

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Yee	SB 1002

SUBJECT

Public Records: Electronic Format

SUMMARY

This bill would require the State Chief Information Officer to conduct a study to determine the feasibility of providing electronic records in an open format.

REASON FOR THE BILL

The reason for this bill is to provide greater access to government records.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2013, and would apply to public record requests made on or after that date.

ANALYSIS

FEDERAL/STATE LAW

Under federal law, the United States (U.S.) Freedom of Information Act (FOIA) ensures public access to U.S. government records. The FOIA carries a presumption of disclosure; the burden is on the government to substantiate why information may not be released. Upon written request, federal agencies are required to disclose the requested records, unless they can be lawfully withheld from disclosure under one of the specific exemptions in the FOIA. Federal agencies are given 20 days to determine whether the agency is able to comply with the information request and notify the requestor of their determination.

Under state law, the California Public Records Act (CPRA) is designed to give the public access to information in the possession of public agencies. The state agency bears the burden of justifying nondisclosure of requested information. The agency must justify the withholding of any record by demonstrating that the record is exempt or that the public interest in confidentiality outweighs the public interest in disclosure. The state agency is given 10 days to determine whether the department possesses records responsive to the request that may be disclosed and to notify the requestor accordingly along with the estimated date and time when the records will be made available.

Gail Hall, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Selvi Stanislaus	Date 09/05/12
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THIS BILL

This bill would require the State Chief Information Officer to conduct a study to determine the feasibility of providing electronic records in an open format.

LEGISLATIVE HISTORY

SB 1696 (Yee, Ch. 62, Stats. 2008) prohibits a state or local agency from allowing another party to control the disclosure of information that is otherwise subject to disclosure under the CPRA. Additionally, the bill specified that regardless of any contract term to the contrary, a contract for the purpose of conducting a review, audit, or report between a private entity and a state or local agency, including the University of California, is subject to the same disclosure requirements and exceptions as other public records under the CPRA.

AB 721 (Maze, 2007/2008) would have shortened the timeframe within which public agencies must respond to CPRA requests when a request comes from a Member of the Legislature. This bill was held in the Assembly Appropriations Committee.

AB 1393 (Leno, Vetoed, 2007/2008) would have required a state agency to include specific information on its web site about requesting copies of public records. This bill was vetoed by Governor Schwarzenegger.

FISCAL IMPACT

This bill would not impact the department's programs or operations.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

APPOINTMENTS

None.

SUPPORT/OPPOSITION¹

Support: American Federation of State, County and Municipal Employees (AFSCME)
 California Council of the Blind
 California Faculty Association
 California Teachers Association
 Californians Aware
 Common Cause
 San Francisco Public Utilities Commission
 United Auto Workers Local 5810 (Berkeley)
 United Reporting Crime Beat News

Opposition: California Association of Clerks and Elections Officials (concerns) (5/23)
 California Peace Officers Association (4/26)
 California Special Districts Association (6/19)
 California State Association of Counties (unless amended) (6/25)
 California State Sheriff's Association (4/11)
 Chief Probation Officers of California (4/11)
 City of Cathedral City (4/13)
 Community College League of California (unless amended) (6/22)
 League of California Cities (unless amended) (6/19)
 Regional Council of Rural Counties (unless amended) (6/25)
 Urban Counties Caucus (unless amended) (6/25)

VOTES

Concurrence	08/31/12	Y: 23	N: 3
Assembly Floor	08/31/12	Y: 48	N: 22
Senate Floor	05/31/12	Y: 35	N: 0

LEGISLATIVE STAFF CONTACT

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¹ As reported on the Legislative Counsel's Web site at: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1001-1050/sb_1002_cfa_20120626_115519_asm_comm.html [as of July 9, 2012]