

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

AB 1785 (Pacheco)  
Version: May 29, 2024  
Hearing Date: June 11, 2024  
Fiscal: Yes  
Urgency: No  
AM

**SUBJECT**

California Public Records Act

**DIGEST**

This bill prohibits a state or local agency from publicly posting, as defined, the name and assessor parcel number associated with the home address of any elected or appointed official on the internet without first obtaining written permission.

**EXECUTIVE SUMMARY**

The California Judges Association, the sponsor of the bill, states that they have discovered that certain county recorder's websites are linking elected and appointed officials' personal information through the county recorders' and county assessors' online databases, which can be used to discern the home address of an elected or appointed official. In order to prevent this, this bill would prohibit a state or local agency from publicly posting the name and assessor parcel number associated with the home address of any elected or appointed official on the internet without first obtaining written permission. This bill is supported by various governmental entities. No timely opposition was received by the Committee.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
  - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)

- b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 2) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 792.000 et seq.)
  - a) States that, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
  - b) Defines "public records" as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
  - c) Defines "public agency" as any state or local agency. (Gov. Code § 7920.525(a).)
- 3) Provides that all public records are open to inspection at all times during the office hours of a state or local agency and every person has a right to inspect any public record, unless the record is exempt from public disclosure. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law. (Gov. Code § 7922.525.)
  - a) Some records are prohibited from being disclosed and other records are permissively exempted from being disclosed. (See e.g. Gov. Code §§ 7920.505 & 7922.200.)
  - b) There are several general categories of documents or information that are permissively exempt from disclosure under the CPRA essentially due to the character of the information. The exempt information can be withheld by the public agency with custody of the information, but it also may be disclosed if it is shown that the public's interest in disclosure outweighs the public's interest in non-disclosure of the information. (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, at 652.).
- 4) Provides that a public agency may comply with the requirement in 3), above, by posting any public record on its website and, in response to a request for a public record posted on the website, directing a member of the public to the location on the website where the public record is posted. However, if after the public agency directs a member of the public to their website, that member of the public requests a copy of the public record due to an inability to access or reproduce the public record from the internet website, the public agency must promptly provide a copy of the public record, as specified. (Gov. Code § 7922.545.)

- 5) Prohibits a state or local agency from posting the address or telephone number of any elected or appointed official on the internet without first obtaining the written permission of the individual. (Gov. Code § 7928.205.)
  - a) An “elected or appointed official” includes, but is not limited to, all of the following: a state constitutional officer; a member of the Legislature; a judge or court commissioner; a district attorney; a public defender; a member of a city council; a member of a board of supervisors; an appointee of the Governor; an appointee of the Legislature; a mayor; a city attorney; a police chief or sheriff; a public safety official; a state administrative law judge; a federal judge or federal defender; a member of the United States Congress or appointee of the President of the United States; a judge of a federally recognized Indian tribe. (Gov. Code § 7920.500.)

This bill:

- 1) Prohibits a state or local agency from publicly posting the name and assessor parcel number associated with the home address of any elected or appointed official on the internet without first obtaining written permission in addition to prohibiting the posting of their home address or telephone number.
- 2) Defines “publicly post” to mean intentionally communicating or otherwise making available the information described in 1), above, on the internet in an unrestricted and publicly available manner.
- 3) States it is the intent of the Legislature to enact legislation that accomplishes all of the following:
  - a) Does not limit or prohibit the access to recorded documents, indices, and assessor data through electronic means by business entities, including title companies, title plants, credit reporting agencies, or lenders.
  - b) Does not cause databases that currently provide the public with online access to recorded documents, indices, and assessor data to be taken offline or otherwise made unavailable to the public.
  - c) Clarifies existing law and closes a loophole in obtaining an elected or appointed official’s home addresses through the public posting of assessor parcel numbers associated with that home address, while continuing to allow the public to inspect and obtain copies of public records that are in the possession of a county recorder or assessor during business hours.
- 4) Specifies that these provisions do not prohibit a state or local agency from publicly posting a legally required notice or publication of an elected or appointed official on the internet.

- 5) States that the Legislature finds and declares that the limitation on the access to public records in this bill is necessary to protect the personal safety and privacy of public officials and their families by limiting access to assessor's parcel numbers in connection with the home address of those individuals.

### COMMENTS

1. Stated need for the bill

The author writes:

Nationwide, elected and appointed officials face rising threats and violence against themselves and their family members. We have seen judges and their family members assassinated in their homes and threats to all levels of elected and appointed officials. This escalating danger continues to underscore the need to provide safeguards from the improper disclosure of official's personal and sensitive information.

California has a long history of protecting this personal and sensitive information by prohibiting the posting of this information on state and local agency websites. Counties have acted differently in complying with this existing prohibition. Several counties, like Los Angeles and Santa Clara, ensure this official's information is not available on their county recorder or assessor websites by not positing any searchable databases on the internet. However, other counties have posted searchable databases with protections to shield certain aspects from online posting.

In these counties which post these databases, we have discovered a potential loophole which poses a risk to elected and appointed officials. AB 1785 seeks to close this loophole by prohibiting the posting of an assessor's parcel number which can be converted into a home address. We believe this modest clarification can provide further certainty that our state and local agencies are not inadvertently disclosing this sensitive and personal information. We have worked with the County Recorders, County Assessors, County Tax Collector, real estate, and financial services industries to address any unintended consequences by closing this loophole.

2. This bill seeks to address an issue that could potentially lead to personal information of an elected or appointed official being easily discoverable

- a. *Bill seeks to address a "loophole" under existing law*

Existing law already prohibits a state or local agency from publicly posting the home address of an elected or appointed official. (Gov. Code § 7928.205.) However, the author and sponsor of the bill state that some county agencies post information online that can

be linked together to find the home address of an elected or appointed official. For example, certain county websites provide information through the grantor-grantee data bases where anyone can search an individual's name and get results that contain an assessor's parcel number. A person can then search that same website for the assessor's parcel number and obtain the home address associated with that parcel number. According to the author and sponsor, this two-step process can be accomplished entirely online within minutes and poses a significant risk to elected and appointed officials and their families. This bill seeks to prevent this from happening by prohibiting a state or local agency from publicly posting the name and assessor parcel number associated with the home address of any elected or appointed official on the internet without first obtaining written permission of the elected or appointed official. The bill defines publicly posting as intentionally communicating or otherwise making available the information described in subdivision (a) on the internet in an unrestricted and publicly available manner.

Under the CPRA, elected or appointed official is defined to include, but is not limited to, all of the following: a state constitutional officer; a member of the Legislature; a judge or court commissioner; a district attorney; a public defender; a member of a city council; a member of a board of supervisors; an appointee of the Governor; an appointee of the Legislature; a mayor; a city attorney; a police chief or sheriff; a public safety official; a state administrative law judge; a federal judge or federal defender; a member of the United States Congress or appointee of the President of the United States; a judge of a federally recognized Indian tribe. (Gov. Code § 7920.500.) In order to assuage some concerns raised by various stakeholders the bill also states it is the intent of the Legislature in enacting this legislation to accomplish all of the following:

- does not limit or prohibit the access to recorded documents, indices, and assessor data through electronic means by business entities, including title companies, title plants, credit reporting agencies, or lenders;
- does not cause databases that currently provide the public with online access to recorded documents, indices, and assessor data to be taken offline or otherwise made unavailable to the public; and
- clarifies existing law and closes a loophole in obtaining an elected or appointed official's home addresses through the public posting of assessor parcel numbers associated with that home address, while continuing to allow the public to inspect and obtain copies of public records that are in the possession of a county recorder or assessor during business hours.

*b. The CPRA and access to public records*

Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Cod § 7921.000.) In 2004, the right of public access was enshrined in the California Constitution with the passage of

Proposition 59 (Nov. 3, 2004, statewide general election),<sup>1</sup> which amended the California Constitution to specifically protect the right of the public to access and obtain government records: “The people have the right of access to information concerning the conduct of the people’s business, and therefore . . . the writings of public officials and agencies shall be open to public scrutiny.” (Cal. Const., art. I, sec. 3 (b)(1).) In 2014, voters approved Proposition 42 (Jun. 3, 2014, statewide direct primary election)<sup>2</sup> to further increase public access to government records by requiring local agencies to comply with the CPRA and the Ralph M. Brown Act<sup>3</sup>, and with any subsequent statutory enactment amending either act, as provided. (Cal. Const., art. I, sec. 3 (b)(7).)

Under the CPRA, public records are open to inspection by the public at all times during the office hours of the agency, unless exempted from disclosure. (Gov. Cod § 7922.252.) A public record is defined as any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any public agency regardless of physical form or characteristics. (Gov. Code § 7920.530.) There are several general categories of documents or information that are permissively exempt from disclosure under the CPRA essentially due to the character of the information. The exempt information can be withheld by the public agency with custody of the information, but it also may be disclosed if it is shown that the public’s interest in disclosure outweighs the public’s interest in non-disclosure of the information. (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, at 652.). Additionally some records are prohibited from disclosure or are specifically stated to not be public records. (*see* Gov. Code § 7924.110(a).)

By prohibiting a state or local agency from publicly posting this information, the bill arguably limits access to public records. The bill states this limitation is necessary to protect the personal safety and privacy of public officials and their families by limiting access to assessor’s parcel numbers in connection with the home address of those individuals. In light of the concerns raised by this bill, this limitation seems warranted and consistent with existing law, which already prohibits a state or local agency from publicly posting the home address of an elected or appointed official.

*c. First Amendment concerns*

The CPRA prohibits a person, business, or association from publicly posting or publicly displaying on the internet the home address or telephone number of any elected or appointed official if that official has, either directly or through an agent, made a written demand of that person, business, or association to not disclose the official’s home

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<sup>1</sup> Prop. 59 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 1 (Burton, Ch. 1, Stats. 2004))

<sup>2</sup> Prop. 42 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 3 (Leno, Ch. 123, Stats. 2013))

<sup>3</sup> The Ralph M. Brown Act is the open meetings laws that applies to local agencies. (Gov. Code §§ 59450 et. seq.)

address or telephone number. (Gov. Code § 7928.215(b); previously Gov. Code § 6254.21(c)(1).)<sup>4</sup> In 2017, this statute was challenged on several grounds, including that it violates the First Amendment of the U.S. Constitution. (*Publius v. Boyer-Vine* (E.D. Cal. 2017) 237 F.Supp.3d 997.) In *Publius*, the plaintiff, maintained a political blog and in response to the Legislature enacting gun control legislation posted the names, home addresses and phone numbers of all Legislators who voted for the legislation. (*Id.* at 1004.) The legislation in question required the creation of a database that would contain the driver's license, residential address, telephone number, and date of birth of anyone who purchased or transferred ammunition in California. (*Id.* at 1003-04.) Shortly after the plaintiff posted the Legislator's personally identifying information, members of the Legislature received threatening phone calls and social media messages. (*Id.* at 1004-05.) Representatives for the Legislature sent a written demand seeking the immediate take down of the posted information and WordPress, the blogging platform, immediately removed the blog entry. (*Id.* at 1005-06.)

The plaintiff brought a suit alleging several causes, including that the statute violated the First Amendment of the U.S. Constitution. The basis for enacting this provision was to protect the personal safety of covered officials and their families, which is a state interest of the highest order; however, a federal district court held that the statute violated the First Amendment's overbreadth doctrine. (*Id.* at 1019.) The district court found that the statute was not narrowly tailored; and that it was both overinclusive because it prohibited publication of the information, regardless of whether the information was widely available to the public or had previously been disclosed, and underinclusive because it irrationally punished just publication on the internet but did not address other forms of publication, such as in newspapers. (*Id.* at 1020.)

The provision of existing law that this bill is amending – prohibiting a state or local agency from posting the home address or telephone number of any elected or appointed official on the internet without first obtaining the written permission of that individual – was not addressed in *Publius* and does not seem to have been otherwise challenged on First Amendment grounds. Arguably, the same issues raised in *Publius* could potentially be raised against this statute; however, a distinction can be made as the statute in *Publius* applied to anyone posting certain information where this bill only applies to local or state agencies posting specified information.

### 3. Statements in support

The California Association of County Treasurers and Tax Collectors (CACTTC) writes in support stating:

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<sup>4</sup> In 2021 the CPRA was recodified by AB 473 (Chow, Ch. 614, Stats. 2021). Prior to the recodification, the equivalent to Section 7928.215 of the Government Code was Section 6254.21(c)(1) of that code. As such, the *Publius* case refers to Section 6254.21(c)(1) throughout.

AB 1785 furthers existing law, which prohibits a public agency from posting on the internet the home address or telephone number of an “elected or appointed official” (including a judge or court commissioner) by including specific types of data that can be combined to easily determine an official’s home address. CACTTC fully understands and appreciates the need to ensure the safety of elected and appointed officials, and their need and right to feel safe in their homes with their families.

The May 29, 2024 amends provide critical certainty for Tax Collectors, as they provide important clarification for county tax collectors regarding their ability to lawfully notify property owners in default through existing, mandated publications. AB 1785 now provides vital clarity to Tax Collectors in what situations the address or APN of such an official may be published. Examples include when a property becomes tax defaulted and eligible for a property tax sale. The measure provides the balance necessary to ensure that administration of property tax law can be continue in a fair and sensible way.

For these reasons, CACTTC is pleased to support AB 1785 as amended, and urges your Aye vote on this measure.

#### **SUPPORT**

California Judges Association (sponsor)  
California Association of County Treasurers and Tax Collectors  
City of Thousand Oaks  
Desert Water Agency  
El Dorado Irrigation District  
Judicial Council of California  
Palmdale Water District  
Public Risk Innovation, Solutions, and Management (PRISM)  
Rowland Water District  
Walnut Valley Water District  
Water Replenishment District of Southern California

#### **OPPOSITION**

None received

#### **RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation:

AB 1756 (Committee on Judiciary, Ch. 1756, Stats. 2023), among other things, additionally included a judge of a federally recognized Indian tribe under the definition of “elected or appointed official” under the CPRA.

**PRIOR VOTES**

Assembly Floor (Ayes 75, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)

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