



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: County Counsel
Department No.: 013
For Agenda Of: November 7, 2017
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director: Michael C. Ghizzoni, County Counsel
Contact Info: Michael C. Ghizzoni, County Counsel, (805) 568-2950
SUBJECT: Adopt Resolution for the Office of County Counsel's Electronic Retention of Closed Civil Litigation Case Files

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: N/A

Recommended Actions:

County Counsel recommends that the Board of Supervisors:

- A. Adopt a resolution for the electronic reproduction and retention of the Office of County Counsel's closed, inactive civil litigation case files and the destruction of the paper case files pursuant to Government Code sections 26201, 26205, 26205.1, and 26206.7.
- B. Find that the proposed Resolution is not a "project" under CEQA Guideline 15378(b), in that it does not involve a commitment to any specific project which may result in a potentially significant impact to the environment.

Background:

The Office of County Counsel would like to adopt a systematic electronic records retention procedure for its closed, inactive civil litigation files. The goal is to decrease the amount of paper files stored off-site. County Counsel has limited on-site storage and must use off-site storage for many of these litigation files. Rather than transporting these files to and from the off-site storage facility, County Counsel staff will scan these documents for electronic storage. Electronic storage of the case files also facilitates quicker and more convenient access to these files when needed.

The proposed Resolution would expressly authorize the Office of County Counsel to digitize the paper civil litigation files, at the time of their closure, in a secured electronic form which accurately reproduces the original; does not permit additions, deletions, or changes to the original; and, complies with Government Code section 12168.7. After the paper files are properly digitized, the paper files may be destroyed.

Retention of county documents is governed by Government Code section 26200, et seq. Though there is no explicit definition of the “public records” subject to state records retention statutes, the Attorney General has opined that the definition of “public records” for purposes of the records retention statutes is “a thing which constitutes an objective lasting indication of a writing, event or other information, which is in the custody of a public officer and is kept either (1) because a law requires it to be kept or (2) because it is necessary or convenient to the discharge of the public officer’s duties and was made or retained for the purpose of preserving its informational content for future reference.” (64 Ops.Cal.Atty.Gen. 317 (1981).) Some, but not all, of the records, papers, and documents within the County Counsel Office’s closed civil litigation case files meet the definition of a “record.” As part of Countywide Policy 121-107 Local Government Records Management Guidelines compliance, these records are “non-judicial records” as defined by that Policy. Under the record retention statutes, many of the documents in the closed civil litigation case files are duplicate copies of documents kept in the files of other departments of the County or by the courts.

Both Government Code sections 26205 and 26205.1 allow for the Board to authorize the destruction of any record, paper, or document not expressly required by law to be filed and preserved, if reproduced electronically with specific requirements. One of these requirements is for the electronic storage to be within a “trusted system” that does not permit additions, deletions, or changes to the original document and is produced in compliance with Government Code section 12168.7. The minimum standards are those recommended by the American National Standards Institute the Association for Information and Image Management for recording of permanent records or nonpermanent records. (*Id.*) Further standards for electronic recordation are set forth in the Trustworthy Electronic Document or Record Preservation codes. (2 CCR § 22620.1, et seq.) The Office of County Counsel is prepared to comply with the “trusted system” requirements.

In addition, both Government Code sections 26201 and 26206.7 allow for the Board to authorize the destruction of various duplicates of county records.

This policy is in compliance with both the California Secretary of State Local Government Records Program, established pursuant to Government Code section 12236(a), and the Countywide Policy 121-107 Local Government Records Management Guidelines.

A Board adopted electronic retention mechanism for closed civil litigation case files will allow the Office of County Counsel to purge paper records upon a case’s completion without having to return to the Board each time, thereby improving records management efficiency.

Performance Measure:

Not applicable.

Fiscal and Facilities Impacts:

None.

Fiscal Analysis:

A routine disposal of paper closed civil litigation case files and retention of the files electronically will reduce the Office of County Counsel's physical storage demands. This new policy is cost neutral since County Counsel staff will spend time scanning documents rather than transporting files to and from storage.

Key Contract Risks:

None.

Staffing Impacts:

None.

Special Instructions:

Please send a copy of signed resolution to County Counsel, attention Deputy County Counsel Ashley Flood.

Attachments:

Proposed Resolution to Adopt an Electronic Records Retention Policy for the Office of County Counsel's Closed Civil Litigation Case Files

Authored by: Ashley Flood, Deputy County Counsel