

Senate Bill No. 1002

Passed the Senate August 31, 2012

Secretary of the Senate

Passed the Assembly August 31, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 6253.9 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1002, 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 a person, to provide a copy of a public record unless the record is exempt from disclosure. The act requires 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 a person. The act requires the agency to make the information available in an electronic format in which it holds the information.

This bill would 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 the State Chief Information Officer to conduct a study to determine the feasibility of providing electronic records in an open format, as specified, and to provide a copy of the study to the chairs of specified Senate and Assembly committees by January 1, 2014.

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

SECTION 1. Section 6253.9 of the Government Code is amended to read:

6253.9. (a) Unless otherwise prohibited by law, an agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by a person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in an electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

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

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

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

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

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

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

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

(g) This section shall not be construed to permit public access to records held by an agency to which access is otherwise restricted by statute.

SEC. 2. (a) The State Chief Information Officer shall conduct a study to determine the feasibility of providing electronic records in an open format. The study shall include, but not be limited to, all of the following:

(1) Determining what types of records are appropriate to be provided in an open format.

(2) Developing the proper definition of “open format.”

(3) Estimating the cost to both state and local governments of providing information in an open format.

(b) The State Chief Information Officer shall provide a copy of the study to the chairs of the Senate and Assembly Committee on Governmental Organization and Appropriations and the Assembly Committee on Local Government and the Senate Committee on Governance and Finance by January 1, 2014.

(c) For purposes of this section, “open format” may include any of the following:

(1) The format can be retrieved, downloaded, indexed, and searched by commonly used Internet search applications.

(2) The format is platform independent, machine readable, and made available to the public without restrictions that would impede the reuse of its information.

(3) If applicable, the format retains data definitions, structure, and is as granular as possible.

Approved _____, 2012

Governor