

CGIA Board Position on AB 1978

Summary: CGIA Board Position on AB 1978

After careful review, the CGIA Board has taken an advisory position to oppose AB 1978.

In general, the CGIA Board opposes AB 1978 because it does not advance the purpose of the Public Records Act; the proposed legislation adds unclear language that could reduce the public's access to computer mapping data. This bill also could allow public agencies to increase the price of mapping data developed and funded by state and local agencies.

Background on the California Public Records Act

Existing law, the California Public Records Act, requires state and local agencies to make their records available during regular business hours and, upon request, to provide a copy of a record upon payment of any applicable fee, unless an exemption from disclosure applies.

More specifically, Section 6254.9 of the Government Code states:

(a) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.

(b) (1) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems. (AB 1978 would add Section b (2) as show below.)

AB 1978 Proposes

AB 1978 would amend the State of California Public Records Act to modify the meaning of the term "software" which is currently exempted by the Public Records Act. The PRA provides that computer software developed by a state or local agency is not a public record, with "computer software" defined for this purpose as including "computer mapping systems, computer programs, and computer graphics systems." Consequently, a state or local agency could to sell, lease, and license the "software" (including mapping systems as defined below) for commercial or noncommercial use.

AB 1978 proposes that 6254.9 of the Government Code be amended to add this sentence:

(2) Computer mapping systems include, assembled model data, metadata, and listings of metadata, regardless of medium, and tools by which computer mapping system records are created, stored, and retrieved.

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CGIA Board Perspective

CGIA Board has taken an advisory position that opposes AB 1978 for the following reasons:

1. Computer mapping system data models, metadata, and listings of metadata are not properly included in the standard definition of software. Software is considered to be a computer program, referring to either an executable program or the source code from which an executable program is compiled. Software directs hardware and other software to perform tasks. "Computer mapping systems" as would be defined in the proposed bill do not have this meaning.
2. The language proposed by AB 1978 does not define "computer mapping systems," "model data," "metadata," and "metadata listings." This may create additional confusion and ambiguity to the meaning of "computer mapping systems" as "software."
3. AB 1978 as currently written appears to allow public agencies to charge members of the public more for public record data than the cost of reproduction, due to its expansion of the "software" exemption.
4. This proposed expansion of the software exemption could place an unnecessary limitation on the public's right to view and obtain copies of public record data that are contained in mapping systems funded and developed by state and local government.
5. It appears that AB 1978, as currently proposed, would authorize state and local governments to sell computer mapping system data and metadata at prices not affordable by the general public but suitable to permit commercial interests to obtain the government-funded data.
6. Current law does not define "computer mapping systems." We believe that the current Public Records Act needs to be modified to ensure appropriate access to mapping system data, and we would be willing to work with members of the California legislature to accomplish this goal.