

**BILL:** ASSEMBLY BILL 1479

**AUTHOR:** ASSEMBLYMEMBER ROB BONTA (D- ALAMEDA)

**SUBJECT:** PUBLIC RECORDS: CUSTODIAN OF RECORDS: CIVIL PENALTIES

**STATUS:** ASSEMBLY APPROPRIATIONS COMMITTEE  
HEARING SCHEDULED: MAY 10, 2017

**ACTION:** OPPOSE

**RECOMMENDATION**

Staff recommends that the Board of Directors adopt an OPPOSE position on Assembly Bill 1479 (Bonta).

**ISSUE**

Assemblymember Rob Bonta has recently amended Assembly Bill 1479, which would make substantial changes to the California Public Records Act related to civil penalties.

Specifically the bill would:

- Require public agencies to designate a person or office to act as the agency's custodian of records who is responsible for responding to any request made pursuant to the California Public Records Act and any inquiry from the public about a decision by the agency to deny a request for records; and
- Authorize a court that finds that an agency or the custodian improperly withheld from a member of the public, public records which were clearly subject to public disclosure, unreasonably delayed providing the contents of a record subject to disclosure in whole or in part, assessed an unreasonable or unauthorized fee upon a requester, or otherwise did not act in good faith to comply with these provisions, to assess a civil penalty against the agency in an amount not less than \$1,000, nor more \$5,000.

**DISCUSSION**

This bill was recently amended and, in its current form, aims to impose a civil penalty on public agencies that act in response to California Public Records Act requests. The bill classifies that in the event that an "unreasonable delay" occurs in responding to CPRA requests, penalties should be assessed. These provisions could cause an increase in costs relative to how Metro process public records requests. The County of Los Angeles and the League of California Cities oppose the bill.

Due to the nature of some records requests, a significant amount of staff time and resources may be required to prepare the request, review the contents of the request and respond to the requestor. The civil penalties as outlined in the proposed in the bill would be assessed if the court finds that the agency: (1) improperly withheld a public record that was clearly subject to disclosure, (2) unreasonably delayed providing the contents of a record subject to disclosure in whole or in part, (3) assessed an unreasonable or unauthorized fee upon a requester. Or (4) otherwise did not act in good faith to comply with the PRA.

Supporters of the measure argue that public agencies have impeded the public's right to public information. Opposition to the measure cite that authorizing the courts to assess civil penalties does not rightly address the author's intent of expanding access to public records, it incentivizes individuals to seek damages in the event that they believe their records request was, in fact, delayed.

LA Metro, as an agency aims to be transparent and responsive in adhering to the provisions of the PRA. Metro receives a voluminous number of public records each year, and each request is evaluated thoroughly. Staff has concerns with the potential civil actions and associated civil penalties that would be assessed should this measure go into law as currently drafted. Staff has additional concerns with the statute's lack of clarity relating to the definition of an "unreasonable delay." Under existing law, public agencies are required to comply with strict provisions under the PRA. The PRA also provides the ability for the public to seek a court opinion and litigation under specific circumstances.

Staff recommends that the Board adopt an OPPOSE position on AB 1479 (Bonta).

### **DETERMINATION OF SAFETY IMPACT**

There is no determined safety impact due to the enactment of the proposed legislation.

### **FINANCIAL IMPACT**

The estimated financial impact has yet to be determined.

### **ALTERNATIVES CONSIDERED**

Adopting a support position on the bill would be counter to balancing the need to protect individual privacy rights and agency goals related to transparency in meeting California Public Records Act requirements.

### **NEXT STEPS**

Should the Board decide to adopt an OPPOSE position on this measure; staff will communicate the Board's position to the author and work to oppose the measure. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.