





**COUNCILMEMBER CHRIS CATE**  
**COUNCILMEMBER VIVIAN MORENO**

**City of San Diego**  
**Sixth District**  
**Eighth District**

**MEMORANDUM**

DATE: March 11, 2019

TO: Honorable Mayor Kevin Faulconer  
Honorable Council President Georgette Gomez

FROM: Councilmember Chris Cate   
Councilmember Vivian Moreno 

SUBJECT: Opposition to Senate Bill 615- California Public Records Disclosure

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Senate Bill 615- California Public Records Disclosure, was introduced to the State Senate Rules Committee in late February. The bill aims to amend Sections 6258 and 6259 of the Government Code relating to the California Public Records Act. The bill would require that a person would need to meet and confer in good faith with a public agency to informally resolve issues relating to a public records act request before instituting any proceeding for injunctive or declarative relief. It would also require a trial court to find by a preponderance of evidence that an agency knowingly, willfully, and without substantial justification failed to respond to a request for records, improperly withheld from a member of the public records that were clearly subject to public disclosure, unreasonably delayed providing the contents of a record subject to disclosure in part or in whole, improperly assessed a fee upon a requester that exceeded the direct cost of duplication, or otherwise did not act in good faith to comply with these provisions.

It has been noted by open government advocates and many journalists that this legislation will make it more difficult for a member of the public to gain information about their government.

The language outlining a “preponderance of evidence” standard will be nearly impossible for the public to meet. Additionally, the legislation will make it more difficult to collect attorney’s fees from agencies found in violation of the law, drawing public interest attorneys away from this work and requiring any person requesting information to bear the cost of wanting public information disclosed.

Senate Bill 615 runs contrary to Article I, Section 3 (b), paragraph (7) in the California Constitution which states, “In order to ensure public access to the meetings of public bodies and the writings of public officials and agencies, as specified in paragraph (1), each local agency is hereby required to comply with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), and with any subsequent statutory enactment amending either act, enacting a successor act, or amending any successor act that contains findings demonstrating that the statutory enactment furthers the purposes of this section.” In short, this bill would devastate the Public Records Act and diminish the general public’s ability to compel a government agency to release documents.

The city’s annual State and Federal Legislative Platform is a guiding document that outlines the city’s principles and priorities in advocating for legislative, regulatory, administrative and budget issues throughout the year. One critical priority area identified in the legislative platform is “Open Government & City Funding” (priority area number 4), with direction to “Support greater transparency in all levels of government institutions...” SB 615 does not support greater transparency in government and, in fact, decreases the public’s ability to remedy a government agency’s unlawful denial of public documents. As such, we suggest the city’s 2019 State and Federal Legislative Priorities be amended as follows:

1. Add Section 4.10: Oppose legislation that undermines, impairs or erodes the intent of the California Public Records Act or the public’s ability to access public records.
2. Add Section 4.11: Oppose Senate Bill 615: California Public Records Disclosure.

CC: Honorable City Councilmembers  
Honorable City Attorney Mara Elliott  
Andrea Tevlin, Independent Budget Analyst