As directed by the Legislature, the Commission\(^1\) is preparing a proposed recodification of the California Public Records Act (“CPRA”).\(^2\) This is a strictly nonsubstantive project, intended to make the CPRA more user-friendly.\(^3\) The Commission is using its normal, time-tested study process, which involves circulation of a tentative recommendation for comment before finalizing a proposal for submission to the Legislature.\(^4\)

For purposes of a tentative recommendation, the Commission decided to recodify the CPRA in a new division (Division 10) in Title 1 of the Government Code. That division would be split into six parts (Parts 1-6), as detailed in the Commission’s tentative outline.\(^5\)

At the December meeting, the Commission considered staff drafts of Parts 1 and 2. For convenient reference, a cumulative preliminary draft, incorporating the Commission’s decisions to date, is attached to Memorandum 2018-10.

This memorandum presents a staff draft of Part 3. **Commissioners and other interested persons should review the draft and consider whether any revisions are needed.**

A few points requiring special attention are discussed below.

Unless otherwise indicated, all statutory references in this memorandum are to the Government Code.

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1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

   The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.


4. For a brief description of the Commission’s study process, see http://www.clrc.ca.gov/Menu5_about/process.html.

5. The current version of the tentative outline is attached to Memorandum 2018-9, which was previously distributed for convenient reference in connection with the upcoming meeting.
SUGGESTED CHANGES TO THE CUMULATIVE DRAFT

In preparing the attached draft of Part 3, the staff took a hard look at Section 6253, which provides:

6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. 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.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, “unusual circumstances” means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

(f) In addition to maintaining public records for public inspection during the office hours of the public agency, a public agency may comply with subdivision (a) by posting any public record on its Internet Web site and, in response to a request for a public record posted on the Internet Web site, directing a member of the public to the location on the Internet Web site where the public record is posted. However, if after the public agency directs a member of the public to the Internet Web site, the member of the public requesting the public record requests a copy of the public record due to an inability to access or reproduce the public record from the Internet Web site, the public agency shall promptly provide a copy of the public record pursuant to subdivision (b).

We also searched the codes for cross-references to this important provision, and found many of them.\(^6\)

Having reflected on what we found, as well as previous input from the CPRA Committee of the League of California Cities warning that Section 6253(a) and (b) “set forth the fundamental purpose of the CPRA and any modification to these [provisions] would constitute a substantive change to the existing law,”\(^7\) the staff recommends the following changes to the cumulative draft attached to Memorandum 2018-9:

(1) Proposed new Division 10 should be named “Access to Public Records” instead of “Inspection of Public Records.” The suggested new name is more appropriate because the CPRA encompasses a right to obtain copies of public records, not just a right to inspect public records.

(2) In proposed “Part 2. Disclosure and Exemptions Generally,” Chapter 1 should be named “Right of Access to Public Records” instead of “Right to Inspect Public Records.” Again, the

\(^6\) See Sections 6253.1(c) & (d)(1), 6253.4(b), 6253.5(a), 6253.6, 11125.1(e), 12525, 12525.5(f), 15570.42, 15652, 54957.5(d). See also Health & Safety Code § 1439; Penal Code §§ 13300(j), 13519.4(j)(3)(E), 14167; Pub. Cont. Code § 10335(c); Veh. Code §§ 21362.5, 21455.5(f), 40240(f).

\(^7\) Second Supplement to Memorandum 2017-48, Exhibit p. 1 (emphasis in original).
suggested new name is more appropriate because the CPRA encompasses a right to obtain copies of public records, not just a right to inspect public records. In addition, the suggested new name tracks the language in existing Section 6250, which would be continued in proposed Section 7921.000 — i.e., “[T]he Legislature ... finds and declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right ....”

(3) The first sentence of Section 6253(a) says: “Public records are open to inspection at all times during the offices hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided.” Instead of recodifying that provision as proposed Section 7921.005 in Chapter 1 of Part 2, it should be moved to Part 3 of proposed new Division 10, where it can be kept in close proximity to the rest of the substance of Section 6253. That would be helpful in conforming the many cross-references to Section 6253 in the codes. Relocating the sentence in question would also make it possible to keep the two sentences comprising Section 6253(a) adjacent to each other, which could be important because both of those sentences state key rules on inspection of a public record, as opposed to obtaining a copy of a public record.

It is true that the substance of the first sentence of Section 6253(a) (establishing a general right to inspect public records) also fits well in the chapter where it is currently located. Putting it there does not seem crucial, however, because that chapter includes another provision (proposed Section 7921.000), which more broadly expresses a right of “access to information concerning the conduct of the people’s business ....” The benefits of keeping the entire substance of Section 6253 in close proximity thus seem more compelling than the benefits of the current approach.

(4) Conforming changes should be made to reflect the relocation discussed in item #3 above — i.e., proposed Section 7921.010 should become proposed Section 7921.005; proposed Section 7921.015 should become proposed Section 7921.010.

The attached draft of Part 3 is based on the assumption that these four changes to the cumulative draft will be acceptable to the Commission. Are the four changes acceptable, as the staff assumed? Is there any reason not to make these changes?

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8. Emphasis added.
9. If the Commission approves the four changes described above, the staff will also make conforming revisions in the tentative outline of new Division 10.
SUGGESTED CHANGE TO THE HEADING OF PART 3

In the current version of the tentative outline for the proposed recodification, Part 3 is entitled “Inspection Procedures.” That title is too narrow, because the CPRA encompasses a right to obtain copies of public records, not just a right to inspect public records.

The staff used a different title in the attached draft: “Part 3. Procedures.” Is that title acceptable to the Commission? Does anyone have a better suggestion? 10

STAFF NOTES REGARDING PLACEMENT OF DEFINITIONS

The attached draft includes two Staff Notes that seek comment on the appropriate placement in the proposed recodification of definitional provisions that have limited application in the existing CPRA. The Staff Notes appear following proposed Sections 7922.535 and 7922.700.

The staff will raise those two Staff Notes for discussion at the meeting.

Respectfully submitted,

Steve Cohen
Staff Counsel

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10. If the Commission changes the title of Part 3, the staff will incorporate that change in the next draft of the tentative outline.
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Note. This is a work in progress. The material shown below may be changed. For a tentative outline of new Division 10 of Title 1 of the Government Code, see CLRC Staff Memorandum 2018-9.

A draft of an official Commission “Comment” follows each proposed code section in the proposed recodification. Such Comments will be included in any final recommendation. The Comments indicate the source of each recodified code section (or provision within the code section) and describe how the recodified code section (or provision) compares with prior law. Courts have routinely held that the Commission’s Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation.

There is a “disposition table” at the end of the proposed recodification. It summarizes, in tabular form, the disposition of every provision of the existing code that has been included in this proposed recodification.

There is also a “derivation table” at the end of the proposed recodification. It summarizes, in tabular form, the statutory derivation of every new code provision in this proposed recodification.

Some provisions in this draft are followed by a “Staff Note.” These Staff Notes are intended to be temporary and will not be part of the Commission’s final recommendation. In general, the Staff Notes serve to flag issues requiring special attention or treatment.

Some provisions in this draft contain a bracketed reference to one or more existing code sections. As new Division 10 is drafted, these references will be conformed to the new numbering scheme.

In some places, it is necessary to refer to a section that has not yet been drafted. That is done by referring to “Section 79xx.xxx.” The Commission will fill in these references as it drafts the proposed recodification.

All of the proposed provisions would be located in the Government Code. All references are to the Government Code unless otherwise indicated.

The Commission welcomes public comment on any issue relating to the content of this draft or any other aspect of its ongoing CPRA Clean-Up study. Comments should be directed to Steve Cohen (scohen@clrc.ca.gov) or Barbara Gaal (bgaal@clrc.ca.gov).
Gov’t Code §§ 7920.000-79xx.xxx (added). California Public Records Act

SEC. ___. Division 10 (commencing with Section 7920.000) is added to the Government Code, to read:

DIVISION 10. ACCESS TO PUBLIC RECORDS

... 

PART 3. PROCEDURES

CHAPTER 1. REQUEST FOR A PUBLIC RECORD

Article 1. General Principles

§ 7922.500. No delay or obstruction

7922.500. Nothing in this division shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.

Comment. Section 7922.500 continues the first sentence of former Section 6253(d) without substantive change.

See Section 7920.525 (“public records”).

§ 7922.505. Option to adopt requirements that allow faster, more efficient, or greater access than minimum standards

7922.505. Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this division.

Comment. Section 7922.505 continues former Section 6253(e) without substantive change.

See Sections 7920.505 (“local agency”), 7920.535 (“state agency”).

Article 2. Procedural Requirements Generally

§ 7922.525. Inspection of public record

7922.525. (a) 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, except as otherwise provided.

(b) 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.

Comment. Subdivision (a) of Section 7922.525 continues the first sentence of former Section 6253(a) without substantive change.

Subdivision (b) continues the second sentence of former Section 6253(a) without change.

For an agency’s duty to assist a person in making a focused and effective record request, see Section 7922.600. For guidance on obtaining a copy of a public record, see Section 7922.530.
See also Sections 7921.000-7922.210 (disclosure and exemptions generally), 7922.535 (time to respond), 7922.540 (denial of request), 7922.545 (posting of public record on agency’s Internet Web site), 7922.570 (disclosure of information in electronic format), 7922.640 (limitations on guidelines & regulations).

See Sections 7920.505 (“local agency”), 7920.515 (“person”), 7920.525 (“public records”), 7920.535 (“state agency”).

§ 7922.530. Copy of public record

7922.530. Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

Comment. Section 7922.530 continues former Section 6253(b) without change.

For an agency’s duty to assist a person in making a focused and effective record request, see Section 7922.600. For guidance on inspection of a public record, see Section 7922.525.

See also Sections 7921.000-7922.210 (disclosure and exemptions generally), 7922.535 (time to respond), 7922.540 (denial of request), 7922.545 (posting of public record on agency’s Internet Web site), 7922.570 (disclosure of information in electronic format), 7922.640 (limitations on guidelines & regulations).

See Sections 7920.505 (“local agency”), 7920.515 (“person”), 7920.525 (“public records”), 7920.535 (“state agency”).

§ 7922.535. Time to respond

7922.535. (a) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. If the agency determines that the request seeks disclosable public records, the agency shall also state the estimated date and time when the records will be made available.

(b) In unusual circumstances, the time limit prescribed in this article and Article 1 (commencing with Section 7922.500) may be extended by written notice from the head of the agency or a designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days.

(c) As used in this section, “unusual circumstances” means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

Comment. Subdivision (a) of Section 7922.535 continues the first and fourth sentences of former Section 6253(c) without substantive change.

Subdivision (b) continues the second and third sentences of former Section 6253(c) without substantive change.

Subdivision (c) continues the fifth sentence of former Section 6253(c) without change.

For further guidance on the timing of an agency’s response to a record request, see Section 7922.500 (no delay or obstruction).

☞ Staff Note. The fifth sentence of existing Section 6253(c) defines the term “unusual circumstances” for purposes of that section. In drafting proposed Section 7922.535, the staff had to decide whether to place that definition in “Chapter 2. Definitions” of Part 1 of the proposed recodification, or keep the definition in close proximity to the substantive material where the definition is used.

The definition of “unusual circumstances” is specific to the context of Section 6253(c). It seems unlikely that the Legislature would ever want to apply the same definition elsewhere in the CPRA. For that reason, and because readers might not expect “unusual circumstances” to be a defined term, we decided to keep the definition of “unusual circumstances” in close proximity to the substance of Section 6253(c). See proposed Section 7922.535(c).

Comments on this approach would be helpful.

§ 7922.540. Denial of request

7922.540. (a) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

(b) The notification of denial shall set forth the names and titles or positions of each person responsible for the denial.

(c) An agency shall justify withholding any record by complying with Section 7922.000.

Comment. Subdivision (a) of Section 7922.540 continues former Section 6255(b) without change.

Subdivision (b) continues the second sentence of former Section 6253(d) without substantive change.

Subdivision (c) is new. It is a nonsubstantive signpost provision, included simply to alert readers to the requirements of Section 7922.000 (justification for withholding of record).

For further guidance on denial of a record request, see Sections 7921.000-7922.210 (disclosure & exemptions generally), 79xx.xxx-79xx.xxx (specific types of public records), 79xx.xxx-79xx.xxx (other exemptions from disclosure).

See Sections 7920.515 (“person”), 7920.525 (“public records”).

§ 7922.545. Posting public record on agency’s Internet Web site

7922.545. (a) In addition to maintaining public records for public inspection during its office hours, a public agency may comply with Section 7922.525 by
posting any public record on its Internet Web site and, in response to a request for
a public record posted on the Internet Web site, directing a member of the public
to the location on the Internet Web site where the public record is posted.

(b) However, if after the public agency directs a member of the public to the
Internet Web site, the member of the public requesting the public record requests a
copy of the public record due to an inability to access or reproduce the public
record from the Internet Web site, the public agency shall promptly provide a copy
of the public record pursuant to Section 7922.530.

Comment. Subdivision (a) of Section 7922.545 continues the first sentence of former Section
6253(f) without substantive change.
Subdivision (b) continues the second sentence of former Section 6253(f) without substantive
change.
For further guidance on agency websites, see Sections 7922.680 (formatting of record that
local agency posts on Internet Resource), 7922.705 (posting catalog of enterprise systems on
local agency’s website). See also Section 7922.520 (disclosure of information in electronic
format).
See Sections 7920.510 (“member of the public”), 7920.520 (“public agency”), 7920.525
(“public records”).

Article 3. Information in Electronic Format

§ 7922.570. Disclosure of information in electronic format
7922.570. (a) Unless otherwise prohibited by law, any agency that has
information that constitutes an identifiable public record not exempt from
disclosure pursuant to this division that is in an electronic format shall make that
information available in an electronic format when requested by any person.
(b) When applicable, the agency shall do the following:
(1) The agency shall make the information available in any electronic format in
which it holds the information.
(2) The agency shall provide a copy of an electronic record in the format
requested if the requested format is one that the agency has used to create copies
for its own use or for provision to other agencies.
(c) If a request is for information in other than electronic format, and the
information also is in electronic format, an agency may inform the requester that
the information is available in electronic format.

Comment. Subdivision (a) of Section 7922.570 continues the first part of the introductory
clause of former Section 6253.9 without substantive change.
Subdivision (b) continues paragraph (a)(1), the first sentence of paragraph (a)(2), and the
second part of the introductory clause of former Section 6253.9 without substantive change.
Subdivision (c) continues former Section 6253.9(d) without substantive change.
For guidance on the cost of duplicating an electronic record, see Section 7922.575. For
limitations on the application of this article, see Section 7922.580.
For guidance regarding agency websites, see Sections 7922.545 (posting public record on
agency’s Internet Web site), 7922.680 (formatting of record that local agency posts on Internet
Resource).
See Sections 7920.515 (“person”), 7920.525 (“public records”).
§ 7922.575. Cost of duplication

7922.575. (a) The cost of duplication of an electronic record pursuant to paragraph (2) of subdivision (b) of Section 7922.570 shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with subdivisions (a) and (b) of Section 7922.520, the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

Comment. Subdivision (a) of Section 7922.575 continues the second sentence of former Section 6253.9(a)(2) without substantive change. Subdivision (b) continues former Section 6253.9(b) without substantive change. See Section 7920.520 (“public agency”).

§ 7922.580. Limitations

7922.580. (a) Nothing in this article shall be construed to require a public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(b) Nothing in this article shall be construed to permit an agency to make information available only in an electronic format.

(c) Nothing in this article shall be construed to require a public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(d) Nothing in this article shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

Comment. Subdivision (a) of Section 7922.580 continues former Section 6253.9(c) without substantive change. Subdivision (b) continues former Section 6253.9(e) without substantive change. Subdivision (c) continues former Section 6253.9(f) without substantive change. Subdivision (d) continues former Section 6253.9(g) without substantive change. See Section 7920.520 (“public agency”).

Article 4. Duty to Assist in Formulating Request

§ 7922.600. Duty to provide assistance

7922.600. (a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably
describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

(2) Describe the information technology and physical location in which the records exist.

(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.

(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Article 1 (commencing with Section 7922.500) or Article 2 (commencing with Section 7922.525).

Comment. Section 7922.600 continues former Section 6253.1(a)-(c) without substantive change.

For further guidance regarding assistance to the public, see Sections 7922.500 (no delay or obstruction), 7922.505 (option to adopt requirements that allow faster, more efficient, or greater access than minimum standards).

See Sections 7920.510 (“member of the public”), 7920.520 (“public agency”), 7920.525 (“public records”).

§ 7922.605. Inapplicability of article

7922.605. This article shall not apply to a request for public records if any of the following applies:

(a) The public agency makes the requested records available pursuant to Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525).

(b) The public agency makes an index of its records available.

(c) The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Section 7920.500.

Comment. Section 7922.605 continues former Section 6253.1(d) without substantive change.

See Sections 7920.520 (“public agency”), 7920.525 (“public records”).

CHAPTER 2. AGENCY REGULATIONS, GUIDELINES, SYSTEMS, AND SIMILAR MATTERS

Article 1. Agency Regulations and Guidelines

§ 7922.630. Authority to adopt regulations

7922.630. Every agency may adopt regulations in accordance with this article stating the procedures to be followed when making its records available.
Comment. Section 7922.630 continues the first paragraph of former Section 6253.4(a) without substantive change.

For further guidance on adoption of regulations, see Sections 7922.500 (no delay or obstruction), 7922.505 (option to adopt requirements that allow faster, more efficient, or greater access than minimum standards), 7922.635 (agencies required to establish & make available written guidelines for accessibility of records), 7922.640 (limitations on guidelines & regulations).

§ 7922.635. Agencies required to establish and make available written guidelines for accessibility of records

7922.635. (a) The following state and local bodies shall establish written guidelines for accessibility of records:

1. All regional water quality control boards
2. Bay Area Air Pollution Control District
3. Bureau of Real Estate
4. California Coastal Commission
5. Department of Business Oversight
6. Department of Consumer Affairs
7. Department of Corrections and Rehabilitation
8. Department of General Services
9. Department of Industrial Affairs
10. Department of Insurance
11. Department of Justice
12. Department of Managed Health Care
13. Department of Motor Vehicles
14. Department of Parks and Recreation
15. Department of Toxic Substances Control
16. Department of Veterans Affairs
17. Department of Water Resources
18. Division of Juvenile Justice
19. Employment Development Department
20. Golden Gate Bridge, Highway and Transportation District
21. Los Angeles County Air Pollution Control District
22. Office of Environmental Health Hazard Assessment
23. Public Employees’ Retirement System
24. Public Utilities Commission
25. San Francisco Bay Area Rapid Transit District
26. San Francisco Bay Conservation and Development Commission
27. Secretary of State
28. State Air Resources Board
29. State Board of Equalization
30. State Department of Developmental Services
31. State Department of Health Care Services
32. State Department of Public Health
§ 7922.640. Limitations on guidelines and regulations
7922.640. (a) Guidelines and regulations adopted pursuant to this article shall be consistent with all other sections of this division and shall reflect the intention of the Legislature to make the records accessible to the public.
(b) Guidelines and regulations adopted pursuant to this article shall not operate to limit the hours public records are open for inspection as prescribed in Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525).

Comment. Section 7922.640 continues former Section 6253.4(b) without substantive change.
See Section 7920.525 (“public records”).

Article 2. Internet Resources

§ 7922.680. Formatting of record that local agency posts on Internet Resource
7922.680. If a local agency, except a school district, maintains an Internet Resource, including, but not limited to, an Internet Web site, Internet Web page, or Internet Web portal, which the local agency describes or titles as “open data,” and the local agency voluntarily posts a public record on that Internet Resource, the local agency shall post the public record in an open format that meets all of the following requirements:
(a) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.
(b) Platform independent and machine readable.
(c) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the public record.
(d) Retains the data definitions and structure present when the data was compiled, if applicable.

Comment. Section 7922.680 continues former Section 6253.10 without change.
See Section 7920.505 (“local agency”), 7920.525 (“public records”).
Article 3. Catalog of Enterprise Systems

§ 7922.700. Creation of catalog

7922.700. (a) In implementing this division, each local agency, except a local educational agency, shall create a catalog of enterprise systems.

(b) The local agency shall complete and post the catalog as required by this article by July 1, 2016, and thereafter shall update the catalog annually.

Comment. Subdivision (a) of Section 7922.700 continues the first sentence of former Section 6270.5(a) without substantive change.

Subdivision (b) continues former Section 6270.5(f) without substantive change.

See Sections 7920.495 (“catalog of enterprise systems”), 7920.505 (“local agency”).

☞ Staff Note. Existing Section 6270.5(c)(1) & (3) define the term “enterprise system” for purposes of that section. Existing Section 6270.5(c)(2) defines the term “system of record,” which is used in the definition of “catalog of enterprise systems.” Neither of the terms is used elsewhere in the CPRA.

In drafting proposed Section 7922.700, the staff had to decide where the definitions of “enterprise system” and “system of record” should go: (1) in “Chapter 2. Definitions” of Part 1 of the proposed recodification, or (2) in this article entitled “Catalog of Enterprise Systems,” which will contain the substantive material where the definitions are currently used.

The staff regards this as a close call. It seems possible, however, that in the future the Legislature might want to apply those definitions in one or more CPRA provisions outside this article.

Thus, our current inclination is to place the two definitions in “Chapter 2. Definitions,” instead of in this article. The definitions would be proposed Sections 7920.495 and 7920.537, as follows:

7920.495. (a) As used in Article 3 (commencing with Section 7922.700) of Chapter 2 of Part 3, “enterprise system” means a software application or computer system that collects, stores, exchanges, and analyzes information that the agency uses that is both of the following:

(1) A multidepartmental system or a system that contains information collected about the public.

(2) A system of record.

(b) An enterprise system shall not include any of the following:

(1) Information technology security systems, including firewalls and other cybersecurity systems.

(2) Physical access control systems, employee identification management systems, video monitoring, and other physical control systems.

(3) Infrastructure and mechanical control systems, including those that control or manage street lights, electrical, natural gas, or water or sewer functions.

(4) Systems related to 911 dispatch and operation or emergency services.

(5) Systems that would be restricted from disclosure pursuant to [Section 6254.19].

Comment. Section 7920.495 continues former Section 6270.5(c)(1) & (3) without substantive change.

See Section 7920.537 (“system of record”).

7920.537. “System of record” means a system that serves as an original source of data within an agency.

Comment. Section 7920.537 continues former Section 6270.5(c)(2) without substantive change.
The Comments to proposed Sections 7922.700, 7922.705, and 7922.710 would refer to Section 7920.495’s definition of “enterprise system,” and the Comment to Section 7920.495 would refer to Section 7920.537’s definition of “system of record.” That would help alert readers to the two definitions. Comments on this approach would be helpful.

§ 7922.705. Availability of catalog

7922.705. (a) The catalog of enterprise systems required by Section 7922.700 shall be made publicly available upon request in the office of the person or officer designated by the agency’s legislative body.
(b) If the agency has an Internet Web site, the catalog shall be posted in a prominent location on the agency’s Internet Web site.

Comment. Subdivision (a) of Section 7922.705 continues the second sentence of former Section 6270.5(a) without substantive change.
Subdivision (b) continues the third sentence of former Section 6270.5(a) without substantive change.
See Sections 7920.495 (“catalog of enterprise systems”), 7920.515 (“person”), 7920.505 (“local agency”).

§ 7922.710. Content of catalog

7922.710. (a) The catalog of enterprise systems required by Section 7922.700 shall disclose a list of the enterprise systems utilized by the agency.
(b) For each system, the catalog shall also disclose all of the following:
(1) Current system vendor.
(2) Current system product.
(3) A brief statement of the system’s purpose.
(4) A general description of categories or types of data.
(5) The department that serves as the system’s primary custodian.
(6) How frequently system data is collected.
(7) How frequently system data is updated.
(c) If, on the facts of the particular case, the public interest served by not disclosing the information described in paragraph (1) or (2) of subdivision (b) clearly outweighs the public interest served by disclosure of the record, the local agency may instead provide a system name, brief title, or identifier of the system.

Comment. Subdivisions (a) and (b) of Section 7922.710 continue the fourth sentence of former Section 6270.5(a) without substantive change.
Subdivision (c) continues former Section 6270.5(e) without substantive change.
See Sections 7920.495 (“catalog of enterprise systems”), 7920.505 (“local agency”).

§ 7922.715. Construction of article

7922.715. (a) This article shall not be interpreted to limit a person’s right to inspect public records pursuant to this division.
(b) Nothing in this article shall be construed to permit public access to records held by an agency to which access is otherwise restricted by statute or to alter the process for requesting a public record, as set forth in this division.
Comment. Subdivision (a) of Section 7922.715 continues former Section 6270.5(b) without substantive change.

Subdivision (b) continues former Section 6270.5(d) without substantive change.

See Sections 7920.515 (“person”), 7920.525 (“public records).
**DISPOSITION OF EXISTING LAW**

*Staff Note.* This table shows the proposed disposition of provisions in the California Public Records Act (Gov’t Code §§ 6250-6276.48), as the law existed on January 1, 2018. Unless otherwise indicated, all statutory references are to the Government Code.

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## DERIVATION OF NEW LAW

** Staff Note. This table shows the derivation of each provision of the proposed CPRA Recodification Act of 2019 that would be continued in this draft. Unless otherwise indicated, all statutory references are to the Government Code. **

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