

ANALYSIS OF ORIGINAL BILL

Author: Linder Analyst: Janet Jennings Bill Number: AB 1707
 See Legislative
 Related Bills: History Telephone: 845-3495 Introduced Date: January 25, 2016
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Public Records/State Agency Response to Denied Requests for Disclosure
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SUMMARY

This bill would, under the Government Code, modify provisions of the California Public Records Act (PRA)¹

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for the bill is to provide the requester with the specific exemption that applies to the denied record request.

EFFECTIVE/OPERATIVE DATE

This bill would become effective on January 1, 2017, and operative with respect to PRA requests denied in whole or in part, on or after that date.

FEDERAL/STATE LAW

Under federal law, the United States Freedom of Information Act (Information Act) ensures public access to U.S. government records. The Information Act 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 Information Act, Federal agencies are given twenty days to determine whether the agency is able to comply with the information request and notify the requestor of the determination.

Under state law, the PRA is designed to give the public access to inspect information in possession of public agencies, unless it is expressly exempted. The state agency bears the burden of justifying nondisclosure of requested information. The agency must justify withholding of any record by demonstrating that the record is exempt or that the public interest in

¹ Government Code Sections 6250 – 6276.48.

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confidentiality outweighs the public interest in disclosure. The state agency is given ten 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.

Under current law, the response to a written request for inspection or copies of public records that includes a denial, in whole or in part, of the request is required to be in writing. "Writing" is defined as any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.²

THIS BILL

This bill would require a written response to any PRA request, even if the request was made verbally,³ for inspection or copies of public records that is denied in whole or in part, to include a list that contains both of the following:

- The title or other identification of each record requested but withheld due to an exemption;
- The specific exemption that applies to that record.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would impact the privacy, security and disclosure bureau, and call center programs and operations.

LEGISLATIVE HISTORY

SB 201 (Wieckowski, 2015) this bill would add requirements to the Government Code pertaining to the California Public Records Act. This bill is in the Senate Judiciary Committee.

SB 1002 (Yee, Vetoed 2012) would have required the State Chief Information Officer to conduct a study to determine the feasibility of providing electronic records in an open format. The veto states in part, that another legislative report on electronic public records isn't necessary.

OTHER STATES' INFORMATION

Since this bill would add requirements to provisions of the PRA, a comparison to other state taxes would not be relevant.

² Government Code Section 6252(g).

³ This bill would remove current law's (Government Code Section 6255(b)), requirement that requests be in writing, thus, this bill would allow requests to be in writing or verbal.

FISCAL IMPACT

This bill would impact the department's privacy, security and disclosure bureau. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

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

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

ARGUMENTS

Proponents: Some would argue this bill would provide additional transparency when PRA requests are denied in whole or in part.

Opponents: Some could argue that the cost to provide the additional information could outweigh the benefit to the requestor.

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