



April 3, 2024

The Honorable Blanca Pacheco
California State Assembly
1021 O Street, Suite 6240
Sacramento, CA 95814

**Re: AB 2283 (Pacheco): Public Records: employee personnel records: Notice
As introduced February 8, 2024 – OPPOSE**

Dear Assembly Member Pacheco:

On behalf of the Rural County Representatives of California (RCRC), California State Association of Counties (CSAC), the Urban Counties of California (UCC), the Association of California Healthcare Districts (ACHD) and the Association of California School Administrators (ACSA) we regretfully oppose your Assembly Bill 2283. This bill would require a public agency that receives a request for the personnel records of one of the public agency's employees to provide written notice, as prescribed, to the employee within 48 hours of receipt of the request.

The California Public Records Act (CPRA) is an indispensable component of California's commitment to open government. The fundamental purpose is to give the public access to information that enables them to monitor the functioning of their government. California's public agencies take their responsibilities under the PRA seriously, devoting substantial resources to responding thoroughly and promptly to requests for public records.

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. The cost associated with compliance is borne by public agencies and is not a reimbursable state mandate.

In addition, 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.).

California's commitment to transparency is well-known to the public - including those who enter public service. As the courts observed forty years ago, "although one does not lose his right to privacy upon accepting public employment, the very fact that he is engaged in the public's business strips him of some anonymity."¹ This bill purports not to alter the government's transparency obligations, but in reality will make it much more challenging for public agencies to fulfil this promise by layering on impracticable burdens upon CPRA compliance.

Given the breadth of many CPRA requests, it will often be impossible to tell whether the responsive records include "sensitive information" within 48 hours of receiving the request - or even which employees are affected. Compliance with the bill's notice provisions is likely impossible for most requests within this timeframe (particularly when requests are submitted outside of working hours). Compelling public agencies to drop everything to make such efforts will plainly impair timely compliance with the underlying records request and interfere with the routine work of local agencies to deliver services for their communities.

Further, this bill will inevitably - and perhaps intentionally - foment anti-transparency litigation, i.e., so-called "reverse PRA" lawsuits. These lawsuits seek to prevent the release of public records and drag the requester and the public agency into expensive litigation. The suits are often unsuccessful, and frequently contrary to transparency policies established by the legislature - e.g., *Pasadena Police Officers Assn. v. Superior Court* (2015)², which sought to prevent release of a report regarding an officer-involved shooting to the media, and *Ventura County Deputy Sheriffs' Assn. v. County of Ventura*

¹ *Braun v. City of Taft* (1984) 154 Cal.App.3d 332.

² *Pasadena Police Officers Assn. v. Superior Court* (2015) 240 Cal.App.4th 268.

The Honorable Blanca Pacheco
Assembly Bill 2283
April 3, 2024
Page 3

(2021)³, which challenged implementation of Senate Bill 1421 (Skinner). They nonetheless frequently delay the publication of the people's business, and always add exorbitant costs for all parties involved.

For these reasons, RCRC, UCC, CSAC, ACHD, and ACSA must respectfully oppose your AB 2283. Please do not hesitate to reach out to us with your questions.

Sincerely,



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cc: The Honorable Ash Kalra, Chair, Assembly Judiciary Committee
Members, Assembly Judiciary Committee
Alison Merrilees, Chief Counsel, Assembly Judiciary Committee
Daryl Thomas, Consultant, Assembly Republican Caucus

³ *Ventura County Deputy Sheriffs' Assn. v. County of Ventura* (2021) 61 Cal.App.5th 585.