

ASSEMBLY BILL

No. 2093

Introduced by Assembly Member Gloria

February 5, 2020

An act to add Section 6253.32 to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2093, as introduced, Gloria. Public records: writing transmitted by electronic mail: retention.

Existing law, 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. Existing law 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 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, unless a longer retention period is required by statute or regulation, or established by the Secretary of State pursuant to the State Records Management Act, require a public agency, for purposes of the California Public Records Act, to retain and preserve for at least

2 years every public record, as defined, that is transmitted by electronic mail.

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.

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

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

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

3 6253.32. Unless a longer retention period is required by statute
4 or regulation, or established by the Secretary of State pursuant to
5 the State Records Management Act (Article 7 (commencing with
6 Section 12270) of Chapter 3 of Part 2 of Division 3 of Title 2), a
7 public agency shall, for the purpose of this chapter, retain and
8 preserve for at least two years every public record, as defined in
9 subdivision (e) of Section 6252, that is transmitted by electronic
10 mail.

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

20 This act furthers the right of public access to the writings of local
21 public officials and local agencies by requiring that public agencies

1 preserve for at least two years every public record that is
2 transmitted by electronic mail.

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district under this act would result from a legislative mandate that
7 is within the scope of paragraph (7) of subdivision (b) of Section
8 3 of Article I of the California Constitution.