

LEGISLATIVE COUNSEL'S DIGEST

AB 1184, as amended, Gloria. Public records: records: writing transmitted by electronic mail: retention.

The California Public Records Act requires a public agency, defined to mean any state or local agency, to make public records available for inspection, subject to certain exceptions. Existing law specifies that public records include any writing containing information relating to the conduct of the public's business, including writing transmitted by electronic mail. The act requires any agency that has any information that constitutes a public record not exempt from disclosure, to make that public record available in accordance with ~~certain procedures:~~ provisions and authorizes every agency to adopt regulations stating the procedures to be followed when making its records available, if the regulations are consistent with those provisions. Existing law authorizes cities, counties, and special districts to destroy or to dispose of duplicate records that are less than two years old when they are no longer required by the city, county, or special district, as specified.

This bill would, notwithstanding any law, require public agencies to retain and preserve energy writing transmitted by electronic mail for a period of at least 2 years.

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 the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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.

This bill would state the intent of the Legislature to enact legislation relating to the retention of records by public agencies.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.



AMENDMENTS TO ASSEMBLY BILL NO. 1184

Amendment 1

In the title, in line 1, after "act" insert:

to add Section 6253.32 to the Government Code,

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 6253.32 is added to the Government Code, immediately following Section 6253.31, to read:

6253.32. Notwithstanding any other law, a public agency shall, for the purpose of this chapter retain and preserve, for at least 2 years, every writing transmitted by electronic mail.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Section 6253.32 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act furthers the right of public access to the writings of local public officials and local agencies by requiring that public agencies preserve for at least 2 years every writing transmitted by electronic mail.

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

Amendment 3

On page 1, strike out lines 1 and 2

