Leader of the Senate, each member of the Senate State Government Committee and any other member of the State Senate with an interest in the commission's report.

The committee amended the bill to: 1) permit the Secretary of State to request that the Director of the Division of Taxation prepare a report which includes only that information that is necessary to allow for an assessment of the nature and scope of any past or present discrimination in State employment and contracting; 2) include in the

report only the name of a taxpayer who is a vendor, the vendor's trade name, the vendor's address, county and municipality code, business code, size code indicating the number of employees, ownership code, standard industrial classification code, North American industry classification system code, business start date, business end date, and bond information; information on any subsidiaries of the vendor; and the income of the vendor; 3) require the Director of the Division of Taxation, upon receipt of a request from the Secretary of State, to prepare the report and transmit it to the Secretary; 4) require the Secretary to then provide the report to the consultant, or agents and employees thereof, who may be under contract with the commission to conduct the studies set forth in the Executive Order; and 5) require that copies of the report of the Governor's Study Commission on Discrimination in State Employment and Contracting, upon its completion, be transmitted to the Senate President, the Minority Leader of the Senate, each member of the Senate State Government Committee and any other member of the State Senate with an interest in the commission's report.

STATEMENT TO
[First Reprint]
SENATE, No. 1498

with Assembly Floor Amendments
(Proposed By Assemblywoman WATSON COLEMAN)

ADOPTED: JUNE 21, 2004

These amendments require that upon its completion, copies of the report of the Governor's Study Commission on Discrimination in State Employment and Contracting also be transmitted to the Speaker of the General Assembly, the Minority Leader of the General Assembly, each member of the Assembly Commerce and Economic Development Committee and any other member of the General Assembly with an interest in the report.

ASSEMBLY, No. 2671

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED MAY 6, 2004

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

SYNOPSIS

Permits contractor performing for Governor's Study Commission on Discrimination in State Employment and Contracting to examine State tax records and files.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT permitting examination of State tax records and files by
2 certain State contractors for study of discrimination in State
3 employment and contracting and supplementing chapter 50 of Title
4 54 of the Revised Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. a. Nothing contained in R.S.54:50-8 shall be construed to
10 prevent the Director of the Division of Taxation from permitting the
11 examination of records and files in the custody of the director, as may
12 be necessary, by a consultant contracted pursuant to State law on
13 behalf of the Governor's Study Commission on Discrimination in State
14 Employment and Contracting, established by Executive Order No. 112
15 of 2000, and any subsequent revisions thereto, allocated in but not of
16 the Department of State. The purpose of the examination and use of
17 such records and files shall be to create, update or expand periodically
18 State studies, in compliance with the duties and obligations of the
19 commission to investigate, research and report on the nature and scope
20 of any past or present discrimination in State employment and
21 contracting. This examination and use of records and files in the
22 director's custody shall be subject to applicable State or federal
23 confidentiality provisions, including any State or federal reciprocal
24 agreements authorized by law for the exchange of such information.

25 b. Upon receipt of such records and files, the consultant, and its
26 agents and employees, shall be specifically subjected to the
27 confidentiality provisions of R.S.54:50-8, including criminal penalties
28 for unauthorized use and disclosure of information obtained from the
29 records and files in the director's custody. Each such principal, agent
30 and employee shall acknowledge by affidavit: receipt of a copy of the
31 confidentiality provisions of the State Uniform Tax Procedure Law,
32 R.S.54:48-1 et seq.; an understanding of the obligation to maintain,
33 and agreement to maintain, the confidentiality of taxpayer information
34 contained in the records and files in the director's custody; and an
35 awareness that violation of the confidentiality provisions is punishable
36 by law. The consultant shall furnish the director with the affidavit of
37 each of its principals, agents and employees before gaining access to
38 or examining any records and files in the director's custody.

39 c. The consultant, the commission and any other party shall not
40 publish, disclose or reveal in any interim or final studies or reports, or
41 in any other form, any information contained in the records and files
42 in the director's custody. Pursuant to subsection b. of R.S.54:50-9,
43 such studies and reports can include publication of statistics,
44 summaries or aggregate reports so classified as to prevent the
45 identification of particular taxpayers' reports and files.

46 d. In the event any portion of a study based on the records and files

1 obtained pursuant to subsection a. of this section is challenged in the
2 context of an administrative or judicial proceeding contesting the
3 validity or accuracy of statistics, summaries or aggregates compiled
4 from such sources to create, update or expand a State study, and when
5 it has been established that such records and files of the director were
6 actually used to create, update or expand the challenged State study,
7 such information shall not be compelled through discovery or
8 introduced into evidence without a prior court order sealing the
9 record, entered after in camera examination of the relevant records and
10 files sought. When appropriate, information from the records and files
11 in the director's custody that is not relevant to the issues in the
12 administrative or judicial proceeding shall be redacted or excluded.

13

14 2. This act shall take effect immediately and shall apply to any
15 study begun prior to the effective date.

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STATEMENT

19

20 This bill permits access to State tax records and files in the custody
21 of the Director of Division of Taxation in the Department of the
22 Treasury by a consultant contracted on behalf of the Governor's Study
23 Commission on Discrimination in State Employment and Contracting.
24 The purpose of the examination and use of such records and files by
25 the consultant would be to create, update or expand State disparity
26 studies periodically, in compliance with the duties and obligations
27 established for the commission by Executive Order No. 112 of 2000
28 to investigate, research and report on the nature and scope of any past
29 or present discrimination in State employment and contracting. This
30 examination and use of records and files in the director's custody will
31 be subject to applicable State or federal confidentiality provisions,
32 including any State or federal reciprocal agreements authorized by law
33 for the exchange of such information. Penalties would apply for
34 unlawful disclosure of information.

35 This bill is required because such State tax records and files are
36 currently confidential and privileged and access for examination or use
37 is permitted only in limited circumstances.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2671

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 27, 2004

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 2671.

This bill, as amended by the committee, permits access to State tax records and files in the custody of the Director of Division of Taxation in the Department of the Treasury by a consultant contracted on behalf of the Governor's Study Commission on Discrimination in State Employment and Contracting, within the specific parameters established in the bill. The purpose of the examination and use of such records and files by the consultant would be to create, update or expand State disparity studies periodically, in compliance with the duties and obligations established for the commission by Executive Order No. 112 of 2000 to investigate, research and report on the nature and scope of any past or present discrimination in State employment and contracting. This examination and use of records and files in the director's custody will be subject to applicable State or federal confidentiality provisions, including any State or federal reciprocal agreements authorized by law for the exchange of such information. Penalties would apply for unlawful disclosure of information.

This bill is required because such State tax records and files are currently confidential and privileged and access for examination or use is permitted only in limited circumstances.

The committee amended the bill to circumscribe the type of information which may be made available by the Director of the Division of Taxation in order to allow for the provision of that information required by the Governor's Disparity Commission while limiting the potential for abuse. Specifically, the information drawn from tax files under the amendments would be limited to the name of the vendor taxpayer, the vendor's trade name and federal identification number which shall not include social security number, the vendor's address, county and municipality code, business code, size code indicating the number of employees, ownership code, standard

industrial classification code, North American industry classification system code, business start date, business end date, and bond information; information on any subsidiaries of the vendor; and the income of the vendor.

The amendments would also preclude the provision of any additional tax information as it pertains to identifiable individuals, businesses or vendors.

MINORITY STATEMENT

By Assemblyman Kean

While the goal of this bill is laudable, the Minority has concerns that it infringes upon New Jersey's strict confidentiality law, N.J.S.A.54:50-8, which sets forth five instances wherein this type of sensitive information may be examined by an external entity. The statute makes exceptions for the purposes of: criminal investigation; establishing child support; Board of Public Utility investigations; alcoholic beverage licensing; or tobacco manufacturing compliance. By allowing private consultants to access the confidential tax records of businesses in the State, the potential for identity theft or other criminal abuse is increased, despite the admirable intent of the legislation. In an age in which homeland security is critical, it would be irresponsible and senseless to relax confidentiality laws and thereby create an environment in which those with nefarious intent may find it easier to operate.

Based on these concerns, it would be more prudent if the commission were to utilize Division of Taxation staff directly, rather than a private contractor who is not required to undergo any sort of background check and whose company is based outside of New Jersey. Therefore, the Minority cannot in good conscience support this legislation and I respectfully vote in the negative.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 2671

with Assembly Floor Amendments
(Proposed By Assemblywoman WATSON COLEMAN)

ADOPTED: JUNE 10, 2004

These Assembly floor amendments would change the manner in which information is made available by the Director of the Division of Taxation in order to allow for the execution of studies by the Governor's Study Commission on Discrimination in State Employment and Contracting which was established by Executive Order No. 112 of 2000.

As reported by committee, the bill would have allowed the Director of the Division of Taxation to provide for the examination, by consultants employed by the commission, of records and files in the custody of the director, subject to certain specific limitations set forth in amendments adopted by the committee.

These floor amendments would allow the Secretary of State, in fulfillment of those responsibilities set forth in the Executive Order, to request that the division director prepare a study which includes that information which would have been made available to consultants under the bill reported by committee. The Secretary of State would then provide the report to the consultant, or agents and employees thereof, who may be under contract with the commission to conduct studies set forth in the Executive Order.

The amendments make the necessary changes in the language of the bill to reflect the fact that consultants will no longer have direct access to the files of the Division of Taxation.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 2671

with Assembly Floor Amendments
(Proposed By Assemblywoman WATSON COLEMAN)

ADOPTED: JUNE 17, 2004

These amendments require the Director of the Division of Taxation, upon receipt of a request from the Secretary of State, to prepare a report containing the appropriate information and transmit it to the Secretary of State.

In addition, the amendments remove reference in the information that may be included in this report to federal identification number other than a social security number and thus limits the information provided in this regard to the vendor's trade name.

Finally, these amendments require that, upon its completion, the Study Commission be transmitted to the legislative leadership in both Houses, all committee members of the Senate State Government and Assembly Commerce and Economic Development Committees or their successor committees, and any other Senate or General Assembly member with interest in the commission's report.