

AB 2093 (Gloria) – 2-Year Email Retention Mandate on Public Agencies

CSDA is encouraging districts take action by submitting letters of opposition to AB 2093 (Gloria). The bill has not yet been scheduled for a hearing in the Assembly Judiciary Committee but will likely be heard by the end of March.

Assembly Bill 2093 (Gloria) will require all public agencies, including special districts, to retain all emails related to the public's business for two years. The practical effect of this is that every public agency will need to keep all emails, sent and received, including out-of-office and spam emails for two years. The bill states that this is to be done in furtherance of the California Public Records Act (CPRA) to ensure that the State will not need to reimburse public agencies for any additional costs associated with this new mandate. AB 2093 is identical to a bill from last year, AB 1184 (Gloria, 2019), which was opposed by CSDA and vetoed by Governor Newsom. The Governor's veto Message stated:

"I am returning Assembly Bill 1184 without my signature. This bill would require state and local public agencies to retain every public record transmitted by e-mail for at least two years. This bill does not strike the appropriate balance between the benefits of greater transparency through the public's access to public records, and the burdens of a dramatic increase in records-retention requirements, including associated personnel and data-management costs to taxpayer. Therefore, I am unable to sign this bill."

The impact of AB 2093 will require many agencies to purchase additional servers to store the massive amounts of data contained in the emails. Additionally, many agencies will likely need to hire additional staff to respond to CPRA requests in order to review and filter through all the additional emails agencies are maintaining. AB 2093 will also likely result in lengthened response times to CPRA requests.

While we all support transparency, this bill does not create greater transparency, it is simply a data retention bill. AB 2093 makes no changes to what agencies are required to disclose or what is exempt from disclosure under the CPRA. Draft documents and internal memos remain exempt from disclosure should an agency wish to exercise that exemption.

This bill will have negative impacts on all public agencies that aren't currently retaining all of their emails for two years.