

AMENDED IN SENATE MARCH 12, 2012

SENATE BILL

No. 1002

Introduced by Senator Yee

February 6, 2012

An act to amend Section 6253.9 of, and to add ~~Article 5.5 Chapter 3.6~~ (commencing with Section 11085) to Chapter 1 of Part 1 of Division 3 of Title 2 6278) to Division 7 of Title 1 of, the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1002, as amended, Yee. Public records: electronic format.

(1) The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon request of ~~any~~ a person, to provide a copy of ~~any~~ a public record unless the record is exempt from disclosure. The act requires ~~any~~ an agency that has information that constitutes an identifiable public record not otherwise exempt from disclosure that is in an electronic format to make that information available in an electronic format when requested by ~~any~~ a person. The act requires the agency to make the information available in ~~any~~ an electronic format in which it holds the information.

This bill would authorize an agency, when requested by a person, to provide an electronic record in a format in which the text in the electronic record is searchable by commonly used software. The bill would require the requester to bear the cost of converting the electronic record into a searchable format. *This bill would prohibit an agency from charging a requester for the cost to construct a record or the cost of programming and computer services necessary to produce a copy of the record, as specified.*

This bill would also make technical, nonsubstantive changes to these provisions.

(2) Existing law requires certain state *and local* agencies to make specified data or documents available *to the public by various methods, including* on the Internet.

This bill would require *that in certain circumstances* the data or document ~~to be made available in a an open format that is user-friendly and accessible~~, as defined. This requirement would not apply if the state *or local* agency does not have the data or document available for internal use in ~~a user-friendly and accessible~~ *an open format*. *This bill would require a state or local agency, whenever it updates its software or hardware used in the preparation or dissemination of documents or data, to do so with software or hardware that allows it to satisfy specified requirements.*

(3) *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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

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

- 1 SECTION 1. Section 6253.9 of the Government Code is
- 2 amended to read:
- 3 6253.9. (a) Unless otherwise prohibited by law, ~~any~~ *an* agency
- 4 that has information that constitutes an identifiable public record
- 5 not exempt from disclosure pursuant to this chapter that is in an
- 6 electronic format shall make that information available in an
- 7 electronic format when requested by ~~any~~ *a* person and, when
- 8 applicable, shall comply with the following:
- 9 (1) The agency shall make the information available in ~~any~~ *an*
- 10 electronic format in which it holds the information.
- 11 (2) Each agency shall provide a copy of an electronic record in
- 12 the format requested if the requested format is one that has been
- 13 used by the agency to create copies for its own use or for provision

1 to other agencies. The cost of duplication shall be limited to the
2 direct cost of producing a copy of a record in an electronic format.

3 (b) Notwithstanding paragraph (2) of subdivision (a), the
4 requester shall bear the cost of producing a copy of the record,
5 including the cost to construct a record, and the cost of
6 programming and computer services necessary to produce a copy
7 of the record when either of the following applies:

8 (1) In order to comply with subdivision (a), the public agency
9 would be required to produce a copy of an electronic record and
10 the record is one that is produced only at otherwise regularly
11 scheduled intervals.

12 (2) The request would require data compilation, extraction, or
13 programming to produce the record.

14 (c) *Notwithstanding subdivision (b), an agency shall not charge*
15 *a requester for the cost to construct a record or the cost of*
16 *programming and computer services necessary to produce a copy*
17 *of the record for any of the following:*

18 (1) *For data extraction, when the agency is exercising a*
19 *discretionary exemption.*

20 (2) *For data conversion, if the electronic record will be used*
21 *by the agency for its own use.*

22 (3) *For programming and computer services, when the*
23 *programming or computer service is used by the agency for its*
24 *own business operations.*

25 ~~(e)~~

26 (d) This section shall not be construed to require the public
27 agency to reconstruct a record in an electronic format if the agency
28 no longer has the record available in an electronic format.

29 ~~(d)~~

30 (e) If the request is for information in other than electronic
31 format, and the information also is in electronic format, the agency
32 may inform the requester that the information is available in
33 electronic format.

34 ~~(e)~~

35 (f) At the request of a person, an agency may provide an
36 electronic record in a format in which the text in the electronic
37 record is searchable by commonly used software if the agency
38 does not already have the electronic record in a searchable format.
39 The requester shall bear the cost, if any, of converting the electronic

1 record into a searchable format, including the cost of programming
2 and computer services necessary to produce the electronic record.

3 (f)

4 (g) This section shall not be construed to permit an agency to
5 make information available only in an electronic format.

6 (g)

7 (h) This section shall not be construed to require the public
8 agency to release an electronic record in the electronic form in
9 which it is held by the agency if its release would jeopardize or
10 compromise the security or integrity of the original record or of
11 any proprietary software in which it is maintained.

12 (h)

13 (i) This section shall not be construed to permit public access
14 to records held by ~~any~~ *an* agency to which access is otherwise
15 restricted by statute.

16 SEC. 2. ~~Article 5.5 (commencing with Section 11085) is added~~
17 ~~to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government~~
18 ~~Code, to read:~~

19
20 ~~Article 5.5. California Open Data Standard~~
21

22 11085. (a) ~~Whenever a state agency is required by law to make~~
23 ~~data or a document available on the Internet, the data or document~~
24 ~~shall be in a format that is user-friendly and accessible. This~~
25 ~~paragraph shall not apply when the state agency does not have the~~
26 ~~data or document available for internal use in a user-friendly and~~
27 ~~accessible format.~~

28 (b) ~~For purposes of this article, “user-friendly and accessible”~~
29 ~~means:~~

30 (1) ~~The data or document can be copied and downloaded by~~
31 ~~using commonly used software and Internet applications.~~

32 (2) ~~The text of the data or the text in the document can be~~
33 ~~searched by using commonly used software and Internet~~
34 ~~applications.~~

35 (3) ~~The data or document is searchable on the Internet by~~
36 ~~commonly used Internet search engines.~~

37 (c) ~~This section shall not be construed to require a state agency~~
38 ~~to convert any data or document into a format that is user-friendly~~
39 ~~and accessible.~~

1 SEC. 2. Chapter 3.6 (commencing with Section 6278) is added
2 to Division 7 of Title 1 of the Government Code, to read:

3
4 CHAPTER 3.6. CALIFORNIA OPEN DATA STANDARD
5

6 6278. (a) Whenever a state or local agency is required by
7 law to make data or a document available to the public, the data
8 or document shall be provided in an open format.

9 (b) Whenever a state or local agency is required by law to make
10 data or a document available on the Internet, the data or document
11 shall be posted in an open format.

12 (c) For purposes of this chapter, "open format" means:

13 (1) The data or document can be located and downloaded by
14 open-source software or public Internet applications that are
15 available for free, or both.

16 (2) The data or the text in the document is machine readable
17 and can be searched, indexed, organized, categorized, and is
18 otherwise automatically processable.

19 (3) The data or document is available without restrictions that
20 would impede the use of the information.

21 (4) The data or document maintains the integrity of databases
22 and all associated relationships or mappings between data or
23 content.

24 (5) The data or document provides data granularity, definitions,
25 and structured formats in the original quality available to the state
26 or local agency.

27 (d) For purposes of this chapter, "open-source software" means
28 computer software that is provided under a free software license
29 that permits users to study, change, improve, and distribute the
30 software.

31 (e) This section shall not be construed to require a state or local
32 agency to convert data or a document into an open format.

33 6278.1. (a) Whenever a state or local agency updates its
34 software or hardware used in the preparation or dissemination of
35 documents or data, the agency shall do so with software or
36 hardware that allows it to satisfy the requirements of this chapter.

37 (b) This section shall not be construed as a mandate on a state
38 or local agency to update its software or hardware.

39 SEC. 3. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

- 1 *local agencies and school districts for those costs shall be made*
- 2 *pursuant to Part 7 (commencing with Section 17500) of Division*
- 3 *4 of Title 2 of the Government Code.*