

Date of Hearing: September 14, 2017

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Ed Chau, Chair

AB 22 (Bonta) – As Amended September 8, 2017

**SUBJECT:** Secretary of State: storing and recording electronic media

**SUMMARY:** Authorizes state agencies and local governments to retain public records specifically through the use of a cloud computing storage service. Specifically, **this bill:**

- 1) Expands the definition of a “trusted system” of recording and storage of electronic records to include a cloud computing storage service that complies with a specified International Organization for Standardization (ISO) standard, or other applicable industry-recognized standard relating to security techniques and information security management, and provides administrative users with controls to prevent stored records from being overwritten, deleted, or altered.
- 2) Requires any "trusted system" of recording and storage of electronic records used by state agencies, but not local government entities, to comply with applicable standards articulated in the State Administrative Manual (SAM) and the Statewide Information Management Manual (SIMM).
- 3) States that, for purposes of this bill, “cloud computing” is defined by the National Institute of Standards and Technology Special Publication 800-145 or a successor publication, and includes the service and deployment models referenced therein.
- 4) Clarifies that nothing in these provisions shall prohibit a local government entity from adopting applicable standards articulated in the SAM and the SIMM for purposes of utilizing a trusted system.
- 5) Makes other technical, non-substantive or conforming changes.

**EXISTING LAW:**

- 1) Requires, in order to ensure that uniform statewide standards for storing and recording permanent and nonpermanent documents in electronic media remain current and relevant, the Secretary of State to approve and adopt appropriate standards established by the American National Standards Institute or the Association for Information and Image Management. Further requires that a "trusted system" be utilized. (Government Code Section (GC) 12168.7 (b))
- 2) Defines “trusted system” to mean a combination of techniques, policies, and procedures for which there is no plausible scenario in which a document retrieved from or reproduced by the system could differ substantially from the document that is originally stored. (GC 12168.7 (c))
- 3) Requires state officials, in order to develop statewide standards as expeditiously as possible, and until the time that statewide standards are adopted pursuant to 2) above, to ensure that

microfilming, electronic data imaging, and photographic reproduction are done in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records. (GC 12168.7 (c))

- 4) Establishes the California Public Records Act (CPRA) which grants access to public information maintained by local and state government agencies. (GC 6250 *et seq.*)
- 5) Establishes the State Records Management Act which directs California's Secretary of State to establish and administer a records management program that applies efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of state records. (GC 12270-12279)

**FISCAL EFFECT:** None. This bill has been keyed non-fiscal by the Legislative Counsel.

**COMMENTS:**

- 1) **Purpose of this bill:** This bill is intended to modify existing laws regulating document storage to make it easier for state and local governments to preserve and store public records in a more cost effective and efficient manner by utilizing cloud-based electronic storage services. This bill is sponsored by the League of California Cities (the League).
- 2) **Author's statement:** According to the author, "Preservation techniques currently used by local and state governments are arcane, burdensome to use, difficult to access, and expensive to maintain. For example, if an interested party makes a Public Records Act request from a government agency, the administrator often must travel to an offsite storage facility to locate the microfilm, which drastically slows down response time and limits the administrator's ability to perform other, more essential duties. The costs associated with maintaining, storing, and retrieving the microfilm create financial burdens on state and local governments at a time when fiscal pressures increasingly demand an immediate path for budget savings."

"Additionally, files are increasingly stored in digital format. Current preservation methods only allow for an inefficient process where digitized files are printed and transferred to microfilm or microfiche. A cloud-based solution is better suited to manage digital documents and can easily streamline this procedure."

- 3) **Cloud computing and federal adoption:** The National Institute of Standards and Technology defines cloud computing as a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. Put into plain English, cloud computing is simply the practice of using a network of remote servers to store, manage and process data instead of a personal computer or a local server in a way that makes it easier to centralize and manage computing resources.

This bill authorizes state and local governments to use a cloud computing storage service to store public records, and requires that service to comply with ISO or other applicable industry-recognized standards. ISO is an independent, non-governmental organization with a membership of 162 national standards bodies, and the ISO/IEC 27000 family of standards is

the best-known standard for an information security management system. The standard cited by this bill (ISO/IEC 27001:2013) contains requirements for establishing, implementing, maintaining and continually improving an information security management system within any organization, and includes requirements for the assessment and treatment of information security risks. The requirement that any cloud storage solution meet that (or similar) standard helps ensure that documents are kept reasonably secure.

Such standards are gaining wide acceptance in the public sector. According to a May 2017 *Forbes* article, “In recent years, agencies across the federal government have embraced cloud computing architectures and solutions to provide services to constituents and reduce the need for large-scale, traditional IT infrastructure investments.”

The federal government also issued an Executive Order in May of 2017 that stated in part that Executive agency heads are required to “show preference in their procurement for shared IT services,” such as email, cloud and cybersecurity services. “Effective immediately, it is the policy of the executive branch to build and maintain a modern, secure, and more resilient executive branch IT architecture,” the order states.

According to the author, the United States Navy, Department of Defense, and all 17 federal intelligence agencies utilize cloud-based systems to protect critical infrastructure and states that by ensuring that commercial, cloud-based systems are in compliance with federal cloud security requirements, data stored on the cloud will be protected, safe from tampering, and stored securely in perpetuity.

- 4) **Current preservation and storage methods:** The California Secretary of State is charged with approving and adopting appropriate statewide standards for the purpose of storing and recording public documents. In order for these uniform statewide standards to remain current and relevant, state agencies and local governments are statutorily required to use a "trusted system" to meet that goal.

A “trusted system” is currently defined to mean a combination of techniques, policies, and procedures for which there is no plausible scenario in which a document retrieved from or reproduced by the system could differ substantially from the document that is originally stored. To that end, public records of any state agency are authorized to be microfilmed, electronically data imaged, or otherwise photographically reproduced and certified.

By expanding the definition of a trusted system to include cloud-computing storage as a method for storing records, state agencies and local governments will have an additional tool at their disposal to store and retrieve public documents with greater efficiency and lower costs. For example, by using a commercial cloud-based archival storage service, government data can be accessed from any location quickly and maintenance costs of traditional storage systems will no longer be required.

Furthermore, the use of the cloud should promote greater transparency by increasing access to public records and reducing response times. Cloud-based storage may also improve response and recovery by protecting permanent and nonpermanent records from local disasters such as fires or floods.

- 5) **Arguments in support:** This bill's sponsor, the League of California Cities, writes in support that agencies across the state are dealing with a significant spike in CPRA requests and due to such requests, many agencies have already had to hire additional staff solely dedicated to reviewing documents in association with CPRA request. The League states that current CPRA requests require an administrator to often travel to an offsite storage facility to locate the microfilm, which drastically slows down response time.

A coalition of technology organizations states that they are supportive of the goals of this bill, which they assert provides local governments the option to replace an archaic microfilm means of storing records with a secure digital solution.

The California Police Chiefs Association also writes in support stating that cloud-based computing has become a mainstay of electronic backups and document storage, as a cloud-based server can provide more storage space and is more secure than a smaller, private storage server.

- 6) **Prior legislation:** SB 2067 (Bowen), Chapter 569, Statutes of 2000, required the Secretary of State, in consultation with the Department of General Services, to approve and adopt appropriate standards established by the American National Standards Institute or the Association for Information and Image Management to provide uniform statewide standards for storing permanent and nonpermanent documents in electronic media.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

League of California Cities (sponsor)  
California Police Chiefs Association  
California Special Districts Association  
City of Torrance  
CompTIA  
Internet Association  
IT Alliance for Public Sector  
TechNet

### **Opposition**

None on file.

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