



# CALIFORNIA NEWS PUBLISHERS ASSOCIATION CNPA Services, Inc.

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March 14, 2022

Honorable Mark Stone, Chair  
Honorable Jordan Cunningham, Vice Chair  
Honorable Laurie Davies  
Honorable Chris R. Holden  
Honorable Ash Kalra  
Honorable Kevin Kiley  
Honorable Brian Maienschein  
Honorable Eloise Gómez Reyes  
Honorable Robert Rivas



Legislative Office Building  
1020 N Street, Room 104  
Sacramento, CA 95814

## **RE: Support AB 2370 (Levine) Public records: State Agency Retention**

Dear Chair Stone and members of the Assembly Committee on Judiciary:

I am writing on behalf of the California News Publishers Association (CNPA), the First Amendment Coalition (FAC), and Californians Aware (CalAware) to express our support for AB 2370 (Levine), which would require writings containing information relating to the conduct of the public's business, including those transmitted by electronic mail, to be retained and preserved by state agencies for at least two years, unless a longer retention period is required by statute or regulation.

The California Constitution guarantees the public's right to access public records, and that "the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny." (Cal. Const. art. I, § 3 (b)(1).) Yet, there is no minimum retention period for such records that applies to state agencies. As a result, public records subject to disclosure under the California Constitution and the Public Records Act may be deleted or destroyed instead of disclosed, as required by law.

A clear statutory minimum standard for the retention and preservation of public records, especially electronic mail, is necessary in an era in which many agencies routinely communicate on important issues concerning the conduct of the people's business and automatically purge these email communications. In their eagerness to purge these records from their servers, agencies dispose of records that provide the public with insights into the development of public policy, illuminate

controversial decisions, or potentially hide evidence of corruption and self-dealing. Such records are critical to the public's ability to hold its government to account.

This problem is not limited to electronic mail. [As recently reported](#), the chief administrative officer of a state agency testified that she routinely shredded scoring worksheets that she no longer considered "relevant," even though they were central to a contract bidding dispute.

Existing law leaves it to state agencies to determine how long various records should be retained under "retention schedules" filed with the Secretary of State. (*See* Gov. Code §§ 12270-12279.) For example, under the Department of Insurance's current records retention schedule for the Office of the Commissioner and Executive Office "Department records, scheduling, invitations, schedules, deadlines, [and] contracts" are destroyed after 90 days. Destroying records after 90 days, before the press or public may be aware of important issues these records could shed light on, is the antithesis of the government transparency that the Public Records Act is meant to provide.

AB 2370 would require state agencies to retain public records, including electronic documents, for a minimum time critical to public accountability and provide clear guidance to agencies, journalists, and members of the public as to what the appropriate standards are for the custodians of this information.

For all of these reasons, CNPA, FAC, and CalAware strongly support AB 2370 (Levine) and respectfully urge your "AYE" vote.

Sincerely,



Brittney Barsotti  
General Counsel  
California News Publishers Association



David Loy  
Legal Director  
First Amendment Coalition



Kelly Aviles  
Executive Director & General Counsel  
Californians Aware

cc: Simon Grieve, CNPA Chairperson, Publisher, The Grunion, Beach Reporter, Palos Verdes Peninsula News  
Jeff Glasser, CNPA Governmental Affairs Committee Co-Chair, Senior Vice President and General Counsel, Los Angeles Times  
Steve Falk, CNPA Governmental Affairs Committee Co-Chair, CEO Sonoma Media  
Chuck Champion, CNPA President and Chief Executive Officer  
Alison Merrilees, Chief Counsel, Assembly Judiciary Committee