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CAJPA
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CCAC
CITY CLERKS ASSOCIATION OF CALIFORNIA



March 26, 2024

The Honorable Kelly Seyarto
Member, California State Senate
1021 O Street, Room 7120
Sacramento, CA 95814

**RE: SB 1034 (Seyarto): California Public Records Act: state of emergency
As Introduced February 6, 2024, – SUPPORT**

Dear Senator Seyarto,

The California State Association of Counties (CSAC), Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), the California Special Districts Association (CSDA), Association of California Healthcare Districts (ACHD), Public Risk Innovations, Solutions, and Management (PRISM), the California Association of Joint Powers Authorities (CAJPA), the City Clerks Association of California (CCAC), and the California Association of Recreation and Parks Districts (CARPD) are pleased to support your measure, which would amend the definition of “unusual circumstances,” in the California Public Records Act (PRA) to include the need to respond to a PRA request during a state of emergency.

The California Public Records Act serves as a vital tool for the public to hold their governments and elected leaders accountable. California’s public agencies take their responsibilities under the PRA seriously, devoting substantial resources to responding thoroughly and promptly to public records requests.

Public agencies at all levels of government have reported a significant increase in the quantity and breadth of PRA requests. A variety of public agencies reported a 73% increase in the volume of PRA requests over the past five years. A vast majority of those agencies reported receiving PRA requests that required an inordinate amount of staff time, with more than 90% reporting PRA requests that diverted local resources away from local programs and services.

These requests can be costly and time-consuming for local agencies, as they can require significant staff time to discover, review, and redact records, often requiring the specific subject matter experts on an issue to dedicate substantial time outside of their core responsibilities to ensure the agency fully responds to a PRA request. Counties have reported single PRA requests seeking decades of 911 call transcripts or decades of correspondence from local officials. One small, rural county reported a single requestor who has submitted hundreds of PRA requests over the past few years, including a single request that required the county to review over 621,000 records. The county estimates that responding to a portion of the requests would cost the county

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over \$1.8 million and require a minimum of 34 employees working around the clock for a year to honor the request.

Furthermore, due to the modernization of how public sector work is conducted, there has been a significant increase in disclosable records (e.g., emails, text messages, inter-office direct chat messaging platforms, etc.) created by routine government work. In response, there has been a proportionate increase in the complexity and sophistication of the work necessary to respond to PRA requests due to the staff time spent searching for records and redacting material that is exempt or prohibited from disclosure (e.g., confidential attorney-client correspondence, social security numbers, criminal history, trade secrets, medical records, etc.).

The heightened use of the PRA – and the subsequent heightened impacts to governments – has occurred over the same period that saw local governments lose revenue sources that absorbed some of the cost pressures of PRA requests.

In 2014, California voters approved Proposition 42, which, among other provisions, amended the California constitution to discontinue the requirement that the State reimburse local governments for the cost to comply with PRA laws or any subsequent PRA laws enacted by the Legislature. Prior to Proposition 42, costs for local governments to comply with the PRA were a reimbursable state mandate for which local governments could file annual claims with the State Controller's Office.

In 2020, the California Supreme Court ruled that local agencies cannot charge for staff time and technical costs necessary to review, redact, and release public records in response to PRA requests, allowing fees to be used only for limited circumstances – including, for example, \$0.10 per page for physical copies, the cost of physical hardware used to transmit records, or the cost of data extraction. Agencies are not allowed to seek reimbursement for the significant costs that can be incurred for the time spent by legal counsel in reviewing and explaining the legality of a claim, exemptions, or redactions applicable to the request – or the staff time spent redacting private information from voluminous records requests.

SB 1034 will provide some narrow, limited relief to counties when they receive PRA requests during an emergency. While there are other reforms to the PRA that could both improve public access to records and reduce impacts to local agencies, CSAC applauds any effort to reform the PRA, including this narrow, but beneficial improvement.

For these reasons, CSAC, ACHD, UCC, RCRC, CSDA, PRISM, CAJPA, CCAC, and CARPD support SB 1034. Should you have any questions or concerns regarding our position, please do not hesitate to contact us at the below email addresses.

Sincerely,



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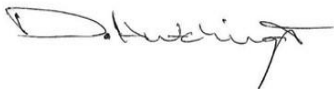
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