

# CLIENT NEWS BRIEF

## Bill Intended To Establish E-Mail Retention Requirement For Public Agencies Vetoed By Governor Newsom

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California lawmakers recently proposed Assembly Bill (AB) 1184, which would have required public agencies to retain business related e-mails for at least two years. While the Governor did not sign the bill, this legislative effort again shows the significant interest in preserving e-mails as part of a public agency's public record.

### **AB 1184: Public Records E-Mail Retention**

The California Public Records Act establishes that every person has a right to inspect public records. Public records include any e-mail containing information relating to the conduct of the public's business prepared, owned, used, or retained by any public agency.

Existing law authorizes cities, counties, and special districts to destroy or to dispose of duplicate records when they are no longer required by the city, county, or special district. However, the law does not address the requirements for the retention of e-mails. AB 1184 intended to add section 6253.32 to the Government Code to require all public agencies to retain and preserve every public record that is transmitted by electronic mail for at least two years.

Governor Newsom returned AB 1184 without his signature, stating it did "not strike the appropriate balance between the benefits of greater transparency through the public's access to public records, and the burdens of a dramatic increase in records-retention requirements, including associated personnel and data-management costs to taxpayer[s]."

Had AB 1184 been signed into law, any other statute or regulation that required a longer retention period, or any rule established by the Secretary of State that provided for a longer retention period, would have remained in place.

With or without this legislation, school districts remain subject to specific California Code of Regulations requirement governing the retention and destruction of school district records in California. The contents of a particular record will determine how long a school district must maintain that record and all records must be classified prior to destruction. (See [2017 Client News Brief No. 2](#)). Community college districts are also subject to retention regulations under the California Code of Regulations, although those retention requirements differ from the rules regarding school districts' records.

### **Takeaways**

Governor Newsom suggests that legislation must find a balance between the benefits of greater transparency through the public's access to public records and the burdens of a dramatic increase in records-retention requirements. Though AB 1184 was unsuccessful, local agencies should be aware that the question of preservation of e-mails will remain of interest to the Legislature and to advocates for greater transparency.



Harold M. Freiman  
Partner  
Walnut Creek Office  
[hfreiman@lozanosmith.com](mailto:hfreiman@lozanosmith.com)



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For public agencies who may wish to establish or update their own record retention policies to address existing retention requirements, Lozano Smith provides [policy options](#) for addressing the complexities raised by the retention of e-mails. For a copy of the retention policy documents, contact [Client Services](#).

For more information on AB 1184 or guidance on e-mail retention, please contact the author of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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