

SENATOR KELLY SEYARTO

Representing California's 32nd District



SB 1034 – State of Emergency Public Record Extension

SUMMARY

SB 1034 provides government agencies an extension from 10 days to 24 days to fulfill a public record request during a state of emergency, when the emergency prevents gathering for health and safety reasons.

BACKGROUND

The California Public Records Act (CPRA) was passed by the California Legislature in 1968 for government agencies and requires that government records be disclosed to the public, upon request, unless there are privacy and/or public safety exemptions which would prevent disclosure. When an agency denies all or part of a request based on an exemption, the agency must identify the specific exemption in its response.

In general, California law allows agencies 10 days from the receipt of a public record request to determine whether the record requested is disclosable and to provide notification of their determination to the requesting individual. However, existing law also allows up to a 14-day extension under unusual circumstances which include the need to: 1) collect records from facilities separate from the office processing the request, 2) collect a voluminous amount of distinct and separate records in a single request, 3) consult another agency with substantial interest in the determination of the request, and 4) compile data or write programming language to construct a computer report.

In recent years, the COVID-19 pandemic brought unprecedented circumstances that were not captured under the current definition of “unusual circumstances” for the purposes of the CPRA. Consequently, agencies were obligated to allocate limited time and resources to comply with the normal 10-day determination period in the midst of a statewide public health and safety emergency.

PROPOSAL

SB 1034 provides a reasonable recognition that an “unusual circumstance” includes a state of emergency that causes decreased staffing or closure of agency facilities, thereby allowing agencies a 14-day extension to make determinations on public record requests. This new provision is only applicable to instances in which the requested record is not related to the state of emergency.

FOR MORE INFORMATION

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