

Freeman, Brendon

From: Borcharding, Brayden <Brayden.Borcharding@sen.ca.gov>
Sent: Thursday, June 25, 2015 3:05 PM
To: Freeman, Brendon
Subject: SB 272 (Hertzberg) Open Data

Good afternoon Brendon,

I'm writing regarding your letter of opposition to SB 272 on behalf of the Napa County LAFCO. Over the course of the past few weeks, Sen. Hertzberg has heard from a number of organizations that have raised concerns about how SB 272 and the catalogue of information technology systems may open local agencies to cyber vulnerabilities. In response, we have looked at the suggested elements of the California Public Records Act, specifically GC 6254.19, that protect from disclosure records that would in fact reveal vulnerabilities or increase the risk of cyber-attack, per the suggestion of law enforcement advocates and local government groups.

Senator Hertzberg in no way wants to disadvantage local government or make agencies more vulnerable. As a result, he has not taken the concerns regarding security lightly. Before SB 272 is heard in the Asm. Judiciary Committee, the bill will be amended to exempt from the catalogue any information pertaining to IT security systems and firewalls and any information or systems that are exempted in the CPRA under GC 6254.19. Furthermore, the bill will specifically state that records within IT systems shall not be in the catalogue either.

Between this set of exemptions and the improved definitions for the categories of the catalogue, Sen. Hertzberg believes the amendments to SB 272 adequately and fairly address security concerns that have been raised.

Best regards,

Brady

Brayden Borcharding
SENATOR ROBERT M. HERTZBERG
State Capitol, Room 4038
Sacramento, CA 95814
(916) 651-4018
<http://sd18.senate.ca.gov/>

44905

06/24/15 04:02 PM
RN 15 21944 PAGE 1
Substantive

AMENDMENTS TO SENATE BILL NO. 272
AS AMENDED IN SENATE APRIL 6, 2015

Amendment 1

On page 3, in line 18, strike out "agency" and insert:

agency, except a school district,

Amendment 2

On page 3, in line 22, strike out "enterprise" and insert:

information technology

Amendment 3

On page 3, in line 27, strike out "enterprise" and insert:

information technology

Amendment 4

On page 3, in line 33, strike out "categories, modules, or layers" and insert:

categories or types

Amendment 5

On page 4, strike out lines 1 to 8, inclusive, and insert:

(c) For purposes of this section, "information technology system" means hardware and software that collect, store, exchange, and analyze information that the agency uses. However, "information technology system" shall not include any of the following:

- (1) Information technology security systems, including firewalls and other cybersecurity systems.
- (2) Systems that would be restricted from disclosure pursuant to Section 6254.19.
- (3) The specific records that the information technology system collects, stores, exchanges, or analyses.

(d) The local agency shall complete and post the catalog required by this section by July 1, 2016, and thereafter shall update the catalog annually.



AMENDED IN ASSEMBLY JUNE 25, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 272

Introduced by Senator Hertzberg

(Principal coauthor: Assembly Member Maienschein)

February 19, 2015

An act to add Section 6270.5 to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 272, as amended, Hertzberg. The California Public Records Act: local agencies: inventory.

Existing law, the California Public Records Act, requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. The act declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

This bill would require each local agency, *except a school district*, in implementing the California Public Records Act, to create a catalog of ~~enterprise~~ *information technology* systems, as defined, to make the catalog publicly available upon request in the office of the clerk of the agency's legislative body, and to post the catalog on the local agency's Internet Web site. The bill would require the catalog to disclose a list of the ~~enterprise~~ *information technology* systems utilized by the agency, and, among other things, the current system vendor and product. Because the bill would require local agencies to perform additional duties, it would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the

writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) New information technology has dramatically changed the
4 way people search for and expect to find information in California.

5 (b) This technology has unlocked great potential for government
6 to better serve the people it represents. A recent study estimated
7 that digitizing government data could generate one trillion dollars
8 in economic value worldwide through cost savings and improved
9 operational performance.

10 (c) California plays a vitally important role in moving our nation
11 forward in the world of technology. Just as the state's thriving tech
12 industry surges ahead in setting new standards for society, so too
13 must California.

14 (d) As several nations, states, and cities have begun to embrace
15 policies of online access to public sector data, they have enjoyed
16 the benefits of increased operational efficiency and better
17 collaboration. Here in California, cities across the state are turning
18 internally gathered and maintained data into usable information
19 for the public to access and leverage for the benefit of their
20 communities.

21 (e) In moving government to a more effective digital future,
22 standards should be adopted to ensure that data collection and
23 publication are standardized, including uniform definitions for
24 machine-readable data. Online portals should also be developed
25 to assist with public access to collected data.

1 (f) With a public sector committed to success in the digital age,
2 the residents and businesses of California will stand to benefit
3 from the greater collaboration and integration, improved
4 accountability, and increased productivity that will result.

5 (g) In making California government more accessible to the
6 people of the state, paragraph (7) of subdivision (b) of Section 3
7 of Article I of the California Constitution requires local
8 governments to comply with the California Public Records Act
9 and with any subsequent statutory enactment amending that act
10 and furthering that purpose.

11 SEC. 2. Section 6270.5 is added to the Government Code, to
12 read:

13 6270.5. (a) In implementing this chapter, each local ~~agency~~
14 ~~agency, except a school district,~~ shall create a catalog of ~~enterprise~~
15 ~~information technology~~ systems. The catalog shall be made publicly
16 available upon request in the office of the clerk of the agency's
17 legislative body. The catalog shall be posted in a prominent
18 location on the local agency's Internet Web site, if the agency has
19 an Internet Web site. The catalog shall disclose a list of the
20 ~~enterprise information technology~~ systems utilized by the agency
21 and, for each system, shall also disclose all of the following:

- 22 (1) Current system vendor.
- 23 (2) Current system product.
- 24 (3) A brief statement of the system's purpose.
- 25 (4) A general description of ~~categories, modules, or layers~~
26 ~~categories or types~~ of data.
- 27 (5) The department that serves as the system's primary
28 custodian.
- 29 (6) How frequently system data is collected.
- 30 (7) How frequently system data is updated.

31 (b) This section shall not be interpreted to limit a person's right
32 to inspect public records pursuant to this chapter.

33 ~~(e) For purposes of this section:~~

34 (1) ~~"Enterprise system" means a system that is both of the~~
35 ~~following:~~

36 (A) ~~A multidepartmental system or a system that contains~~
37 ~~information collected about the public.~~

38 (B) ~~A system of record.~~

39 (2) ~~"System of record" means a system that serves as an original~~
40 ~~source of data within an agency.~~

1 (c) For purposes of this section, “information technology
2 system” means hardware and software that collect, store,
3 exchange, and analyze information that the agency uses. However,
4 “information technology system” shall not include any of the
5 following:

6 (1) Information technology security systems, including firewalls
7 and other cybersecurity systems.

8 (2) Systems that would be restricted from disclosure pursuant
9 to Section 6254.19.

10 (3) The specific records that the information technology system
11 collects, stores, exchanges, or analyses.

12 (d) The local agency shall complete and post the catalog
13 required by this section by July 1, 2016, and thereafter shall update
14 the catalog annually.

15 SEC. 3. The Legislature finds and declares that Section 2 of
16 this act, which adds Section 6270.5 to the Government Code,
17 furthers, within the meaning of paragraph (7) of subdivision (b)
18 of Section 3 of Article I of the California Constitution, the purposes
19 of that constitutional section as it relates to the right of public
20 access to the meetings of local public bodies or the writings of
21 local public officials and local agencies. Pursuant to paragraph (7)
22 of subdivision (b) of Section 3 of Article I of the California
23 Constitution, the Legislature makes the following findings:

24 Because increased information about what data is collected by
25 local agencies could be leveraged by the public to more efficiently
26 access and better use that information, the act furthers the purpose
27 of Section 3 of Article I of the California Constitution.

28 SEC. 4. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district under this act would result from a legislative mandate that
32 is within the scope of paragraph (7) of subdivision (b) of Section
33 3 of Article I of the California Constitution.