



San Mateo County Chamber of Commerce Alliance

February 2016 Legislative Report

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Legislative Report

- **AB 83 (Gatto – D) Personal Data**
- **AB 1713 (Eggman – D) Sacramento – San Joaquin Delta: Peripheral Canal**
- **SB 269 (Roth – D) Disability Access**
- **SB 438 (Hill – D) Earthquake Safety**

Legislative Report

AB 83 (Gatto – D) Personal Data

Summary

1. AB 83 expands the definition of "personal information" for which businesses must implement and maintain reasonable security procedures and practices in order to protect the information from unauthorized access, destruction, use, modification, or disclosure.

Background

2. Specifically, AB 83 adds geophysical location information, tax identification numbers, passport numbers, biometric information, health insurance information, usernames or email addresses in combination with passwords or other specified authentication credentials, and signatures to the list of protected personal information.
3. AB 83 also establishes certain minimum criteria for the reasonable security procedures and practices that must be followed, including identifying reasonably foreseeable internal and external risks and regularly assessing the sufficiency of security safeguards in place to control those risks.
4. Current law:
 - a. Provides, in the California Constitution, that all people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.
 - b. Requires state agencies, under the Information Practices Act (IPA), to establish appropriate and reasonable administrative, technical, and physical safeguards to ensure compliance with the IPA, to ensure the security and confidentiality of records, and to protect against anticipated threats or hazards to their security or integrity which could result in any injury.
 - c. Requires a business that owns, licenses, or maintains personal information about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.
 - d. Requires a business that discloses personal information about a California resident pursuant to a contract with a nonaffiliated third party that is not subject to the restriction above to require by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.
 - e. Defines "personal information" to mean an individual's first name or first initial and his or her last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:
 - i. Social security number;
 - ii. Driver's license number or California identification card number;
 - iii. Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account; and
 - iv. Medical information.
 - f. States that "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.
5. AB 83 is currently located in the Senate Inactive File and awaiting a committee hearing.

Arguments in Support

6. According to the Utility Reform Network, AB 83 requires businesses that collect, maintain, or disseminate information that identifies an individual to meet stronger standards for protecting their stored data.

7. Specifically, AB 83 defines "private data" to include medical information, financial information, geolocation or travel information, and any combination of information that identifies an individual - including a maiden name, social security number or date of birth.
8. AB 83 then applies a minimum standard for the security of this private data. The California Information Practices Act is meant to guarantee that privacy is protected to the greatest extent possible. AB 83 updates this Act to ensure that our privacy protection standards continue to meet the highest standards.

Arguments in Opposition

9. According to the California Chamber of Commerce, the current California data security statute requires businesses to "implement and maintain reasonable security procedures and practices" in order to protect a consumer's personal information from unauthorized access, destruction, use, modification, or disclosure."
10. This statute is designed to protect highly sensitive personal data maintained by businesses including social security numbers, health information and financial account information.
11. AB 83 significantly broadens the scope of the definition of "personal information" under this statute, thereby requiring businesses to expand security resources and face increased litigation risk for data that has not been included in other state or federal data security proposals and is not sensitive for consumers.

Supporting

California Credit Union League
Privacy Rights Clearinghouse
Utility Reform Network

Opposing

California Chamber of Commerce
California Grocers Association
California Retailers Association
CTIA - The Wireless Association
Direct Marketing Association

Summary

1. AB 1713 would prohibit the construction of a peripheral canal, unless expressly authorized by an initiative voted on by the voters of California on or after January 1, 2017, and would require the Legislative Analyst's Office to complete a prescribed economic feasibility analysis prior to a vote authorizing the construction of a peripheral canal.

Background

2. Current law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta.
3. AB 1713 would require approval via ballot initiative for any infrastructure project that conveys water directly from a diversion point in the Sacramento River to pumping facilities of the State Water Project or the federal Central Valley Project south of the Delta.
4. AB 1713 is pending a committee hearing in the Assembly.

Arguments in Support

5. According to the author, “In 2012, the Governor was committed to asking the voters to approve a substantial tax increase. I’m hopeful he will be just as committed to seeking voter approval before embarking on a project that will cost tens of billions of dollars and greatly impact the Delta region.”

Arguments in Opposition

6. According to opponents, AB 1713 is a ballot box approach to solving problems in the Delta and AB 1713 would create a double standard for those that are willing to make critical improvements to the backbone water infrastructure that runs our statewide economy. Voters are not asked where and how to build new transmission lines and when and how to rebuild bridges.

Supporting

Food & Water Watch
Restore the Delta
Southern California Watershed Alliance

Opposing

Metropolitan Water District of Southern California

Summary

1. SB 269 establishes a rebuttable presumption in actions regarding discrimination relating to a construction-related accessibility standard, that certain technical violations do not cause a plaintiff to experience difficulty, discomfort, or embarrassment, if specified conditions are met.

Background

2. SB 269 also provides a specified exemption and requires a list of certified access specialists.
3. This relates to the certification program for such specialists and to reviews of projects which have received an access certification.
4. SB 269 is similar to SB 251 (2015) which was vetoed by the Governor.
5. SB 269 requires the California Commission on Disability Access to post education materials for business owners regarding how to comply with California construction-related accessibility standards, as well as share that information with local agencies and departments.
6. Key issues of SB 269:
 - a. Should existing state laws governing construction-related accessibility claims be modified to create a rebuttable presumption that certain specified technical violations of construction-related accessibility standards do not cause a person difficulty, discomfort or embarrassment for the purpose of an award of minimum statutory damages, where the defendant is a small business, the defendant has, within 15 days of the service of a summons and complaint, corrected all of the technical violations that are the basis of the claim?
 - b. Should a business with 50 or fewer employees be protected from liability for minimum statutory damages in a construction-related accessibility claim during the 120-day period after the business has obtained an inspection of its premises by a Certified access specialist, allowing the business to identify and correct violations during that period under certain conditions?
 - c. Should the above changes in the law take effect immediately and apply to construction-related accessibility claims filed on or after the date when this legislation becomes law?
7. California Chamber of Commerce has labeled SB 269 as a “job creator” piece of legislation for 2016.
8. SB 269 is currently awaiting a hearing in Assembly Appropriations Committee.

Arguments in Support

9. According to the author, SB 269 is necessary because many small businesses remain out of compliance with longstanding state and federal disability access laws, leaving them vulnerable to lawsuits.
10. Some of these suits, the author and supporters allege (and even some of the opponents concede), are brought by plaintiffs for personal financial benefit, not out of a desire to improve access for disabled consumers and have access barriers removed, and some of these suits are brought against businesses that are willing to comply but are hampered by the complexity of the law.
11. Disability rights advocates (and this Committee) have opposed prior efforts to give defendants the right to cure violations of the law after they are sued, but agree with the supporters on a number of points, including that many businesses are not in compliance with access laws despite these laws long-standing existence and that many lawsuits are filed, some by plaintiffs seeking monetary recovery, rather than improved access.

Arguments in Opposition

12. Disability advocates, in opposition to SB 269, argue that they have supported prior legislation to increase business awareness of access obligations, improve voluntary compliance, and reward responsible behavior and that those reforms should be furthered, not circumvented.
13. Opponents argue that SB 269 singles out people with disabilities for unprecedented obstacles to the enforcement of their civil rights, deprives them of a remedy for actual violations, and will deter, rather than encourage, compliance with disability discrimination laws.
14. Moreover, opponents state that the promise of SB 269 may be misleadingly unattainable because the requirements it would impose are inconsistent with federal disability discrimination law and therefore would not preclude many of the lawsuits (in federal court) against which businesses seek protection.

Supporting

Associated Builders and Contractors San Diego Chapter
California Ambulance Association
California Business Properties Association
California Chamber of Commerce
Civil Justice Association of California
Consumer Attorneys of California
Southwest California Legislative Council

Opposing

American Civil Liberties Union of California
Disability Rights California

Summary

1. SB 438 strikes language in current law that prohibits General Fund dollars from being used to fund the Earthquake Early Warning System.

Background

2. State Senator Jerry Hill joins Assembly Member Adam Gray and Senator Robert Hertzberg in introducing similar legislation.
3. Additionally, SB 438 will appropriate \$23.1 million to install the needed seismic sensors, to implement the telecommunications technology, and to get the system up and running.
4. In 2013, California passed a law requiring the Governor's Office of Emergency Services (CalOES) to develop a comprehensive statewide earthquake early warning system based on public-private partnerships. The law prohibited the use of General Fund dollars to create the system.
5. The early warning system is essential in California, which, according to the United States Geological Survey (USGS), is the second most seismologically active state. Only Alaska has more earthquake activity.
6. According to the Federal Emergency Management Agency, 66 percent (\$3.5 billion) of the annual monetary losses resulting from earthquakes occur in California.
7. An earthquake early warning system is composed of a series of sensors in the ground that detect shaking and disseminate warnings up to 60 seconds before the shaking occurs. While the warning may only be a few seconds before shaking occurs, it can have many benefits:
 - a. Providing time for residents to drop and cover
 - b. Passenger and commuter trains can come to a complete stop or slow down to prevent derailment
 - c. Doctors performing surgeries would be able to stop delicate procedures
 - d. Elevators could automatically stop at the nearest floor and doors could open so people could exit
 - e. Other automated responses could include fire station garage doors opening when alerts occurs so the doors don't jam during earthquakes. Businesses can shut off equipment or put crucial operations into safe mode to protect workers and facilities
8. Currently, there is a prototype earthquake early warning system in place, called ShakeAlert, which is a partnership between the USGS, UC Berkeley, CalTech, and the Governor's Office of Emergency Services.
9. The system is funded largely by the USGS (\$9 million) and the Gordon and Betty Moore Foundation (\$10 million).
10. The ShakeAlert system is comprised of about 400 sensors throughout the state and is limited to sending alerts to participating prototype system partners, such as Bay Area Rapid Transit (BART).
11. ShakeAlert does not provide earthquake warnings to the public or on a statewide basis because it does not have a dense enough network of sensors, nor enough connectivity to disseminate alerts on a broad scale.
12. California, through the Governor's Office of Emergency Services and the California Geological Survey, provides \$5.2 million to operate a network of seismic sensors, called the California Integrated Seismic Network, which provides earthquake shaking information to the ShakeAlert system.
13. The law passed in 2013 was intended to expand the prototype system, but adequate funding has not been obtained for the expansion.
14. As estimated by the USGS, at least \$23.1 million in additional funding is needed for one-time start-up costs, and another \$11.4 million is needed for ongoing maintenance and operation costs.

15. Last December (2015) the federal government provided another \$8.2 million for earthquake early warning to be split up between California, Washington, and Oregon, but the state of California has yet to provide any additional funding beyond what it already provides for seismic sensors because current law prohibits the use of General Fund dollars.
16. The funding provided by Senator Hill's, Senator Hertzberg's, and Assembly Member Gray's legislation would be used to launch the warning system, which would include installing 440 new and upgraded seismic sensors throughout the state, connecting 840 existing seismic sensors with communications equipment so they can be hooked up into the system, and developing a system to send alerts to the public.
17. When the Napa earthquake struck in August 2014, the ShakeAlert system provided BART with a 10 second warning.
18. Had BART trains been running at the time (the earthquake struck early in the morning, before trains were running), the trains would have automatically slowed down or come to a complete stop when the alert was received.
19. Several other countries have already implemented earthquake early warning systems.
20. After the 1995 Kobe earthquake that killed more than 6,400 people, Japan implemented a warning system that went online in 2007.
21. The system helped save lives during the disastrous 2011 earthquake, which led to the closure of the Fukushima nuclear power plant.
22. After more than 10,000 people died in the 1991 Mexico City earthquake, Mexico implemented an early warning system as well.

Arguments in Support

23. From State Senator Hill: "I urge my colleagues and the Governor to join us in fulfilling our primary responsibility of protecting the public. There's no valid reason not to make this relatively small investment in an early warning system that has the potential to save the lives of Californians and prevent injury. We owe it to Californians to get this system up and running as soon as possible."

Arguments in Opposition

None on file at this time.

Supporting

None on file at this time.

Opposing

None on file at this time.