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COUNTIES



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CLERKS AND
ELECTION OFFICIALS

June 26, 2015

The Honorable Mark Stone
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

**Re: 272 (Hertzberg) – Open Data
OPPOSE UNLESS AMENDED**

Dear Assembly Member Stone:

On behalf of the listed associations representing local agencies in California, we have adopted an **Opposed Unless Amended** position on Senate Bill 272 (Hertzberg). SB 272 would require local agencies to create a publicly available catalog of enterprise systems on a local agency's internet website. The bill would additionally require that the catalog disclose the current system vendor, a brief statement of the system's purpose, and a general description of categories, modules, or layers of data.

Local governments are dedicated to providing open, transparent access to public information. Many of our public agencies are leading this effort in California while balancing the expectations of the public and the security and administrative needs of the public agency.

Understanding the author's intent and the expressed commitment to work with our associations to address our concerns, many of our groups have respectfully withheld taking an official position on SB 272. Instead, we have conveyed our concerns and submitted requested amendments directly to the author's office. However, we regret that those amendments have not been accepted and due to legislative timelines, we must formally oppose this bill unless it is amended to reflect the concerns we have raised.

Public Safety Threat

Our associations raised concerns about the serious cyber security risks that SB 272 presents by requiring the vendor name and product to be listed. Local agencies utilize electronic systems to manage information related to health and public safety services, utilities, and public works. There has been increased awareness of cybersecurity issues in recent years due to an increased number of system breaches and hacking threats. As currently written, SB 272 is essentially providing a blueprint to accessing our systems and compromising the sensitive information within. We continue to request this language be removed and, instead, permit that a title or other identifier be used. This would allow for the system to be referenced in a way that is not overly specific as to jeopardize security.

Enterprise Systems

We are also concerned that the definition of enterprise systems is overly broad and

would require that agencies list systems that are for internal purposes. Our proposed amendments would allow an exemption for systems that are intended for physical control access, employee identification management systems, video monitoring, and firewalls. Additionally, the amendments would exempt infrastructure controls, such as those that control traffic lights, water, and sewer functions. We believe these exemptions do not compromise the integrity of the bill's intent, rather the language ensures there is not unintentional risk to the security of systems that provide vital services.

Public Records

The language in SB 272 blurs the line between the listing of data systems and records under the California Public Records Act (CPRA). While records may sometimes contain data, data sets and individual pieces of data are not records. Amending the CPRA in the manner that SB 272 proposes would create confusion and a measure of conflict within the CPRA as to what constitutes an identifiable record. If the bill were enacted, we believe that the public would have an unreasonable expectation that they could have full access to the data contained within an enterprise system, yet the CPRA makes it incumbent upon local public officials to ensure that exempt information and exempt records are not disclosed. SB 272 should be amended to clearly differentiate between local responsibilities related to "records" and those related to "data" in the context of public records requests, if not amended to remove this language from the area of the Government Code that governs CPRA altogether.

Technical Cleanup

Additional amendments have been suggested as means to provide better clarity and greater ease for an entity to implement the provisions of SB 272. This includes having an annual update for updating the catalog so agencies do not find themselves out of compliance as systems transition and allowing for an entity to assign the person of their choosing to manage the catalog.

For these reasons, our associations have an **OPPOSE UNLESS AMENDED** position on SB 272 and respectfully request your "NO" vote. Should you require additional information regarding our position on this measure, please do not hesitate to contact Faith Conley (CSAC) at (916) 650-8117, Alicia Lewis (LCC) at (916) 658-8254, Jolena Voorhis (UCC) at (916) 327-7531, Dillon Gibbons (CSDA) at (916) 442-7887, Paul A. Smith (RCRC) at (916) 447-4806, Aaron Maguire (California State Sheriffs' Association) at (916) 443-7318, Matt Siverling (CACEO), Rob Grossglauser (CRAC) at (916) 552-6789, Byron Horn (MISAC) at (559) 621-7119, and John Lovell (CPCA) at (916) 447-3820.

cc: The Honorable Bob Hertzberg, California State Senate
Chair and Members, California State Assembly Judiciary Committee
Chair and Members, California State Assembly Local Government Committee
Tom Clarke, Consultant, California State Assembly Judiciary Committee
Angela Mapp, Consultant, California State Assembly Local Government Committee