

AMENDED IN ASSEMBLY SEPTEMBER 2, 2015

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN ASSEMBLY JULY 6, 2015

AMENDED IN ASSEMBLY JUNE 25, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 272**

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**Introduced by Senator Hertzberg**

(Principal coauthor: Assembly Member Maienschein)

February 19, 2015

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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 local educational agency, in implementing the California Public Records Act, to create a catalog of enterprise systems, as defined, to make the catalog publicly available upon request in the office of the person or officer designated by 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 systems utilized by the agency, and, among other

things, the current system vendor and ~~product~~. *product, unless, on the facts of the particular case, the public interest served by not disclosing that information clearly outweighs the public interest served by disclosure, in which case the local agency may instead provide a system name, brief title, or identifier of the system.* 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.

*Existing constitutional provisions require a statute that limits the right of public access to meetings or writings of public officials to be adopted with findings demonstrating the interest to be protected by that limitation and the need to protect that interest.*

*This bill would declare that it includes limitations on access, that the interest to be protected is the security of enterprise systems in public agencies, and that the need to protect that interest is that enterprise systems can contain information that, if released to the public, could result in negative consequences.*

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

1 in economic value worldwide through cost savings and improved  
2 operational performance.

3 (c) California plays a vitally important role in moving our nation  
4 forward in the world of technology. Just as the state’s thriving tech  
5 industry surges ahead in setting new standards for society, so too  
6 must California.

7 (d) As several nations, states, and cities have begun to embrace  
8 policies of online access to public sector data, they have enjoyed  
9 the benefits of increased operational efficiency and better  
10 collaboration. Here in California, cities across the state are turning  
11 internally gathered and maintained data into usable information  
12 for the public to access and leverage for the benefit of their  
13 communities.

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

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

23 (g) In making California government more accessible to the  
24 people of the state, paragraph (7) of subdivision (b) of Section 3  
25 of Article I of the California Constitution requires local  
26 governments to comply with the California Public Records Act  
27 and with any subsequent statutory enactment amending that act  
28 and furthering that purpose.

29 SEC. 2. Section 6270.5 is added to the Government Code, to  
30 read:

31 6270.5. (a) In implementing this chapter, each local agency,  
32 except a local educational agency, shall create a catalog of  
33 enterprise systems. The catalog shall be made publicly available  
34 upon request in the office of the person or officer designated by  
35 the agency’s legislative body. The catalog shall be posted in a  
36 prominent location on the local agency’s Internet Web site, if the  
37 agency has an Internet Web site. The catalog shall disclose a list  
38 of the enterprise systems utilized by the agency and, for each  
39 system, shall also disclose all of the following:

40 (1) Current system vendor.

- 1 (2) Current system product.  
2 (3) A brief statement of the system’s purpose.  
3 (4) A general description of categories or types of data.  
4 (5) The department that serves as the system’s primary  
5 custodian.  
6 (6) How frequently system data is collected.  
7 (7) How frequently system data is updated.  
8 (b) This section shall not be interpreted to limit a person’s right  
9 to inspect public records pursuant to this chapter.  
10 (c) For purposes of this section:  
11 (1) “Enterprise system” means a software application or  
12 computer system that collects, stores, exchanges, and analyzes  
13 information that the agency uses that is both of the following:  
14 (A) A multidepartmental system or a system that contains  
15 information collected about the public.  
16 (B) A system of record.  
17 (2) “System of record” means a system that serves as an original  
18 source of data within an agency.  
19 (3) An enterprise system shall not include any of the following:  
20 (A) Information technology security systems, including firewalls  
21 and other cybersecurity systems.  
22 (B) Physical access control systems, employee identification  
23 management systems, video monitoring, and other physical control  
24 systems.  
25 (C) Infrastructure and mechanical control systems, including  
26 those that control or manage street lights, *electrical*, *natural gas*,  
27 or water or sewer functions.  
28 (D) Systems related to 911 dispatch and operation or emergency  
29 services.  
30 (E) Systems that would be restricted from disclosure pursuant  
31 to Section 6254.19.  
32 (F) The specific records that the information technology system  
33 collects, stores, exchanges, or analyzes.  
34 (d) Nothing in this section shall be construed to permit public  
35 access to records held by an agency to which access is otherwise  
36 restricted by statute or to alter the process for requesting public  
37 records, as set forth in this chapter.  
38 (e) *If, on the facts of the particular case, the public interest*  
39 *served by not disclosing the information described in paragraph*  
40 *(1) or (2) of subdivision (a) clearly outweighs the public interest*

1 *served by disclosure of the record, the local agency may instead*  
2 *provide a system name, brief title, or identifier of the system.*

3 (e)

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

7 SEC. 3. The Legislature finds and declares that Section 2 of  
8 this act, which adds Section 6270.5 to the Government Code,  
9 furthers, within the meaning of paragraph (7) of subdivision (b)  
10 of Section 3 of Article I of the California Constitution, the purposes  
11 of that constitutional section as it relates to the right of public  
12 access to the meetings of local public bodies or the writings of  
13 local public officials and local agencies. Pursuant to paragraph (7)  
14 of subdivision (b) of Section 3 of Article I of the California  
15 Constitution, the Legislature makes the following findings:

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

20 SEC. 4. *The Legislature finds and declares that Section 2 of*  
21 *this act limits the public's right of access to public documents*  
22 *within the meaning of paragraph (2) of subdivision (b) of Section*  
23 *3 of Article I of the California Constitution. Pursuant to that*  
24 *constitutional provision, the Legislature makes the following*  
25 *findings to demonstrate the interest and the need for protecting*  
26 *that interest:*

27 (a) *The interest protected by this limitation is the security of*  
28 *enterprise systems in public agencies.*

29 (b) *The need for protecting that interest is that enterprise*  
30 *systems can contain information that, if released to the public,*  
31 *could result in negative consequences.*

32 ~~SEC. 4.~~

33 SEC. 5. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district under this act would result from a legislative mandate that  
37 is within the scope of paragraph (7) of subdivision (b) of Section  
38 3 of Article I of the California Constitution.