

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

SIERRA CLUB,
Petitioner
vs.

COPY

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE,
Respondent.

COUNTY OF ORANGE,
Real Party in Interest.

NOV 28 2011

AFTER A DECISION BY THE CALIFORNIA COURT OF APPEAL,
FOURTH APPELLATE DISTRICT, DIVISION 3, No. G044138

ORANGE COUNTY SUPERIOR COURT
Honorable James J. Di Cesare
No. 30-2009-00121878-CU-WM-CJC

PETITIONER SIERRA CLUB'S MOTION
REQUESTING JUDICIAL NOTICE
EXHIBITS VOLUME 3 OF 3

Sabrina D. Venskus, SBN 219153; Venskus@lawsv.com
Dean Wallraff, SBN 275908; DWallraff@lawsv.com

Venskus & Associates, P.C.

21 South California Street, Suite 204

Ventura, California 93001

Telephone: (805) 641-0247

Facsimile: (213) 482-4246

Attorneys for Petitioner,
THE SIERRA CLUB

No. S194708

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

SIERRA CLUB,
Petitioner

vs.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE,**
Respondent.

COUNTY OF ORANGE,
Real Party in Interest.

**AFTER A DECISION BY THE CALIFORNIA COURT OF APPEAL,
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Facsimile: (213) 482-4246

Attorneys for Petitioner,
THE SIERRA CLUB

Table of Exhibits

Vol. 1	Exhibit 1	Portions of the legislative history of California Assembly Bill No. 2799, (1999-2000, Regular Session).
	Exhibit 2	Selected pages of "GIS Needs Assessment Study," prepared for County of Orange, California, by Geographic Technologies Group.
	Exhibit 3	Official ballot information for the California 2004 General Election concerning Proposition 59, "Arguments and Rebuttals" web page.
	Exhibit 4 (PA-000952-000953; 955-957; 959-967)	Portions of the legislative history of California Assembly Bill No. 3265, (1987-1988, Regular Session).
Vol. 2	Exhibit 4 (PA-000969-000970; 972-977; 979; 981-982; 984-1007; 1009-1010; 1012-1013; 1015-1026; 1028-1029; 1031)	Portions of the legislative history of California Assembly Bill No. 3265, (1987-1988, Regular Session).
Vol. 3	Exhibit 4 (PA-001033-001072; 1074-1078; 1080)	Portions of the legislative history of California Assembly Bill No. 3265, (1987-1988, Regular Session).
	Exhibit 5	American Heritage Dictionary definition of "program," p.1401, (4 th ed., 2006.)
	Exhibit 6	Excerpts from Paul E. Ceruzzi, <i>A History of Modern Computing</i> , cover page plus pages 272 through 277. (MIT Press 1998.)
	Exhibit 7	LexisNexis generated report showing all relevant amendments to the Public Records Act, and highlighted.
	Exhibit 8	Portions of the legislative history of California Assembly Bill No. 1978, (2007-2008, Regular Session).

SUPPORT	Date Expressed	OPPOSITION	Date Expressed
City of San Jose	3/15/88 <i>3/15/88</i> Sponsor	CA Land Title Assn. <i>no longer</i>	3/25/88
LA Municipal Utilities Assn.	3/4/88	Dept. of Finance <i>Neutral</i>	5/7/88
San Diego Assn. of Govts.	3/14/88		
Assoc. of Licensed Investigators	3/15/88		
Co. of Sacto.	4/1/88		
San Diego C. Bd. of Sup.	4/19/88 <i>4/19/88</i>		
Bd. of Equalization	<i>Neutral</i> 4/24/88		
State Assoc. of Auditors	5/6/88		
City of San Diego	6/7/88 <i>6/7/88</i>		
A.C. Bd. of Sup.	6/7/88 <i>6/7/88</i>		
Co. of Monterey Bay Area Govts.	6/15/88		
Santa Cruz C. Bd. of Sup.	6/26/88		

LEGISLATIVE INTENT SERVICE (800) 666-1917





COUNTY OF LOS ANGELES
CHIEF ADMINISTRATIVE OFFICE

713 HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012
974-1101

MEMBERS OF THE BOARD

PETER F. BCHARARUM
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EDMUND D. EDELMAN
DEANE DANA
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RICHARD B. DIXON
CHIEF ADMINISTRATIVE OFFICER

August 9, 1988

a Randy

Honorable George Deukmejian
Governor of the State of California
State Capitol
Sacramento, CA 96814

RE: ASSEMBLY BILL 3265 (CORTESE), RELATING TO PUBLIC
RECORDS: COMPUTER SOFTWARE -- SUPPORT

Dear Governor Deukmejian:

The Los Angeles County Board of Supervisors supports Assembly Bill 3265 (Cortese), which has passed the Legislature and now awaits your action.

Under existing law, certain public records are to be made available for public inspection. A fee may be charged to offset the cost of duplicating the material.

Assembly Bill 3265 would provide that computer software developed by a state or local agency is not a public record under the Public Records Act. Further, the bill would allow the public agency to sell, lease or license the software for commercial or noncommercial use.

Assembly Bill 3265 could result in increased revenues from the sale and licensing of software developed for the County.

We respectfully request your signature on Assembly Bill 3265.

Very truly yours,

Clancy Leland (RLD)

Clancy Leland
Legislative Representative

CL:WS:DS
AB3265-GOV
cc: Assembly Member Dominic Cortese

(800) 666-1917

LEGISLATIVE INTENT SERVICE



A-2

PA-001034

AB3265 604

Patricia Gayman
SACRAMENTO REPRESENTATIVE
COUNTY OF SAN DIEGO



R

August 19, 1988

*phoned to say
bill signed 8/22
[Signature]*

The Honorable George Deukmejian
Governor of California
State Capitol
Governor's Office
Sacramento, CA 95814

Dear Governor:

The San Diego County Board of Supervisors supports Assembly Bill 3265 by Assemblymember Cortese, relating to public records: proprietary information. Attached is a copy of the County's analysis upon which this support is based.

Please let me know if I can provide you with any further information on the Board's action.

Sincerely,

[Signature]
Patricia Gayman
Sacramento Representative

PG:clb

Attachment

cc: Assembly Member Cortese
Office of Intergovernmental Affairs

LEGISLATIVE INTENT SERVICE (800) 666-1917





CITY OF SAN JOSE, CALIFORNIA

801 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95110
(408) 277-4000

CITY MANAGER

August 10, 1988

cc Ready

The Honorable George Deukmejian
Governor, State of California
Attention: Mr. Bob Williams
State Capitol
Sacramento, California 95814

RE: ASSEMBLY BILL 3265 (Cortese) - REQUEST FOR SIGNATURE

Dear Governor Deukmejian:

The Legislature has passed unanimously and sent to you for your consideration Assembly Bill 3265 (Cortese) relating to public records: proprietary information. The bill was introduced by Assembly Member Cortese at the request of the City of San Jose.

Assembly Bill 3265 proposes to amend the Public Records Act to clarify the distinction between public records subject to mandatory disclosure under the Act and public investments in creative programs and proprietary information systems.

The City of San Jose, as well as many other governmental agencies, have developed various computer readable data bases and other computer stored information at considerable research and development expense. As you are aware, the Public Records Act requires state and local governmental agencies to make any identifiable public record promptly available to any person so requesting, upon payment to cover the direct costs of duplication, or a statutory fee, if applicable. Although the Act does not obligate governmental agencies to provide computer stored or generated information in computer readable form, there is not clear authority for the sale or licensing of the computer information in computer readable forms such as tapes or discs.

Signature of AB 3265 will clarify the status of proprietary information under the Public Records Act and will authorize governmental agencies to recoup public investments of creativity, manpower and public funds required in the development of such information.

Your favorable consideration of AB 3265 would be appreciated.

Sincerely,

[Handwritten signature of Roxanne L. Miller]

ROXANNE L. MILLER
Legislative Representative
Sacramento Office (916) 443-3946

LEGISLATIVE INTENT SERVICE (800) 666-1917



RLM:sc
cc: Assembly Member Dominic Cortese

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C 5-AB3265
THE CITY OF SAN DIEGO

DEPARTMENT OF
INTERGOVERNMENTAL
RELATIONS

August 10, 1988

cc Randy

The Honorable George Deukmejian
Governor, State of California
State Capitol
Sacramento, CA 95814

Re: AB 3265 (Cortese) - SUPPORT

Dear Governor Deukmejian:

The City of San Diego supports AB 3265 (Cortese) which would permit an agency to sell proprietary information or require a licensing agreement for payment of royalties to the agency prior to the subsequent sale or distribution of the information.

AB 3265 deals with the types of information available in the Regional Urban Information System (RUIS) in San Diego. RUIS is a joint city/county project to automate the land based information into one central data base. The bill would allow the implementation of pricing policies which have been developed, and would facilitate the development of new policies for information which will be collected in the future.

On behalf of the City of San Diego I urge you to sign AB 3265 (Cortese). Should you have any questions please do not hesitate to contact me at (916) 448-9006.

Sincerely,

Kathryn C. Rees
Kathryn C. Rees
Legislative Advocate

KCR/MRT

cc: The Honorable Dom Cortese

LEGISLATIVE INTENT SERVICE (800) 666-1917



1100 - 11th Street
Suite 210
Sacramento, CA 95814
(916) 448-9006

City Administration Building
202 C Street
San Diego, CA 92101
(619) 238-6276

1620 I St., NW, Ste. 300
Washington, D.C. 20006
(202) 429-0160
(202) 293-3306

A-5

PA-001037

OTS-AB3265



BOARD OF SUPERVISORS
(408) 425-2201

COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

701 OCEAN STREET

SANTA CRUZ, CALIFORNIA 95060-4069

DAN FORBUS
(FIRST DISTRICT)

ROBLEY LEVY
(SECOND DISTRICT)

GARY A. PATTON
(THIRD DISTRICT)

SHERRY MEHL
(FOURTH DISTRICT)

JOE CUCCHIARA
(FIFTH DISTRICT)

JUL 15 1988

AGENDA: 6/28/88

cc Randy

June 20, 1988

Resolution # 439-88

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: ASSEMBLY BILL 3265--PROPOSED CHANGES
TO CALIFORNIA PUBLIC RECORDS ACT

Board of Supervisors APPROVED	After Board Action copies mailed to	No.
County of Santa Cruz	Auditor	
Date JUN 28 1988	S.A.O.	
By <i>Rob Dink</i>	Co. Counsel	
Deputy Clerk of the Board	Public Works	

LEGISLATIVE INTENT SERVICE (800) 666-1917

Dear Members of the Board:

I am attaching to this letter a copy of Assembly Bill 3265. In addition, I am attaching a recent memorandum directed to the AMBAG Board of Directors, discussing the provisions of this Bill.

Assembly Bill 3265 would clarify that computer software developed or maintained by any State or local agency is not itself a public record, subject to disclosure under the California Public Records Act. Obviously, information contained within files maintained on computers is, or ought to be, a public record--except when certain statutory provisions make such information non-disclosable. The software programs that manipulate the various items of information maintained by public agencies, however, are not necessarily public records, and I believe that such software--which often costs a great deal to develop--ought not to be considered public record.

Unless Assembly Bill 3265 is passed, claims can be made that any software developed by a local, State, or other public agency is in effect to be available "free" to any potential user. I think that this would be unfair and inappropriate. When a governmental agency has incurred expense to develop or to purchase a software program, I believe that it should be able to charge appropriately for the program, if it is released to some other person.

JUN 28 1988
FILED
GEORGE T. NEWELL, COUNTY
ADMINISTRATIVE OFFICER AND CLERK
CLERK OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF SANTA CRUZ, CALIFORNIA
BY *Rob Dink* DEPUTY

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PA-001038

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BOARD OF SUPERVISORS
June 20, 1988
Page 2

In order to indicate our support for Assembly Bill 3265, I recommend that the Board take the following actions:

1. Adopt the attached resolution in support of Assembly Bill 3265.
2. Direct the Clerk of the Board to distribute the resolution as indicated.
3. Direct the County Administrative Officer to place the Bill in our legislative tracking system.

Very truly yours,


GARY A. PATTON, Supervisor
Third District

GAP:lg

cc: Author, *Assembly Member Coates*
County Administrative Officer

2801U

LEGISLATIVE INTENT SERVICE (800) 666-1917



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PA-001039

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BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 439-88

On the motion of Supervisor Patton
duly seconded by Supervisor Forbus
the following resolution is adopted

RESOLUTION URGING PASSAGE OF ASSEMBLY BILL 3265

WHEREAS, Assembly Bill 3265 has been introduced into the California State Legislature; and

WHEREAS, Assembly Bill 3265 would provide that computer software developed or maintained by a State or local agency is not itself a public record, subject to disclosure under the California Public Records Act; and

WHEREAS, it is important that software developed or maintained or purchased by public agencies, utilizing public funds, will not be subject to transfer to other persons, at no cost, and it is appropriate that software developed or maintained by a State or local public agency not be considered, in itself, to be public information subject to be disclosed under the California Public Records Act; and

WHEREAS, it is, of course, imperative that information maintained within computers owned and operated by public agencies be considered to be public record, and should be available to the public, unless otherwise specified for non-disclosure under the California Public Records Act; and

WHEREAS, the provisions of Assembly Bill 3265 would not eliminate the access of the public to important and necessary information maintained by counties, cities, the State, or other public agencies, but would simply protect the software which might be used to manipulate such information and data; and

WHEREAS, the passage of Assembly Bill 3265 would be to the best interest of the State of California, and to all public agencies within the State.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Santa Cruz County hereby urges the enactment of Assembly Bill 3265.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 28th day of June, 1988, by the following vote:

AYES: SUPERVISORS Forbus, Levy, Patton, Mehl, Cucchiara
NOES: SUPERVISORS None
ABSENT: SUPERVISORS None

JOE CUCCHIARA

JOE CUCCHIARA, Chairperson
Board of Supervisors

ATTEST: SUSAN M. ROZARIO
Clerk of the Board

LEGISLATIVE INTENT SERVICE (800) 666-1917



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PA-001040

RESOLUTION URGING PASSAGE OF ASSEMBLY BILL 3265
Page 2

Approved as to form:

Dwight Y. Hess
County Counsel

DISTRIBUTION: Author, Assembly Member Cortese
Assembly Member Farr
Senator Mello
Governor Duekmejian
CSAC
AMBAG
County Counsel

2801U

LEGISLATIVE INTENT SERVICE (800) 666-1917



STATE OF CALIFORNIA)
COUNTY OF SANTA CRUZ) ss
I GEORGE T. NEWELL, County Administrative
Officer and ex-officio Clerk of the Board of
Supervisors of the County of Santa Cruz,
State of California do hereby certify that
the foregoing is a true and correct copy of
a resolution passed and adopted by and
entered in the minutes of the said board.
In witness whereof I have hereunto set
my hand and affixed the seal of the said
Board, on JUL 12 1988
GEORGE T. NEWELL, County
Administrative Officer
By Chh. Bissard Deputy

14

A-9
E I

2-103260 n



CITY OF SAN JOSE, CALIFORNIA

801 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95110
(408) 277-4000

April 29, 1988

CITY MANAGER

Assembly Member John Vasconcellos
Chair, Assembly Ways & Means Committee
Room 6026, State Capitol
Sacramento, California 95814

RE: Assembly Bill 3265 (Cortese) - SUPPORT

Dear Assembly Member Vasconcellos:

Assembly Bill 3265 relating to public records: proprietary information was introduced by Assembly Member Cortese at the request of the City of San Jose. It is our understanding that the bill is now scheduled for hearing on Tuesday, May 3 before the Assembly Ways & Means Committee.

Assembly Bill 3265 proposes to amend the Public Records Act to clarify the distinction between public records subject to mandatory disclosure under the Act and public investments in creative programs and proprietary information systems.

The City of San Jose, as well as many other governmental agencies, have developed various computer readable data bases and other computer stored information at considerable research and development expense. As you are aware, the Public Records Act requires state and local governmental agencies to make any identifiable public record promptly available to any person so requesting, upon payment to cover the direct costs of duplication, or a statutory fee, if applicable. Although the Act does not obligate governmental agencies to provide computer stored or generated information in computer readable form, there is not clear authority for the sale or licensing of the computer information in computer readable forms such as tapes or discs.

Passage of AB 3265 will clarify under the Public Records Act an exemption of proprietary information from disclosure under the Act and authorize government agencies to recoup public investments of creativity, manpower and public funds required for development.

Your "aye" vote on AB 3265 would be appreciated.

Sincerely,

ROXANNE L. MILLER
Legislative Representative
Sacramento Office (916) 443-3946

RLM:sc

cc: Members of Assembly Ways & Means Committee
Judi Smith, Committee Consultant
Assembly Member Dominic Cortese

(800) 666-1917

LEGISLATIVE INTENT SERVICE



A-10

PA-001042

State Association of County Auditors > AB 3265 JL

May 6, 1988

cc: Randy

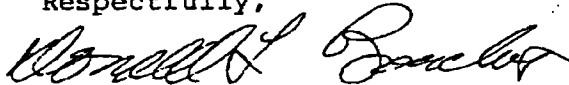
Honorable Dominic Cortese
24th Assembly District
State Capitol
Sacramento, CA 95814

Dear Assemblyman Cortese:

Our Association has reviewed your AB 3265 and is in support of that measure.

Local government has borne the cost of systems development in an effort to become more efficient and to better serve the public. Those systems have also benefitted the private sector by providing current information of much value. It is only proper, then, that the private and the public sector share in the cost of systems development.

Respectfully,



DONALD L. BOUCHET
Contra Costa County Auditor-Controller
and Chairman, County Auditors' Association
Legislative Committee

DLB:mp

LEGISLATIVE INTENT SERVICE (800) 666-1917



A-11

PA-001043

Cortese 0051

2-1105263

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COUNTY OF LOS ANGELES CHIEF ADMINISTRATIVE OFFICE

713 HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012
874-1101

MEMBERS OF THE BOARD
PETER F. SCHABARUM
KENNETH MAHN
EDMUND D. EDELMAN
DEANE DANA
MICHAEL D. ANTONOVICH

RICHARD B. DIXON
CHIEF ADMINISTRATIVE OFFICER

June 7, 1988

cc Randy

Honorable Ralph Dills, Chairman
Senate Governmental Organization Committee
State Capitol, Room 5050
Sacramento, CA 95814

RE: Assembly Bill 3265 (Cortese), As Amended April 4,
1988, relating to Public records -- SUPPORT

Dear Senator Dills:

The Los Angeles County Board of Supervisors supports Assembly Bill 3265 (Cortese), which is scheduled for hearing before your Senate Governmental Organization Committee on Tuesday, June 14, 1988.

Under existing law, certain public records are to be made available for public inspection. A fee may be charged to offset the cost of duplicating the material.

Assembly Bill 3265 would provide that computer software developed or maintained by a state or local agency is not a public record under the Public Records Act. Further, the bill would allow the public agency to sell, lease or license the software for commercial or noncommercial use.

Assembly Bill 3265 could result in increased revenues from the sale and licensing of software developed for the County.

We respectfully request the Committee's "AYE" vote on Assembly Bill 3265.

Very truly yours,

Clancy Leland
Legislative Representative

CL:WS:DS
AB3265

cc: Assembly Member Dominic Cortese
Each Member and Consultant,
Senate Governmental Organization Committee

LEGISLATIVE INTENT SERVICE (800) 666-1917



A-12

PA-001044



THE CITY OF SAN DIEGO

S-AB3265
12

DEPARTMENT OF
INTERGOVERNMENTAL
RELATIONS

June 7, 1988

cc: *Rees*

The Honorable Ralph Dills
California State Senate
State Capitol, Room 5050
Sacramento, CA 95814

Re: AB 3265 (Cortese) - SUPPORT
Hearing: Tuesday, June 14, 1988

Dear Senator Dills:

The City of San Diego supports AB 3265 (Cortese) which provide that existing law does not prohibit an agency from selling proprietary information or requiring a licensing agreement for payment of royalties to the agency prior to the subsequent sale or distribution of the information. AB 3265 is scheduled to be heard in your Governmental Organization Committee on Tuesday, June 14, 1988.

AB 3265 specifically deals with the types on information in the Regional Urban Information System (RUIS) in San Diego. RUIS is a joint city/county project to automate the land based information in to one central data base. The bill would allow the implementation of pricing policies which have been developed, and would facilitate the development of new policies for information which will be collected in the future.

On behalf of the City of San Diego I urge you to vote "Aye" on AB 3265 (Cortese). Should you have any questions please do not hesitate to contact me at (916) 448-9006.

Sincerely,

Kathryn C. Rees

Kathryn C. Rees
Legislative Advocate

KCR/MRT

cc: The Honorable Dom Cortese

LEGISLATIVE INTENT SERVICE (800) 666-1917



1100 - 11th Street
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(916) 448-9006

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202 C Street
San Diego, CA 92101
(619) 238-8276

1620 I St., NW, Ste. 300
Washington, D.C. 20006
(202) 429-0160
(202) 293-3306

A-13

PA-001045



CITY OF SAN JOSÉ, CALIFORNIA

801 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95110
(408) 277-4000

CITY MANAGER

June 9, 1988

Senator Ralph Dills
Chair, Senate Governmental Organization Committee
Room 5050, State Capitol
Sacramento, California 95814

RE: ASSEMBLY BILL 3265 (CORTESE) - SUPPORT

Dear Senator Dills:

Assembly Bill 3265 relating to public records: proprietary information was introduced by Assembly Member Cortese at the request of the City of San Jose. It is our understanding that the bill is now scheduled for hearing on Tuesday, June 14 before the Senate Governmental Organization Committee.

Assembly Bill 3265 proposes to amend the Public Records Act to clarify the distinction between public records subject to mandatory disclosure under the Act and public investments in creative programs and proprietary information systems.

The City of San Jose, as well as many other governmental agencies, have developed various computer readable data bases and other computer stored information at considerable research and development expense. As you are aware, the Public Records Act requires state and local governmental agencies to make any identifiable public record promptly available to any person so requesting, upon payment to cover the direct costs of duplication, or a statutory fee, if applicable. Although the Act does not obligate governmental agencies to provide computer stored or generated information in computer readable form, there is not clear authority for the sale or licensing of the computer information in computer readable forms such as tapes or discs.

Passage of AB 3265 will clarify, under the Public Records Act, an exemption of proprietary information from disclosure under the Act and authorize government agencies to recoup public investments of creativity, manpower and public funds required for development

Your "aye" vote on AB 3265 would be appreciated.

Sincerely,

ROXANNE L. MILLER
Legislative Representative
Sacramento Office (916) 443-3946

RLM:sc

cc: Members, Senate Governmental Organization Committee
Arthur Terzakis, Committee Consultant
Assembly Member Dominic Cortese

LEGISLATIVE INTENT SERVICE (800) 666-1917



A-14

PA-001046



ASSOCIATION OF MONTEREY BAY AREA GOVERNMENTS

MAIL ADDRESS: P.O. BOX 190, MONTEREY, CALIFORNIA 93942 • TELEPHONE (408) 373-6116
OFFICE LOCATION: 977 PACIFIC STREET

June 15, 1988

cc Randy -

Honorable Dominic Cortese
Assemblymen, 24th District
6031 State Capitol
Sacramento, California 95814

Dear Mr. Cortese:

I am writing to express the support of the Board of Directors of the Association of Monterey Bay Area Governments for Assembly Bill 3265. We believe the bill protects the public's right of access to records concerning the people's business while establishing the proprietary right of government agencies to computerized software and databases not directly related to the peoples business.

Sincerely,

Ruth M. Vreeland
President

SW:RMV

LEGISLATIVE INTENT SERVICE (800) 666-1917



A-15

PA-001047



THE CITY OF SAN DIEGO

S-AB3265

✓

DEPARTMENT OF INTERGOVERNMENTAL RELATIONS

June 21, 1988

cc Randy -

The Honorable Robert Presley
California State Senate
State Capitol, Room 4048
Sacramento, CA 95814

Re: AB 3265 (Cortese) - SUPPORT
Hearing: Monday, June 27, 1988

Dear Senator Presley:

The City of San Diego supports AB 3265 (Cortese) which provides that existing law does not prohibit an agency from selling proprietary information or requiring a licensing agreement for payment of royalties to the agency prior to the subsequent sale or distribution of the information. AB 3265 is scheduled to be heard in your Appropriations Committee on Monday, June 27, 1988.

AB 3265 specifically deals with the types of information in the Regional Urban Information System (RUIS) in San Diego. RUIS is a joint city/county project to automate the land based information into one central data base. The bill would allow the implementation of pricing policies which have been developed, and would facilitate the development of new policies for information which will be collected in the future.

On behalf of the City of San Diego I urge you to vote "Aye" on AB 3265 (Cortese). Should you have any questions please do not hesitate to contact me at (916) 448-9006.

Sincerely,

Kathryn C. Rees

Kathryn C. Rees
Legislative Advocate

KCR/MRT

cc: The Honorable Dom Cortese ✓

LEGISLATIVE INTENT SERVICE (800) 666-1917



1100 - 11th Street
Suite 210
Sacramento, CA 95814
(916) 448-9006

City Administration Building
202 C Street
San Diego, CA 92101
(619) 236-6276

1620 I St., NW, Ste. 300
Washington, D.C. 20006
(202) 429-0160
(202) 293-3306

A-16

PA-001048

N-AB 3265 r
MAY 22 1988

STATE BOARD OF EQUALIZATION - LEGISLATIVE OFFICE
BILL ANALYSIS ACTION

cc Randy

Date: June 15, 1988

Bill No: AB 3265 Date Amended: 06/09/88

Author: Cortese Tax: Administration

Position: Neutral Related Bills: SB 1848
SB 1949

- We have no interest in the bill in its present form and will not prepare an analysis.
- We are following the bill but will not prepare an analysis on it in its present form.
- The current amendments do not affect our previous analysis and we have no further comments.
- See comments

COMMENTS:

LEGISLATIVE INTENT SERVICE (800) 666-1917



Please direct further inquiries to: Margaret Shedd Boatwright
(322-2376)

MS
Chap
6/15/88

A-17

PA-001049



**COUNTY OF LOS ANGELES
CHIEF ADMINISTRATIVE OFFICE**

713 HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012
074-1101

MEMBERS OF THE BOARD
PETER F. SCHABARUM
KENNETH HAHN
EDMUND D. EDELMAN
DEANE DANA
MICHAEL D. ANTONOVICH

RICHARD B. DIXON
CHIEF ADMINISTRATIVE OFFICER

June 23, 1988

FLOOR LETTER

0020
S-AB 3265A

cc Randy

**ASSEMBLY BILL 3265 (CORTESE)
AS AMENDED JUNE 15, 1988
POSITION: SUPPORT
SENATE THIRD READING FILE**

The Los Angeles County Board of Supervisors supports Assembly Bill 3265 (Cortese), which is currently on the Senate Third Reading File.

Under existing law, certain public records are to be made available for public inspection. A fee may be charged to offset the cost of duplicating the material.

Assembly Bill 3265 would provide that computer software developed by a state or local agency is not a public record under the Public Records Act. Further, the bill would allow the public agency to sell, lease or license the software for commercial or noncommercial use.

Assembly Bill 3265 could result in increased revenues from the sale and licensing of software developed for the County.

We respectfully request the Committee's "AYE" vote on Assembly Bill 3265.

Very truly yours,

Clancy Leland (RLW)

Clancy Leland
Legislative Representative

CL:WS:DS
AB3265-F

cc: Assembly Member Dominic Cortese
Each Member, Los Angeles County Senate Delegation

LEGISLATIVE INTENT SERVICE (800) 666-1917



A-18

PA-001050

N-AB3260 R

STATE BOARD OF EQUALIZATION - LEGISLATIVE OFFICE
BILL ANALYSIS ACTION

Date: June 20, 1988

Bill No: AB 3265 Date Amended: 06/15/88

Author: Cortese Tax: Administration

Position: Neutral Related Bills: SB 1848
SB 1949

- We have no interest in the bill in its present form and will not prepare an analysis.
- We are following the bill but will not prepare an analysis on it in its present form.
- The current amendments do not affect our previous analysis and we have no further comments.
- See comments

COMMENTS:

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Please direct further inquiries to: Margaret Shedd Boatwright
(322-2376) *MSB*
CC *6/22/88*

A-19

PA-001051

Patricia Gayman
SACRAMENTO REPRESENTATIVE
COUNTY OF SAN DIEGO

1100 K STREET, SUITE 100
SACRAMENTO, CALIFORNIA 95814
(916) 447-2868

April 19, 1988

cc Rand

The Honorable Dom Cortese
Member of the Assembly
State Capitol, Room 6031
Sacramento, CA 95814

Re: AB 3265. (Set for hearing
in Assembly Ways & Means)

Dear Dom:

The San Diego County Board of Supervisors at its meeting April 19, voted to support your Assembly Bill 3265. Attached is a copy of the County's analysis upon which this support is based.

Please let me know if I can provide you with any assistance in securing passage of this measure.

Sincerely,



Patricia Gayman
Sacramento Representative

PG:clb

Attachment

cc: Assembly Member Vasconcellos, Chair
Assembly Ways & Means Committee
Mr. Tim Gage, Consultant
Assembly Ways & Means Committee
County Supervisors Association
of California
Office of Intergovernmental Affairs

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A-20

PA-001052

COUNTY OF SAN DIEGO
LEGISLATIVE ANALYSIS

Bill Number: AB 3265 (as introduced) -- Public Records: Proprietary
Information

Author: Assembly Member Cortese

Present Law: Requires each state or local agency, upon receiving any request for a copy of records in its possession which are subject to public disclosure, to make the records promptly available upon payment of fees covering direct costs of duplication or any applicable statutory fee.

Proposed Law: Would provide that existing law does not prohibit an agency from selling proprietary information or requiring a licensing agreement for payment of royalties to the agency prior to any subsequent sale, distribution, or commercial use of the information.

Recommendation: Support (CAO)

Discussion: The California Public Records Act requires that when records subject to public disclosure are requested, each state or local agency must make records promptly available upon payment of reasonable fees for direct cost of duplication or any applicable statutory fee. In many cases, this information which must be provided as a service to the public at a nominal cost is purchased by vendors for resale at a profit.

AB 3265 would specifically provide that this provision does not prohibit an agency from selling proprietary information or requiring a licensing agreement for payment of royalties to the agency prior to a subsequent sale, distribution, or commercial use the proprietary information by any person receiving the information. This bill would define "proprietary information" to include computer readable data bases, computer programs, and computer graphics systems. The bill would further provide that any fee or royalty imposed for proprietary information must be based on the cost of developing and maintaining the information and must take into consideration whether the persons requesting the information contributed to the development of the information.

AB 3265 could potentially provide needed funds to assist in offsetting costs associated with making records generally available to the public, but which are subsequently sold by the requesting party for profit-making purposes. The Recorder and Assessor receive a number of such requests regularly. In addition, this provision could potentially benefit the ongoing joint agency effort for the completion and implementation of the Regional Urban Information System (RUIS). The bill

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PA-001053

specifically deals with the types of information in RUIS for which public access policies, including pricing, have been established. It would also facilitate the development of policies to sell data which will be collected by RUIS in the future. AB 3265 would clarify legal issues regarding the sale of information from RUIS.

The additional demand placed upon public entities by private-for-profit requests would be offset by an appropriate funding source, while at the same time providing needed information to the public and business sectors.

Fiscal Impact: Undetermined, but potentially significant.

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STATE BOARD OF EQUALIZATION
LEGISLATIVE BILL ANALYSIS

cc Randy

Bill Number: AB 3265 Date Amended: 4/4/88
Author: Cortese Tax: Administration
Board Position: Neutral Related Bills: SB 1848
SB 1949

BILL SUMMARY:

This bill would add Section 6254.9 to the Government Code (Public Records Act) to provide that State and local agencies would not be prohibited from selling, leasing, or licensing computer software for commercial or noncommercial use. This bill also provides that computer software is not itself a public record.

ANALYSIS:

In General:

The Public Records Act (PRA) provides "public access" to any records maintained by State and local agencies which are not otherwise exempt from disclosure, thus ensuring every person's right to public information and encouraging open government.

All provisions of the PRA relate to the access of records. There are various exemptions from mandatory disclosure of records. The agency generally has discretion to make more records available than the act requires, provided the release does not violate other confidentiality statutes. An agency may charge a sufficient amount to cover direct costs to recover documents and to duplicate them under the PRA.

The Board currently handles requests for information under the PRA. The Board has set base prices for making certain records available to the public upon request. These base prices cover the cost of compiling, copying, and mailing the information requested.

Background:

According to the author's office, this bill is sponsored by the City of San Jose. The City would like to recoup their development costs of computer databases sold to the public.

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COMMENTS:

1. The Board's Information Management Division has approximately 15 active weekly subscribers to information in the sales and use tax registration database. There are numerous other requests for information from the registration database. The Board sells the information on magnetic tape, labels, or index cards. The magnetic tape contains only data. No computer programs are included.
2. The Board has no plans at this time to develop computer programs that would be usable to the public. Consequently, this bill would not affect the Board's administrative procedures.
3. The April 4, 1988 amendments to the bill do not change the effect of the bill. In its present form the bill speaks more directly to the intent of the bill.

COST ESTIMATE:

This bill would have no impact on Board costs.

REVENUE ESTIMATE:

Unknown.

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Analysis prepared by: Robin J. Kulakow 323-7169 ^{RSK 1/18} 04/07/88
 Contact: Margaret Shedd Boatwright 322-2376
CE/4/9/88 *[Signature]* *4/8/88*

A-24



COUNTY OF SACRAMENTO

1100 K STREET, SUITE 301
SACRAMENTO, CALIFORNIA 95814-3941
(916) 440-6509

BAXTER C. CULVER
Legislative Advocate

DONNA BUTLER
Legislative Assistant

April 1, 1988

CC Randy

The Honorable Dominic Cortese
Member, California State Assembly
Room 6031, State Capitol
Sacramento, California 95814

Subject: AB 3265 -- Support

Dear Dom:

This is to advise you of Sacramento County's support for your AB 3265, relating to proprietary information.

Your bill would allow for the collection of royalties for information purchased from the Recorder for the expressed purpose of subsequent sale, distribution, or commercial use of the information. It would be difficult to estimate the fiscal impact of your bill, but we are certain it is significant.

Please contact me should you need further information.

Very truly yours,

Baxter Culver
Legislative Advocate

cc: County Executive
County Clerk/Recorder

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A-25

PA-001057



CITY OF SAN JOSE, CALIFORNIA

801 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95110
(408) 277-4000

March 31, 1988

CITY MANAGER

5-AB 326510
G.O.
R

ce Randy

Assembly Member Richard Floyd
Chair, Assembly Governmental Organization Committee
Room 4016, State Capitol
Sacramento, California 95814

RE: Assembly Bill 3265 (Cortese) - SUPPORT

Dear Assembly Member Floyd:

Assembly Bill 3265 relating to public records: proprietary information
was introduced by Assembly Member Cortese at the request of the City
of San Jose. It is our understanding that the bill is now scheduled
for hearing on Tuesday, April 5 before the Assembly Governmental
Organization Committee.

Assembly Bill 3265 proposes to amend the Public Records Act to clarify
the distinction between public records subject to mandatory disclosure
under the Act and public investments in creative programs and
proprietary information systems.

The City of San Jose, as well as many other governmental agencies, have
developed various computer readable data bases and other computer
stored information at considerable research and development expense.
As you are aware, the Public Records Act requires state and local
governmental agencies to make any identifiable public record promptly
available to any person so requesting, upon payment to cover the direct
costs of duplication, or a statutory fee, if applicable. Although the
Act does not obligate governmental agencies to provide computer stored
or generated information in computer readable form, there is not clear
authority for the sale or licensing of the computer information in
computer readable forms such as tapes or discs.

Passage of AB 3265 will clarify under the Public Records Act an exemption
of proprietary information from disclosure under the Act and authorize
government agencies to recoup public investments of creativity, manpower
and public funds required for development.

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Your "aye" vote on AB 3265 would be appreciated.

Sincerely,

Roxanne L. Miller (handwritten signature)

ROXANNE L. MILLER
Legislative Representative
Sacramento Office (916) 443-3946

RLM:sc

- cc: Members of Assembly
Governmental Organization Committee
Jeff Ruch, Committee Consultant
Assembly Member Dominic Cortese

A-26

MAR 25 1988

12



CALIFORNIA LAND TITLE ASSOCIATION

P.O. BOX 13968 • SACRAMENTO, CALIFORNIA 95853 • (916) 444-2647

March 25, 1988

The Honorable Dominic Cortese
Member of the Assembly
State Capitol
Sacramento, California 95814

Re: Opposition to Assembly Bill 3265

Dear Dom:


The California Land Title Association (CLTA) has taken an "opposed" position on your AB 3265 relating to the sale of information by a local agency.

The two primary areas of concern are assessor's records and recorder's records which the assessor and recorder are required by law to prepare and maintain.

In each case the title industry uses the information to expedite transfers of real property and in so doing aids both the assessor and recorder by ensuring the prompt payment of property taxes and documentary transfer taxes.

The CLTA believes that where the local agency is required by law to maintain information which we can use to the benefit of the title industry and local government then charges should not exceed duplicating costs. Where it is other types of information developed by a local agency, then we have no objection to AB 3265.

Sincerely,


Lawrence E. Green
Executive Vice President
and Counsel

LEG:vo

cc: Mile Belote
Ralph Simoni

(800) 666-1917

LEGISLATIVE INTENT SERVICE



A-27

LAW OFFICES OF
BIDDLE & HAMILTON

HOTEL SENATOR BUILDING
SUITE 510
1121 L STREET
SACRAMENTO, CALIFORNIA 95814
916-442-7401

S. AB 3265
R

W. CRAIG BIDDLE*
RICHARD L. HAMILTON
CHRISTIAN M. KEINER
TERRI A. DEMITCHELL

*Professional Corporation

ORANGE COUNTY
51 TOWN & COUNTRY BUSINESS PLAZA
1111 TOWN & COUNTRY ROAD
ORANGE, CALIFORNIA 92668
714-541-3588

March 15, 1988

Honorable Dominic Cortese
State Capitol
Sacramento, CA 95814

cc Randy

Re: AB 3265

Dear Assembly Member Cortese:

I am pleased to inform you that our clients, the California Association of Licensed Investigators, are in support of your AB 3265 which would allow governmental agencies to sell proprietary information under certain circumstances.

The Association believes that the ability to sell this information would provide economic assistance to governmental agencies and would be beneficial to those groups or organizations desiring access to this information.

Very truly yours,

BIDDLE & HAMILTON

W. Craig Biddle

W. Craig Biddle

cc: Consultant, Assembly Governmental Organization Committee

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A-28

PA-001060



CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION

3-11-88
K

1213 K STREET, SUITE 103 • SACRAMENTO, CALIFORNIA 95814 • (916) 441-1733 • FAX 441-4053

JERRY JORDAN, Executive Director

March 4, 1988

MAR 8 1988

cc Bundy

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Los Angeles

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Los Angeles

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Long Beach

EVERETT C. ROSS
Riverside

DON VON BAESFELD
Santa Clara

Honorable Dominic L. Cortese
State Capitol, Rm. 6031
Sacramento, CA 95814

Dear Assemblymember Cortese:

The California Municipal Utilities Association supports your
A.B. 3265, relating to public records.

Please let us know if we can be of assistance in securing
passage of this legislation.

Sincerely,

Jerry Jordan
Jerry Jordan

JJ/ael

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An organization for the protection of municipally owned utilities.

C. M. U. A. members provide utility service to more than 70% of the people of California

A:29

PA-001061

S-163265
A

**San Diego
ASSOCIATION OF
GOVERNMENTS**

Suite 524, Security Pacific Plaza
1200 Third Avenue
San Diego, California 92101
(619) 236-5300

MAR 21 1988

March 17, 1988

cc Randy -
cc GO Com. -

Assemblyman Dominic Cortese
6031 State Capitol
Sacramento, CA 95814

RE: AB 3265 (Cortese) - Support


Dear Assemblyman Cortese:

The Executive Committee of the San Diego Association of Governments unanimously approved Resolution 88-57 (attached hereto along with the staff report) supporting AB 3265. This bill is of great importance to SANDAG because it would provide the option under the California Public Records Act to recover development and maintenance costs by selling or licensing computer programs and computer readable data bases which have been developed at great public expense to those who are requesting them for business oriented purposes.

This bill is a fair and reasonable amendment to the act which does not invade the public's right to freely access public information for the cost of reproduction.

We appreciate your efforts in proposing this legislation and strongly urge the legislature to support it.

Sincerely,


KENNETH E. SULZER
Executive Director

KES/rw

Enclosures

- cc: Assemblyman Bill Bradley, 76th District
- Assemblyman Peter R. Chacon, 79th District
- Assemblyman Robert Frazee, 74th District
- Assemblywoman Lucy Killea, 78th District
- Assemblyman Steve Peace, 80th District
- Assemblyman Larry Stirling, 77th District

Deborah Greenfield
(619) 236-5300

LEGISLATIVE INTENT SERVICE (800) 666-1917



MEMBER AGENCIES: Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, Vista and County of San Diego.
ADVISORY/LIAISON MEMBERS: California Department of Transportation, U.S. Department of Defense and Tijuana/Baja California Norte.

A-30

PA-001062

March 11, 1988

**LEGISLATIVE UPDATE: AB 3265 (CORTESE) -
AMENDMENT TO PUBLIC RECORDS ACT
REGARDING PROPRIETARY INFORMATION**

Introduction

AB 3265 would clarify the California Public Records Act (the "Act") (Government Code Section 6250 et seq.) regarding the application of the Act to proprietary information. Proprietary information includes computer readable data bases, computer programs, and computer graphics systems.

Currently, the Act requires each state and local agency upon receiving any request for a copy of records in its possession which are subject to public disclosure to make the records promptly available upon payment of fees covering the direct costs of duplication. The purpose of the Act is to allow access to information concerning the conduct of the people's business (Section 6250). The Act also provides in Section 6256 that copies of computer data shall be provided in a form determined by the agency.

AB 3265 would clarify the application of the Act by authorizing public agencies to sell proprietary information or to require a licensing agreement for payment of royalties to the agency prior to any subsequent sale, distribution, or commercial use of the proprietary information by any persons receiving the information. The fee or royalty imposed must be based on the cost of developing and maintaining the information.

Staff proposes that AB 3265 provides an option to the agency not previously available which is to sell or license proprietary information and to recover costs of development and maintenance when it is determined to be appropriate to do so. Therefore, it is my

RECOMMENDATION

that the Executive Committee approve Resolution 88-57 supporting AB 3265.

Discussion

This bill was proposed by the City of San Jose. The City has been faced with some of the same problems that SANDAG has had over the last few years regarding demands for proprietary information (as defined in AB 3265) for use by the requesting party for profit-making purposes. Generally, the proprietary information requested has been developed and maintained by the public agency at great public expense. In most cases, SANDAG has not been distributing such proprietary information, but complying with the Act by making the data stored therein available for review and reproduction.



Examples of issues SANDAG has faced regarding requests for transfer of computer readable information are:

o Subarea Transportation Models

As part of SANDAG's Local Technical Assistance (LTA) program, computer transportation models and databases are developed for subarea transportation studies. These models and their associated databases allow transportation planners and engineers to evaluate the impacts of proposed land use development on existing and proposed transportation facilities. These subarea transportation studies and the development of the computer models generally cost between \$25,000 and \$50,000. The development of these subarea databases also make use of data produced from other SANDAG work program activities, such as the Regional Growth Forecasts. Requests have been made from a number of transportation consultants that copies of these subarea models and databases be made available in computer readable form. Many of these consultants utilize the same computer software used by SANDAG for transportation modelling. To date, these subarea models have been released to a consultant only through the member agency at a \$500 copy fee. A written agreement is signed limiting the use of the database for the member agency's project and that database as well as any update to the database must be returned upon the completion of the project.

o Surveys

As part of SANDAG's Overall Work Program, major surveys such as the Travel Behavior Survey and the Regional On-Board Transit Survey have been conducted. The Travel Behavior Survey, which was a survey of members of over 2,700 households about their travel habits, cost over \$150,000 to complete. The computer databases developed from this and the transit surveys are used to calibrate our transportation models and provide necessary information for making short range and operational transportation planning decisions. Requests have been made from the private sector (college research centers) for these databases in computer readable form.

o Series 7 Subarea Database

SANDAG has been in contact with the City of San Diego Water Utilities Department and their master plan consultant concerning the availability of the "Series 7 database." The Series 7 database includes an inventory of existing land use, proposed land uses, and the resulting allocation of population, housing and employment out to the year 2010. The Series 7 database is maintained in a format that would allow the geographic analysis required for developing water demand models and the Water Utilities master plan. The overall development cost of this database was more than \$250,000 and requires maintenance and updates. To date, no arrangement with the City of San Diego and their consultant has been made.


KENNETH E. SULZER
Executive Director





**San Diego
ASSOCIATION OF
GOVERNMENTS**

Security Pacific Plaza, Suite 524
1200 Third Avenue
San Diego, California 92101
619/236-5300

RESOLUTION

No.

88-57

SUPPORTING AB 3265

WHEREAS, AB 3265 has been introduced by Assemblyman Cortese in order to clarify the California Public Records Act ("Act") as it relates to "proprietary information"; and

WHEREAS, proprietary information includes computer readable data bases, computer programs, and computer graphics systems; and

WHEREAS, it is in the public's interest to recover the costs of maintenance and development of such information when released by a public agency for use by others for purposes which are outside the established right to access public information intended to be protected under the Act; and

WHEREAS, AB 3265 would provide the option to sell or license such information and recover said costs if the public agency desires to release proprietary information; NOW THEREFORE

BE IT RESOLVED that the Executive Committee of the San Diego Association of Governments supports AB 3265 and encourages its passage by the Legislature.

PASSED AND ADOPTED this 11th day of March, 1988.

LEGISLATIVE INTENT SERVICE (800) 666-1917



Ernie Cowan

CHAIRMAN

[Signature]

ATTEST:

SECRETARY

A-33

MEMBER AGENCIES: Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, Vista, and County of San Diego.
ADVISORY/LIAISON MEMBERS: California Department of Transportation, U.S. Department of Defense, and Tijuana/Baja California Norte.

PA-001065

METRO DIGEST

Bee sues over data cost

The Sacramento Bee filed suit Tuesday against the city of Sacramento and the Police Department over fees charged by police for releasing public records to the newspaper.

Bee reporters are seeking information regarding crimes by the homeless and massage parlor prostitution. Police officials said it would cost \$640 an hour to compile the records from computers, plus charges for computer programming and staff time, according to court documents.

The newspaper ~~contends~~ contends that the fees are excessive, noting that law enforcement agencies in other cities charge much less or nothing for computer time to compile the same information. The newspaper contends the records should be furnished at copying costs only.

City Attorney James P. Jackson said Tuesday night that he had not seen the lawsuit and declined to comment.

Lawyers for The Bee will ask a Superior Court judge Thursday to set a hearing for the newspaper's request.

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A-34

PA-001066

CITY OF SAN JOSE - MEMORANDUM

TO: Administrative Services Committee FROM: Joan R. Gallo
 City Attorney
 SUBJECT: Legislative Proposal For Authority To Sell or License Proprietary Information DATE: January 19, 1988

extra copy

APPROVED

DATE

Background

The City of San Jose, like many other government agencies has developed various computer readable data bases, computer programs, computer graphics systems and other computer stored information at considerable research and development expense. For example, the City's Department of Public Works has recently completed development of a data base for a computer mapping system known as the Automated Mapping System (AMS).

The AMS is the product of eight years of efforts on the part of Public Works to collect and store on computer magnetic tape, city wide information regarding the location of public improvements and natural features. This wide range of data can be arranged in various ways to produce many types of maps for specialized uses, such as fire response, sewer collection, or police beat maps. Public Works estimates that development costs to date have exceeded \$2 million dollars.

Since AMS was developed, the City has received a number of requests from utility companies, engineering firms, map companies and other commercial concerns, for copies of the system in computer readable form, i.e. on magnetic tape. These requests have often come in the form of a request for public records under the Public Records Act.

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A-35

Attached is an interesting article which shows that this issue was recently addressed in Minnesota.

Analysis

The Public Records Act (the Act) requires state and local government agencies to make any identifiable public record promptly available to any person so requesting, upon payment of fees covering the direct costs of duplication, or a statutory fee, if applicable. Govt. Code § 6257. A "public record" includes "magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents." Govt. Code § 6257(1).

Section 6256 provides in part that "Computer data shall be provided in a form determined by the agency". There is no case law interpreting this provision, nor is "computer data" defined in the Act. The provision does indicate a legislative recognition that information which is stored in a computer is capable of being reproduced in a variety of forms, including printed or "hard" copies, as well as computer readable tapes or discs. It is clear that the Public Records Act does not obligate government agencies to provide computer stored or generated information in computer readable form. There is no clear legal authority for the sale or licensing of the computer information in computer readable forms such as tapes or discs.

It is recommended that the City propose an amendment to the Public Records Act which would clearly express a legislative recognition of the distinction between public records subject to mandatory disclosure under the Act and public investments in creative programs and proprietary information systems. The attached proposal clearly exempts proprietary information from

LEGISLATIVE INTENT SERVICE (800) 666-1917



disclosure under the Act and expressly authorizes government agencies to recoup the substantial public investments of creativity, manpower, and public funds required for development.

This amendment also contains a clear statement that the "hard copy" of the data or information remains a public record available upon request.

Recommendations

It is recommended that the City Council sponsor the attached legislative proposal during the 1988 regular session.

JOHN R. WELLS, CITY ATTORNEY

By Kimberly A. Marlow
KIMBERLY A. MARLOW

JRG:KAM:jc

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A-37

Administrative Services Committee
Legislative Proposal for Authority
to Sell or License Proprietary
Information

January 19, 1988
Page 4

Legislative Proposal

Add the following provision to Govt. Code Section 6256.

§ 6256

A) Information or data stored in a computer remains subject to disclosure pursuant to this Section and Section § 6257. However, nothing in this Chapter shall prohibit an agency from selling proprietary information or requiring a licensing agreement for payment of royalties to the agency prior to any subsequent sale, distribution, or commercial use of such proprietary information by any person receiving such information.

Proprietary information shall include computer readable data bases, computer programs, and computer graphics systems.

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A-38

Member Technology Brief: Hennepin County

INSIDE PTI

Hennepin County, Minn., has turned its staff-developed geographic information system into a moneymaker by selling the system's marketing rights to a private firm, Utilmap, as it's called, has already earned the County \$500,000, plus guaranteed royalties of \$1,750,000, and additional royalties of 15 percent of all sales.

The revenue windfall is the result of years of County work developing a sophisticated geographic information system, followed by Hennepin's successful lobbying effort to win passage state legislation allowing the sale or licensing of software in the open market.

After determining that a market existed for the Utilmap program, the County was able to convince the state to permit computer programs to be classified as nonpublic, trade secret information and to allow them to be sold or licensed outside of the competitive bidding process.

Hennepin County then secured a copyright for the system and trademarks. Finally, they held a conference to demonstrate the product to potential vendors, published a call for proposals, selected a vendor, and negotiated a lucrative contract.

What made the effort so worth while was, of course, Utilmap, a computer-aided engineering, mapping, planning, and facilities management system developed through a collaboration between Hennepin County staff and the City of Minneapolis Public Works Department engineers.

Utilmap can produce "seamless" wide-area mapping databases for multiagency land record and infrastructure management applications. Engineers can use its design and drafting components for topographic modeling and to develop and test alternate road designs. The Minneapolis



Hennepin County staff developed the Utilmap program, then lobbied the state legislature to allow them to sell the marketing rights.

street design division was able to reduce its staff significantly with considerable savings using Utilmap.

The system's unique graphic capabilities allow users to create thematic maps for demographic and modeling purposes. Thematic maps can display statistical information geographically in colors, symbols, or shading patterns, giving complex data meaning at a glance.

For example, one map displays day-care facility locations over a background of shading patterns showing the ratio of children under five to those facilities, by census tract. City planners used the map to help evaluate potential locations for new day-care facilities.

The system's precise database design simplifies data

sharing and ensures that up-to-date information is being viewed by all users at all times. Fourth-generation language manages non-graphic information as well as inquiries and updates to mainframe and personal computer databases.

Utilmap currently runs on Apollo Computer Inc.'s interactive graphics workstations. Because the workstations are not dependent on a central processor, a user's system can start with just one workstation, allowing low start-up costs.

For more information on Hennepin County's efforts to market Utilmap, contact Robert L. Hanson, Hennepin County Information Services Department, 612/345-3234. For more information on the computer system, contact Chuck McGover, Utilmap, Inc., 800/541-1591.

NEW MEMBER—Arapahoe County, Colo. (pop. 254,000) is the seventh jurisdiction from Colorado to become a PTI member. Colorado now ranks behind California, Texas, and Virginia in having the largest number of member jurisdictions from an individual state.

WEST COAST NEWS—Bill Mascetti, director of west coast operations for PTI, has been appointed to the steering committee for the Western States Government Technology Conference, which will be held May 18-20, 1985, in Sacramento, Calif. The conference theme is "Building Strategic Partnerships." Last year's conference attracted more than 3,600 people from the public and private sector. For more information on the conference, call 516/443-7133.

IT'S A BOY—PTI Education and Training Manager Susan Benton gave birth to a 6lb, 7oz boy on October 23. Susan and son Peter are doing fine.

NLC CONFERENCE—PTI will host a number of activities during the 1987 NLC Congress of Cities, December 12-15, in Las Vegas, Nevada. The Urban Consortium will hold its annual meeting, and PTI will sponsor several workshops on technology and management issues. Look for us at the Learning Center.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Community Energy Systems Conference Coming to Washington

The U.S. Department of Housing and Urban Development and the U.S. Department of Energy, in cooperation with USCM, PTI and several other associations and institutions, will sponsor the Sixth Annual Conference on Community Energy Systems, January 18-20, in Washington, D.C.

The two-day conference will focus on "Energy Efficient Eco-

nomy Energy Systems as Building Blocks," and is designed to give district heating developers, city and county elected officials, real estate developers, building owners and managers, and local economic development officials the opportunity of finding out just how district heating and cooling—or Community Energy Systems (CES)—can help cities, developers, and businesses.

Conference registration is \$120 prior to January 5, 1985; \$150 after that date. For more information, contact: Ronald Musselwhite or Debra DeHaney, U.S. Conference of Mayors, 202/293-7330; Wyndham Clarke or Andrew Euston, HUD 202/755-5504, or contact PTI's Rich Zolinski, 202/226-2443; or PTLZELINSKI on LINUS.

A-39

PA-001071

MAY 12 1988

Allen's P. C. B. Ed. 1888

San Jose supports bill to restrict access to computer software



Gallo

"The public's
right to know in-
formation will not
be affected."

Mercury News Sacramento Bureau

SACRAMENTO — At the urging of San Jose city officials, Assemblyman Don Cortese is pushing a bill that would allow a government agency to deny free public access to its computer software.

Proponents say the bill, an amendment to California's public record act, would make it possible for San Jose to sell computer programs and computer mapping systems that the city has spent millions to design.

But the legislation is drawing protests from some newspaper executives who fear it could block reporters and other members of the public from examining a wealth of information stored on computer.

"What they're saying is, 'Here's a new public policy reason why we should deny the public access to information, which is it cost us a lot of money to develop this information,'" said Michael B. Dorals, a lobbyist for the California Newspaper Publishers Association. "I don't know where you stop if you head down that road."

San Jose City Attorney Joan Gallo responded that the bill does not actually restrict access to any "infor-

mation" at all. "Computer software or a computer program is not information," she said. "It's a process. The public's right to know information will not be affected."

The Cortese bill has already received unanimous approval from two Assembly committees and is pending before the full Assembly.

San Jose first became interested in protecting its computer software after it spent more than \$1 million to develop an intricate series of computerized road and sewer maps, said Tim Wei, the city's Director of Information Services.

Wei said local engineering companies quickly expressed an interest in obtaining those maps in "computer-readable form" — on computer tape or disk rather than as a paper printout. City officials decided they ought to charge a fee for those computer mapping systems to recoup some of the costs of developing them.

However, existing public records law prevents the

See SOFTWARE, Page 5B

S.J. wants to restrict software access

SOFTWARE, from Page 1B

city from charging more than the cost of duplicating the record. Thus the need for the Cortese bill, Gallo said.

"We felt, why should the city give the floppy disk to someone for free, and have him turn around and make a fortune from it?" she said. "If someone makes money from something developed by the city, the public is entitled to some of that money."

Mel Opatowsky, the president of the California First Amendment Coalition, disagreed with Gallo's reasoning. "If public money and public time are spent to develop something, then that thing should be the property of the public, and available to the public at minimum cost," he said.

Further, Opatowsky said, Gallo is on weak ground when she argues that a computer program should not be considered information.

"If a government agency uses a program to generate information, like that 20 percent of the people pay 80 percent of the taxes, then we might want to know how their computer program determined that," he said. "How you arrive at something is just as important as what you arrive at." 324

In an interview, Cortese said he agreed with some of the newspaper executives' arguments, and stressed that he is carrying the bill only because he wants to help San Jose. He said he will consider amendments that would eliminate the executives' objections.

LEGISLATIVE INTENT SERVICE (800) 666-1917



A-40

PA-001072

ASSEMBLY BILL NO. 3265

1988 REGULAR SESSION

CHAPTER 447

LC	IR	PJC
BTH	LEGAL	DPA
EQ	OLGA	ED
FIN	RES	
F&A	SCS	
H&W	YAC	

AUTHOR CORTESE

DATE RECEIVED 8-9 1988

LAST DAY TO ACT 8-21 1988

ACTION OF GOVERNOR 8-20 1988

LIS - 16

PA-001074 PE-1

JACK L. HORTON
AIGM MACKREY
CHIEF DEPUTIES

JAMES L. ANSFORD
JERRY L. BASSETT
STANLEY M. LOURIMORE
JOHN T. STUDENBAKER
JAMES WYNE

DAVID D. ALVES
JOHN A. CORZINE
C. DAVID DICKERSON
ROBERT GULLER DUFFY
ROBERT D. GROWER
SHERWIN C. MACKENZIE, JR.
TRACY O. POWELL II
MARGUERITE ROTH
PRINCIPAL DEPUTIES

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SACRAMENTO, CA 95814
(916) 448-3087

8011 STATE BUILDING
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LOS ANGELES, CA 90012
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Legislative Counsel of California

BION M. GREGORY

Sacramento, California

August 10, 1988

Honorable George Deukmejian
Governor of California
Sacramento, CA 95814

Assembly Bill No. 3265

Dear Governor Deukmejian:

Pursuant to your request, we have reviewed the above-numbered bill authored by Assembly Member Cortese and, in our opinion, the title and form are sufficient and the bill, if chaptered, will be constitutional. The digest on the printed bill as adopted correctly reflects the views of this office.

Very truly yours,

Bion M. Gregory
Legislative Counsel



By
Jerry L. Bassett
Principal Deputy

JLB:wld

Two copies to Honorable Dominic L. Cortese,
pursuant to Joint Rule 34.

GERALD ROSS ADAMS
MARTIN L. ANDERSON
PAUL ANTILLA
DANA S. APPLING
CHARLES C. ARNOLD
FRANCIS P. BELJAK
DANE B. BOYER
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MICHAEL J. KARNATH
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THOMAS D. WITZMAN
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DEBRA J. ZECH
CHRISTOPHER ZARLE
DEPUTIES

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PE-2

PA-001075



Assembly California Legislature

REPLY TO:

- SACRAMENTO ADDRESS
STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0001
(916) 445-8243
- DISTRICT OFFICE
SUITE 300
100 PASEO DE SAN ANTONIO
SAN JOSE, CA 95113
(408) 269-6500

DOMINIC L. CORTESE
ASSEMBLYMAN, TWENTY-FOURTH DISTRICT

CHAIRMAN
ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

August 10, 1988

CHAIRMAN
LOCAL GOVERNMENT
COMMITTEE
LOCAL GOVERNMENT
SUBCOMMITTEE ON
STATE-LOCAL RELATIONS
SELECT COMMITTEE ON
CALIFORNIA WINE
PRODUCTION AND ECONOMY
SELECT COMMITTEE ON
CHILD CARE
SELECT COMMITTEE ON
NEIGHBORHOOD VIOLENCE
AND MEDIATION

COMMITTEES
AGRICULTURE
GOVERNMENTAL ORGANIZATION
REVENUE AND TAXATION

JOINT COMMITTEES
LEGISLATIVE AUDIT
REFUGEE RESETTLEMENT,
INTERNATIONAL MIGRATION
AND COOPERATIVE DEVELOPMENT

SELECT COMMITTEE
CHILD ABUSE

COMMISSION
SEISMIC SAFETY

The Honorable George Deukmejian
Governor, State of California
State Capitol
Sacramento, California

Dear Governor Deukmejian:

You have before you my Assembly Bill 3265, which allows local agencies to sell, lease, or license computer software for commercial or noncommercial use. Local agencies often incur significant expenses in the development of computer software, and I believe they should be able to recover these expenses.

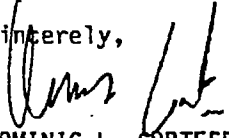
Computer software is defined in the bill as "computer mapping systems, computer programs, and computer graphics systems." The bill does nothing to affect the public record status of information merely because it is stored in a computer.

Amendments to the bill address concerns of credit reporting agencies, computer manufacturers, and newspaper interests.

The bill is sponsored by the City of San Jose and is supported by the California Municipal Utilities Association; the San Diego Association of Governments; Los Angeles, Sacramento, Santa Cruz, and San Diego counties; and numerous other groups.

AB 3265 has no opposition and passed unanimously through the Assembly and the Senate. I respectfully request that you sign AB 3265 into law.

Sincerely,


DOMINIC L. CORTESE
Assemblyman, 24th District

DLC:rp1

LEGISLATIVE INTENT SERVICE (800) 666-1917



PF 3

PA-001076

DEPARTMENT
Finance

BILL NUMBER
AB 3265

AUTHOR
Cortese

LAST AMENDED
June 15, 1988

BILL SUBJECT

This bill would provide that computer software, developed by the State or Local Government, is not a public record. This act would authorize a State or Local Government agency to sell, or lease the software for commercial or noncommercial use.

FISCAL SUMMARY--STATE LEVEL

Code/Department Agency or Revenue Type	SO _____ (Fiscal Impact by Fiscal Year) LA _____ (Dollars in Thousands) CO _____	RV FC 1988-89 FC 1989-90 FC 1990-91	Code Fund
None			

ANALYSIS

A. Specific Findings

The bill defines computer software developed by the State or Local Government as not itself a public record and, therefore, not subject to the Public Record Management Act. The bill would permit a governmental agency to sell, lease or license the software for commercial or noncommercial purposes.

The bill specifically includes computer mapping systems as computer software, thereby permitting their sale.

The bill excludes a governmental agency from any implied warranty that may be inferred by the sale of computer software, or errors, omissions, or other defects in the computer software.

The bill specifies that any data that may be stored on a computer still retains its public record status.

B. Fiscal Analysis

The potential revenue generated by the sale of computer programs, graphics, and information data bases could be substantial depending on the price of the information, program or graphics, and conditions of the sales or licensing agreement. Since the demand and conditions of sale or license are not known, it is not possible to estimate the potential revenue.

POSITION

SIGN THE BILL

DEPARTMENT DIRECTOR

DATE

Nancy Sweet 8/9/88

Principal Analyst Date
(83) Joe Pujals 5-8-88

Ofc. Inf. Tech., Dir. Date
Steve E. Kolodney

Governor's Office

Position noted

Position approved

Position disapproved

by:

Date:

Joe Pujals

Steve E. Kolodney

8/9/88

PE-4

LEGISLATIVE INTENT SERVICE (800) 666-1917



1020 N STREET, SACRAMENTO, CALIFORNIA 95814



NO ENROLLED BILL REPORT REQUIRED

Agency: State and Consumer Services	Bill Number: AB 3265
Department: Department of Consumer Affairs	Author: Cortese

Technical bill - No program or fiscal changes to existing program. No analysis required. No recommendation on signature.

Bill as enrolled no longer within scope of responsibility or program of this Department.

Comments:

This bill would add a new section 6254.9 to the Public Records Act.

It would provide that computer software developed by a state or local agency is not itself a public record, and that it may be sold, leased or licensed for commercial or non-commercial use.

The bill seems very logical and straight-forward.

There is a host of local governmental support for the bill and no known opposition.

LEGISLATIVE INTENT SERVICE (800) 666-1917

RECOMMENDATION:
(SIGN)

DEPARTMENT DIRECTOR: <i>Michael D. Kelly</i>	DATE: <i>8/5/88</i>	AGENCY SECRETARY: <i>Gregory Taylor</i>	DATE: <i>8/8/88</i>
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99D-18 (Rev. 12/82)

PE-5

OFFICE OF THE GOVERNOR
Sacramento, CA 95814
Kevin Brett, Press Secretary
Tom Beermann, Assistant Press Secretary
916/445-4571 8/22/88

RELEASE: Immediate
#593

Governor George Deukmejian has signed the following bills:

AB 1327 Eastin, D-Union City. Authorizes developmental center and state hospital services to receive payments from the California State Lottery Education Fund.

AB 2578 Friedman, D-Los Angeles. Repeals the sunset date on provisions which permit a special absentee voter to apply for and vote a special absentee ballot.

AB 2709 Chacon, D-San Diego. Excludes from audits by the fair Political Practices Commission and investigations, certain statements or reports which had been previously audited, as specified.

AB 2916 Wright, R-Simi Valley. Ensures the availability of small claims court as a forum for individuals involved in minor real property disputes when the property owner is not a resident of the state.

AB 3014 Baker, R-Danville. Establishes a procedure for the consolidation of public services by the Board of Supervisors of Contra Costa County. Urgency.

AB 3016 Klehs, D-San Leandro. Defines "replicated payment" for property tax purposes.

AB 3075 Stirling, R-San Diego. Requires, except as otherwise provided by written agreement, that if a city or county provides crossing guards, the city or county shall pay for the costs of those guards.

AB 3179 Bradley, R-Escondido. Provides that Building Safety Board members would be reimbursed \$100 per day for attendance at scheduled meetings and hearings of the Board where attendance is required by the Board's chairperson.

AB 3232 Killea, D-San Diego. Prohibits, if a person has a valid water-bottling plant license issued by the department, an additional license from being required for a retail water treatment plant.

AB 3265 Cortese, D-San Jose. Provides that computer software developed by a state or local agency is not itself a public record under the California Public Records Act and would authorize the agency to sell, lease, or license the software for commercial or non commercial use.

AB 3284 Moore, D-Los Angeles. Standardizes termination, notice and billing dispute procedures for consumers of various utility districts that provide electrical, gas, heat or water service.

AB 3362 Elder, D-Long Beach. Amends provisions of the Industrial Loan Law dealing with limitations on loans secured by real property.

(over)

LIS - 17

LEGISLATIVE INTENT SERVICE (800) 666-1917



PA-001080

Exhibit 5

Exhibit 6

History of Computing

I. Bernard Cohen and William Aspray, editors

Editorial Board: Bernard Galler, J. A. N. Lee, Arthur Norberg, Brian Randall, Henry Tropp, Michael Williams, and Heinz Zemanek

William Aspray, *John von Neumann and the Origins of Modern Computing*
Charles J. Bashe, Lyle R. Johnson, John H. Palmer, and Emerson W. Pugh, *IBM's Early Computers*

Paul E. Ceruzzi, *A History of Modern Computing*
John Hendry, *Innovating for Failure: Government Policy and the Early British Computer Industry*

Michael Lindgren, *Clory and Failure: The Difference Engines of Johann Müller, Charles Babbage and Georg and Edward Scheutz*

David E. Lundstrom, *A Few Good Men from Univac*

R. Moreau, *The Computer Comes of Age: The People, the Hardware, and the Software*
Emerson W. Pugh, *Building IBM: Shaping an Industry and Its Technology*

Emerson W. Pugh, *Memories That Shaped an Industry*

Emerson W. Pugh, Lyle R. Johnson, and John H. Palmer, *IBM's 360 and Early 370 Systems*

Dorothy Stein, *Ada: A Life and a Legacy*

Maurice V. Wilkes, *Memoirs of a Computer Pioneer*

A History of Modern Computing

Paul E. Ceruzzi

The MIT Press
Cambridge, Massachusetts
London, England

The PC and IBM

The Personal Computer was IBM's second foray into this market, after the 5100—it even had the designation 5150 in some product literature. Neither IBM nor anyone else foresaw how successful it would be, or that others would copy its architecture to make it the standard for the next decade and beyond. In keeping with a long tradition in the computer industry, IBM grossly underestimated sales: it estimated a total of 250,000 units; “[a]s it turned out, there were some *months* when we built and sold nearly that many systems.”⁷⁴ MS-DOS transformed Microsoft from a company that mainly sold BASIC to one that dominated the small systems industry in operating systems. IBM found itself with an enormously successful product made up of parts designed by others, using ASCII instead of EBCDIC, and with an operating system it did not have complete rights to. It was said that if IBM's Personal Computer division were a separate company, it would have been ranked #3 in the industry in 1984, after the rest of IBM and Digital Equipment Corporation. Within ten years there were over fifty million computers installed that were variants of the original PC architecture and ran advanced versions of MS-DOS.⁷⁵

“The Better is the Enemy of the Good”

The evolution of technological artifacts is often compared to the evolution by natural selection of living things. There are many parallels, including the way selective forces of the marketplace affect the survival of a technology.⁷⁶ There are differences, too: living things inherit their characteristics from their parents—at most two—but an inventor can borrow things from any number of existing devices. Nor does nature have the privilege that Seymour Cray had, namely, to start with a clean sheet of paper when embarking on a new computer design.

The history of personal computing shows that these differences are perhaps less than imagined. The IBM PC's microprocessor descended from a chip designed for a terminal, although Datapoint never used it for that. Its operating system descended from a “quick and dirty” operating system that began as a temporary expedient. The PC had a limit of 640 K of directly addressable memory. That, too, was unplanned and had nothing to do with the inherent limits of the Intel microprocessor. 640 K was thought to be far more than adequate; within a few years that limit became a millstone around the necks of programmers

and users alike. The IBM PC and its clones allowed commercial software to come to the fore, as long as it could run on that computer or machines that were 100 percent compatible with it. Those visionaries who had predicted and longed for this moment now had mixed feelings. This was what they wanted, but they had not anticipated the price to be paid, namely, being trapped in the architecture of the IBM PC and its operating system.

Macintosh (1984)

Among those who looked at the IBM PC and asked why not something better were a group of people at Apple. They scoffed at its conservative design, forgetting that IBM had made a deliberate decision to produce an evolutionary machine. They saw the limitations of MS-DOS, but not its value as a standard. (Of course, neither did IBM at the time.) But what would personal computing be like if it incorporated some of the research done in the previous decade at Xerox's Palo Alto Research Center? The Xerox Star had been announced within months of the PC, but it failed to catch on. Some people at Apple thought they could be more successful.

For all the creative activity that went on at Xerox-PARC in the 1970s, it must be emphasized that the roots of personal computing—the microprocessor, the Altair, the bus architecture, the Apple II, BASIC, CP/M, VisiCalc, the IBM PC, the floppy disk, Lotus 1-2-3, and MS-DOS—owed nothing to Xerox-PARC research.

In 1979 that began to change. That fall Apple began work on a computer called the Macintosh. It was the brainchild of Jef Raskin, who before joining Apple had been a professor of computer science at UC San Diego. He had also been the head of a small computer center, where he taught students to program Data General Novas.⁷⁷ Raskin had also been a visiting scholar at Stanford's Artificial Intelligence Laboratory, and while there he became familiar with what was going on at Xerox-PARC. According to Raskin, he persuaded the Apple team then developing another text-based computer to incorporate the graphics features he had seen at PARC. Apple introduced that computer, the Lisa, in 1983. Like the Xerox Star, it was expensive (around \$10,000), and sales were disappointing. Raskin's Macintosh would preserve the Lisa's best features but sell at a price that Apple II customers could afford.⁷⁸ As with so much in the history of computing, there is a dispute over who was responsible for the Macintosh.⁷⁹ Many histories describe a visit by

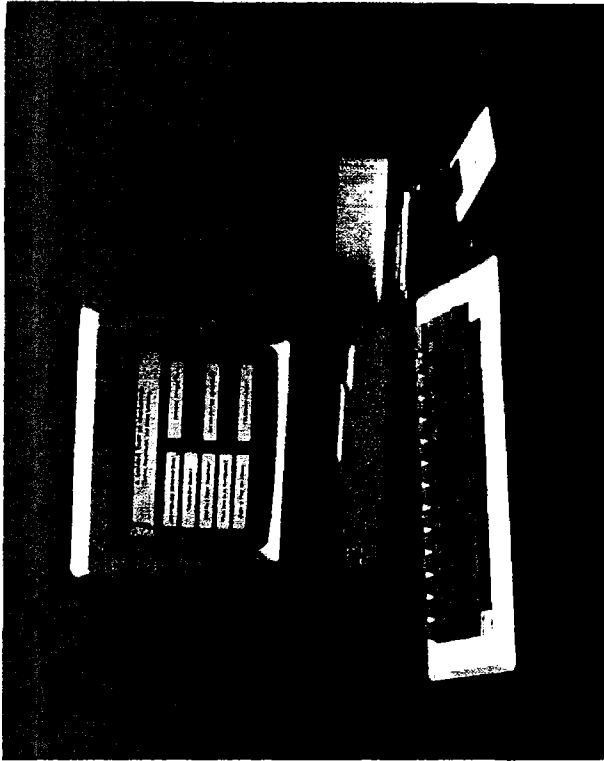


Figure 8.7. Personal computers: Apple Macintosh, 1984. Most Macintosh users soon found that the machine required a second, external disk drive. (*Source:* Smithsonian Institution.)

Apple cofounder Steve Jobs to PARC in 1979 as the pivotal moment in transferring PARC technology to a mass market. Work on the Macintosh was already underway at Apple by the time of that visit. The visit did result in Jobs' hiring several key people away from Xerox, however, and moving people is the best way to transfer technology. According to Raskin, the visit also resulted in Jobs' insisting that the Macintosh have features not present in the original design. Among those was the mouse (figure 8.7).⁸⁰

In January 1984 Apple introduced the Macintosh in a legendary commercial during the Super Bowl, in which Apple promised that the Macintosh would prevent the year 1984 from being the technological dystopia forecast by Orwell's novel *1984*. The computer sold for \$2,495—more than the \$1,000 Raskin was aiming for, but cheaper than the Lisa. It was more expensive than an IBM PC, but no PC at

that time, no matter what software or boards users added, could offer the graphical interface of the Macintosh.

The Macintosh used a Motorola 68000 microprocessor, whose architecture resembled that of the PDP-11. The computer came with a single disk drive, using the new 3 1/2-inch form, a high-resolution black-on-white monitor, a mouse, and 128K of memory. Most users found they soon had to upgrade to a 512K "Fat Mac"; they also found it necessary to purchase a second disk drive. A few programs were announced at the same time: a "paint" (drawing) program, based on work done at Xerox-PARC on a Data General Nova, and a word processor that came close to WYSIWYG.

A year later the Macintosh came with a rudimentary networking ability, called AppleTalk. This allowed the simple sharing of files and printers. Like so much about the system, it was simple, easy to use, and not challenged by the PC and its clones for years. But there was no hard disk option, so users could not effectively set up a Mac as a server to the others. A person using a Macintosh at home would not be connected to a network, and the Mac was unable to challenge the lead of IBM and its clones in an office environment, except in those offices where the graphics abilities were especially needed. Unlike the Apple II and the IBM PC, the Macintosh was "closed": users could not add boards and were discouraged from even opening up the case.⁸¹ This was a bold—some argued foolish—departure from the prevailing wisdom, but it helped make the Macintosh cheaper, smaller, and faster than the Lisa or the Star. A version introduced in 1987 offered color and opened up the system, although Apple still tightly controlled the Macintosh's configuration.⁸²

The Mac's elegant system software was its greatest accomplishment. It displayed a combination of aesthetic beauty and practical engineering that is extremely rare. One can point to specific details. When a file was opened or closed, its symbol expanded or contracted on the screen in little steps—somehow it just felt right. Ultimately this feeling is subjective, but it was one that few would disagree with. The Macintosh software was something rarely found among engineering artifacts. The system evolved as the Mac grew, and it was paid the highest compliment from Microsoft, who tried to copy it with its Windows program. One can hope that some future system will have that combination as well, but the odds are not in favor of it.

The Macintosh had more capability than the Alto, it ran faster than the Lisa, yet its software occupied a fraction of the memory of either of

those predecessors. It was not just a copy of what Xerox had done at PARC. But there was a price for being so innovative: the Macintosh was difficult for programmers to develop applications software for, especially compared to MS-DOS. And though faster than the Lisa, its complex graphics meant that it could not be as fast as a DOS program, like Lotus 1-2-3, that used more primitive commands that were closer to machine code. Among sophisticated customers that created a split: one group favored the elegance and sophistication of the Mac, while others preferred the raw horsepower and access to individual bits that MS-DOS allowed. For those who were not members of the computer priesthood, the Macintosh was a godsend; whatever time was lost by its relative slowness was more than compensated for by the time the user did not have to spend reading an indecipherable users manual.

Microsoft had supplied some of the applications software for the Macintosh, but Apple developed and controlled its operating system in-house. Even before the Macintosh's announcement, other companies were trying to provide a similar interface for the IBM PC. In 1982 the creators of VisiCalc announced a product called VisiOn for the IBM PC that was similar to the Macintosh's interface but never lived up to its promise. IBM developed a program called Top View, and Digital Research developed GEM (Graphics Environment Manager) along the same lines. Microsoft came up with a product called Interface Manager, but early versions introduced in the mid-1980s sold poorly. Later versions of Interface Manager, renamed "Windows," would succeed dramatically. Version 3 of Windows, the breakthrough version, was not introduced until around 1990, so for the next seven years, IBM PCs and their clones would be known by the primitive MS-DOS interface inherited from the minicomputer world.

Like the IBM PC, the Macintosh's design created a barrier to expanding memory, only it was a more generous 4 megabytes instead of the PC's miserly 640 Kbytes. A laser printer offered in 1985 completed the transfer of Xerox-PARC innovations and allowed the Macintosh to keep a strong foothold in at least some offices. The Macintosh's equivalent of VisiCalc was a program called PageMaker from Aldus, introduced in 1985. When combined with the laser printer it allowed users to do sophisticated printing on an Apple, at a fraction of the cost of traditional methods.

The Clones

The personal computer revolution seems to have little to do with the age of mainframes that preceded it, but with the passage of time, we can find common themes. IBM's success with its System/360, and its need to give out a lot of technical information about it, led to the plug compatible industry, which in turn led to IBM's having to adjust its own product line. Something similar happened with the PC, only this time with a different outcome. Most of the IBM PCs, including the 8088 microprocessor, consisted of parts made by other manufacturers, who were free to sell those parts elsewhere. Microsoft, for instance, retained the right to sell its operating system to others. The core of what made a personal computer an "IBM PC" was the basic input-output system (BIOS), which was stored on a read-only memory chip. The idea went back to Gary Kildall's CP/M: let the BIOS be the only place where there could be code that tailored the operating system to the specifics of a particular machine. IBM owned the code in the personal computer's BIOS and prosecuted any company that used it without permission.

Around the time of the PC's announcement, three Texas Instruments employees were thinking of leaving their jobs and starting a company of their own, which they called Compaq. Legend has it that Rod Canion, Jim Harris, and Bill Murto sketched out an IBM-compatible PC on a napkin in a Houston restaurant. They conceived of the idea of reverse-engineering the IBM PC and producing a machine that would be 100 percent compatible. To get around IBM's ownership of the BIOS code, they hired people who had no knowledge of that code, put them in a "clean room," where they would not be corrupted by anyone sneaking the forbidden code to them, and had them come up with a BIOS of their own that replicated the functions of IBM's. This was expensive, but it was legal. The Compaq computer, delivered in 1983, was portable, although heavy. That was really a marketing ploy. At twenty-five pounds they "gave new meaning to the phrase pumping iron." What made it a success was its complete compatibility with the IBM PC at a competitive price. Compaq's sales propelled the company into the top 100 rankings of computer companies by 1985, one of the fastest trajectories of any start-up.⁸³

Compaq's heroic efforts to break through IBM's control of its PC architecture did not have to be repeated too often. A small company named Phoenix Technologies also reverse-engineered the BIOS chip, and instead of building a computer around it, they simply offered a

Exhibit 7

Cal Gov Code § 6253

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6253 (2011)

§ 6253. Time for inspection of public records; "Unusual circumstances"

HISTORY:

Added Stats 1998 ch 620 § 5 (SB 143). Amended Stats 1999 ch 83 § 64 (SB 966); Stats 2000 ch 982 § 1 (AB 2799); Stats 2001 ch 355 § 2 (AB 1014).

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6253.4 (2011)

§ 6253.4. Records to be made available

HISTORY:

Added Stats 1968 ch 1473 § 39, as *Gov C § 6253*. Amended Stats 1973 ch 664 § 1; Stats 1974 ch 544 § 7; Stats 1975 ch 957 § 6; Stats 1977 ch 1252 § 96, operative July 1, 1978; Stats 1979 ch 373 § 120; Stats 1983 ch 826 § 1; Stats

1988 ch 409 § 1. Supplemented by Governor's Reorganization Plan No. 1 of 1991 § 70, effective July 17, 1991. Amended and renumbered by Stats 1998 ch 620 § 4 (SB 143). Amended Stats 1999 ch 525 § 11 (AB 78); Stats 2000 ch 857 § 9 (AB 2903); Stats 2006 ch 241 § 2 (SB 162), effective January 1, 2007, operative July 1, 2007.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.1 (2011)

§ 6254.1. Exemption of residence or mailing address, and test results

HISTORY:

Added Stats 1989 ch 1213 § 3. Amended Stats 1993 ch 546 § 1 (AB 2284).

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.2 (2011)

§ 6254.2. Disclosure of pesticide safety and efficacy information; Trade secrets; Affirmation of requester; Action for wrongful disclosure; Effect of invalidation of federal law

HISTORY:

Added Stats 1984 ch 765 § 1 as § 6254.1. Amended and renumbered by Stats 1985 ch 1436 § 1. Amended Stats 1996 ch 435 § 10 (SB 802).

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.3 (2011)

§ 6254.3. Confidentiality of state employee home addresses and telephone numbers

HISTORY:

Added Stats 1984 ch 1657 § 1. Amended Stats 1992 ch 463 § 1 (AB 1040), effective August 7, 1992.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.4 (2011)

§ 6254.4. Confidentiality of voter information

HISTORY:

Added Stats 1994 ch 1207 § 12 (SB 1518). Amended Stats 1996 ch 724 § 20 (AB 1700), ch 1123 § 14 (AB 1714); Stats 1998 ch 199 § 50 (SB 1533); Stats 1999 ch 312 § 28 (SB 1208); Stats 2000 ch 89 § 4 (AB 2214); Stats 2003 ch 809 § 11 (SB 613); Stats 2005 ch 726 § 13 (SB 1016).

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.10 (2011)

§ 6254.10. Archeological site information

HISTORY:

Added Stats 1986 ch 876 § 1. Amended Stats 1989 ch 732 § 2; Stats 2005 ch 670 § 2 (SB 922), effective October 7, 2005.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.14

Cal Gov Code § 6254.14 (2011)

Legislative Alert: 2011 Cal. ALS 336; see section 1, effective 01/01/2012.

§ 6254.14. Exemption of records relating to health care services contract

HISTORY:

Added Stats 1995 ch 749 § 4 (AB 1177), effective October 10, 1995. Amended Stats 2007 ch 577 § 2 (AB 1750), effective October 13, 2007.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.17 (2011)

§ 6254.17. Disclosure of specified information

HISTORY:

Added Stats 2000 ch 198 § 1 (SB 1802). Amended Stats 2004 ch 183 § 135 (AB 3082).

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Cal Gov Code § 6254.18

Article 1. General Provisions

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.18 (2011)

§ 6254.18. Disclosure of personal information, reproductive health services facility

HISTORY:

Added Stats 2004 ch 922 § 2 (SB 1590). Amended Stats 2006 ch 241 § 3 (SB 162), effective January 1, 2007, operative July 1, 2007.

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Cal Gov Code § 6254.21 (2011)

§ 6254.21. Posting home address or phone number of official on Internet without permission; Violation; Relief; Definitions

HISTORY:

Added Stats 1998 ch 429 § 4 (SB 1386). Amended Stats 2002 ch 621 § 2 (AB 2238); Stats 2005 ch 343 § 1 (AB 1595), effective January 1, 2006; Stats 2009 ch 403 § 1 (AB 32), effective January 1, 2010; Stats 2010 ch 194 § 1 (AB 1813), effective January 1, 2011.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.23 (2011)

§ 6254.23. Nondisclosure of risk assessment or railroad infrastructure protection program

HISTORY:

Added Stats 2006 ch 867 § 1 (AB 3023), effective January 1, 2007. Amended Stats 2010 ch 618 § 20 (AB 2791), effective January 1, 2011.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.24 (2011)

§ 6254.24. "Public safety official" defined

HISTORY:

Added Stats 2002 ch 621 § 3 (AB 2238). Amended Stats 2003 ch 468 § 4 (SB 851); Stats 2006 ch 472 § 1 (AB 2005), effective January 1, 2007; Stats 2010 ch 194 § 2 (AB 1813), effective January 1, 2011.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6254.26 (2011)

§ 6254.26. Disclosure of specified records regarding alternative investments in which public investment funds invest

HISTORY:

Added Stats 2005 ch 258 § 2 (SB 439), effective January 1, 2006. Amended Stats 2006 ch 538 § 233 (SB 1852), effective January 1, 2007.

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Cal Gov Code § 6255 (2011)

§ 6255. Withholding records from inspection; Justification; Public interest

HISTORY:

Added Stats 1968 ch 1473 § 39. Amended Stats 2000 ch 982 § 3 (AB 2799).

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Cal Gov Code § 6275

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6275 (2011)

§ 6275. Legislative intent

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 1 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.02 (2011)

§ 6276.02. Alphabetical listing of statutes; Letter A

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 2 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.04 (2011)

§ 6276.04. Alphabetical listing of statutes; Letter A, continued

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2004 ch 182 § 38 (AB 3081), operative July 1, 2005; Stats 2009 ch 584 § 3 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.06 (2011)

§ 6276.06. Alphabetical listing of statutes; Letter B

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2008 ch 501 § 24 (AB 2749), effective January 1, 2009; Stats 2009 ch 584 § 4 (SB 359), effective January 1, 2010.

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Cal Gov Code § 6276.08

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.08 (2011)

Legislative Alert: 2011 Cal. ALS 227; see section 6, effective 01/01/2012.

§ 6276.08. Alphabetical listing of statutes; Letter C

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2004 ch 750 § 1 (AB 1298), effective September 24, 2004;
Stats 2009 ch 584 § 5 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.10 (2011)

§ 6276.10. Alphabetical listing of statutes; Letter C, continued

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2001 ch 214 § 1 (AB 973); Stats 2009 ch 584 § 6 (SB
359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.12 (2011)

§ 6276.12. Alphabetical listing of statutes; Letter C, continued

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2004 ch 193 § 30 (SB 111); Stats 2009 ch 584 § 7 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.14 (2011)

§ 6276.14. Alphabetical listing of statutes; Letter D

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 8 (SB 359), effective January 1, 2010.

Cal Gov Code § 6276.16

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.16 (2011)

§ 6276.16. Alphabetical listing of statutes; Letter E

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 9 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.18 (2011)

Legislative Alert: 2011 Cal. ALS 227; see section 7, effective 01/01/2012.

First of 2 versions of this section

§ 6276.18. (First of two; Operative until January 1, 2012) Alphabetical listing of statutes; Letter F

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 10 (SB 359), effective January 1, 2010.

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Cal Gov Code § 6276.18 (2011)

Legislative Alert: 2011 Cal. ALS 227; see section 8, effective 01/01/2012.

Second of 2 versions of this section

§ 6276.18. (Second of two; Operative January 1, 2012) Alphabetical listing of statutes; Letter F

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 10 (SB 359), effective January 1, 2010;
Stats 2010 ch 178 § 34 (SB 1115), effective January 1, 2011, operative January 1, 2012.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.22 (2011)

§ 6276.22. Alphabetical listing of statutes; Letter G

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2004 ch 750 § 2 (AB 1298), effective September 24, 2004; Stats 2009 ch 584 § 11 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.24 (2011)

§ 6276.24. Alphabetical listing of statutes; Letter H

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2003 ch 424 § 1 (AB 171); Stats 2009 ch 298 § 1 (AB 1540), ch 584 § 12.5 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.26 (2011)

§ 6276.26. Alphabetical listing of statutes; Letter I

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 13 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.28 (2011)

§ 6276.28. Alphabetical listing of statutes; Letters J, L

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 14 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.30

Cal Gov Code § 6276.30 (2011)

§ 6276.30. Alphabetical listing of statutes; Letter M

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2004 ch 193 § 31 (SB 111); Stats 2007 ch 577 § 3 (AB 1750), effective October 13, 2007; Stats 2009 ch 584 § 15 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.32 (2011)

§ 6276.32. Alphabetical listing of statutes; Letters N, O

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 16 (SB 359), effective January 1, 2010.

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Cal Gov Code § 6276.34

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.34 (2011)

§ 6276.34. Alphabetical listing of statutes; Letter P

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 17 (SB 359), effective January 1, 2010.

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GOVERNMENT CODE
Title 1. GENERAL
Division 7. Miscellaneous
Chapter 3.5. Inspection of Public Records
Article 2. Other Exemptions from Disclosure

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.36 (2011)

§ 6276.36. Alphabetical listing of statutes; Letter P, continued

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 18 (SB 359), effective January 1, 2010.

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Cal Gov Code § 6276.38

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.38 (2011)

§ 6276.38. Alphabetical listing of statutes; Letters R and S

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 19 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.40 (2011)

§ 6276.40. Alphabetical listing of statutes; Letter S

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2006 ch 689 § 10 (SB 1743), effective January 1, 2007;
Stats 2009 ch 584 § 20 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.42 (2011)

§ 6276.42. Alphabetical listing of statutes; Letter S, continued

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 21 (SB 359), effective January 1, 2010.

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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.44 (2011)

§ 6276.44. Alphabetical listing of statutes; Letter T

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 22 (SB 359), effective January 1, 2010.

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GOVERNMENT CODE
Title 1. GENERAL
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Article 2. Other Exemptions from Disclosure

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.46 (2011)

§ 6276.46. Alphabetical listing of statutes; Letters U--W

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2000 ch 198 § 2 (SB 1802); Stats 2004 ch 193 § 32 (SB 111); Stats 2009 ch 584 § 23 (SB 359), effective January 1, 2010.

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GOVERNMENT CODE
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Division 7. Miscellaneous
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GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 6276.48 (2011)

§ 6276.48. Alphabetical listing of statutes; Letters W (continued) -Y

HISTORY:

Added Stats 1998 ch 620 § 11 (SB 143). Amended Stats 2009 ch 584 § 24 (SB 359), effective January 1, 2010.

RJN7-000021

Exhibit 8

ASSEMBLY BILL

No. 1978

Introduced by Assembly Member Solorio

February 14, 2008

An act to amend Section 6254.9 of the Government Code, relating to records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1978, as introduced, Solorio. Public records: computer mapping systems.

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. The act 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.

This bill would further provide that, for this purpose, 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.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6254.9 of the Government Code is
2 amended to read:

1 6254.9. (a) Computer software developed by a state or local
2 agency is not itself a public record under this chapter. The agency
3 may sell, lease, or license the software for commercial or
4 noncommercial use.

5 (b) (1) As used in this section, "computer software" includes
6 computer mapping systems, computer programs, and computer
7 graphics systems.

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

12 (c) This section shall not be construed to create an implied
13 warranty on the part of the ~~State of California~~ *state* or any local
14 agency for errors, omissions, or other defects in any computer
15 software as provided pursuant to this section.

16 (d) Nothing in this section is intended to affect the public record
17 status of information merely because it is stored in a computer.
18 Public records stored in a computer shall be disclosed as required
19 by this chapter.

20 (e) Nothing in this section is intended to limit any copyright
21 protections.

O

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 1978
AUTHOR : Solorio
TOPIC : Public records: computer mapping systems.

TYPE OF BILL :

Inactive
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

BILL HISTORY

1978

Nov. 30 From committee without further action.
Nov. 16 In committee: Hearing postponed by committee.
Nov. 28 Referred to Coms. on G.O. and L. GOV.
Feb. 15 From printer. May be heard in committee March 16.
Feb. 14 Read first time. To print.

PROOF OF SERVICE

I SHARON L. EMERY declare:

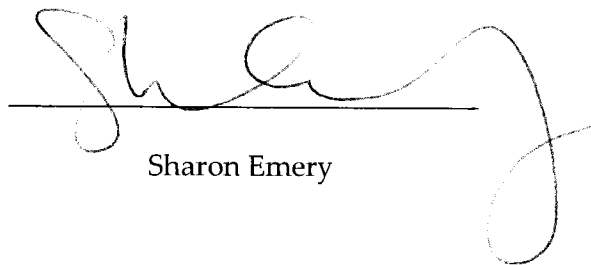
I am, and was at the time of the service hereinafter mentioned, over the age of eighteen and not a party to the above-entitled cause. My business address is 21 South California Street, Suite 204, Ventura, California 93001. On November 22, 2011 I served the following documents described as:

- **PETITIONER SIERRA CLUB'S MOTION REQUESTING JUDICIAL NOTICE; DECLARATION OF SABRINA VENSUS; EXHIBITS VOLUME 1 OF 3**
- **PETITIONER SIERRA CLUB'S MOTION REQUESTING JUDICIAL NOTICE EXHIBITS VOLUME 2 OF 3**
- **PETITIONER SIERRA CLUB'S MOTION REQUESTING JUDICIAL NOTICE EXHIBITS VOLUME 3 OF 3**
- **[PROPOSED] ORDER GRANTING PETITIONER'S MOTION REQUESTING JUDICIAL NOTICE**

Via U.S. Mail: by placing a copy of the said document/s in a sealed envelope to the addressees as indicated further below, with the postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing, in a U.S. Postal Service box at 21 South California Street Ventura, California 93001.

Via Federal Express: by placing a copy of said document/s in a sealed package to the addressees as indicated further below, with all delivery charges thereof fully paid the same day on which the correspondence was placed for collection and delivered. **(Real Party in Interest, County of Orange, only)**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 22, 2011 in Ventura, California.



Sharon Emery

NAMES AND ADDRESSES TO WHOM SERVICE WAS MADE

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Mark D. Servino
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Real Party In Interest
County of Orange

The Superior Court of California
County of Orange
Department C-18
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California Court of Appeal
Fourth Appellate District
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