



February 20, 2014

The Honorable Ted Lieu
California State Senate
State Capitol, 10th and L Street
Sacramento, CA 95814

RE: Senate Bill 828 – Concerns Expressed

Dear Senator Lieu:

On behalf of the IT Alliance for Public Sector (ITAPS), I am writing to register our concerns with Senate Bill 828 and to identify potential ramifications this proposal may have on contractors doing business with the State of California and the Federal government. SB 828 also has negative implications for companies that are seeking to make manufacturing and business investments in the state of California. These ramifications and negative implications would be counterproductive to the interests of the State and its citizens as well as to companies that invest and hire Californians.

The introductory language of Section 7599 addresses the provisions to the State, a political subdivision, an employee of the State or a political subdivision or a corporation “providing services on behalf of the state or a political subdivision” and includes a nexus with “a federal agency that claims the power, by virtue of any federal law, rule, regulation, or order, to collect electronic data or metadata of any person pursuant to any action not based on a warrant that particularly describes the person, place, and thing to be searched or seized.” The language then prohibits the following:

- In 7599(a), the affected entities may not “provide material support, participation or assistance in any form” to the identified federal agency. The IT Alliance believes this could be interpreted as barring any company doing business with the state or a political subdivision from contracting for any business with the identified federal agency. Such a prohibition would seem to apply broadly to any corporate offering, from janitorial services to electronic data collection and anything in between. Such a restriction will have a negative consequence on California companies doing business with the State or a political subdivision that are also seeking or performing work with the identified federal agency. Corporations in such a situation would most probably be forced to cease or forego business opportunities involving one or more of the affected parties and the identified federal agency.
- In 7599.5(b), the proposal says the affected entities shall not “utilize any assets or public funds, in whole or in part, to engage in any activity that aids a ... corporation while providing services to the federal government in the collection of electronic data or metadata of any person” if not based in a warrant with defined specificity. The IT Alliance is concerned that this provision could be interpreted to prohibit the obligation of state or political subdivision funds in a contract with a corporation that also contracts with any federal agency to collect electronic data

63 Bovet Road, #360
San Mateo, CA 94402
650-544-7563
www.itic.org

or metadata, except as defined. If awarding contracts is deemed to be an “activity that aids a ... corporation,” then funding those would be prohibited under the Bill. Many California-based companies provide technology goods and analytic services which are important to the provision of national and homeland security for U.S. citizens and this would seem to unnecessarily jeopardize their ability to compete for business with the state or political subdivisions.

- In 7599.5(c) the affected entities are prohibited from “provid[ing] services, participation or assistance to any ... corporation while providing services to the federal government in the collection of electronic data or metadata of any person” if not based in a warrant with defined specificity. The IT Alliance is concerned that this provision could be interpreted to prohibit assistance or services from the affected entities should they wish to promote economic development or offer incentives to companies to locate in the state or a particular political subdivision. The types of services or assistance that could be covered would include tax adjustments, deferrals or waivers or assistance with development of local training curriculums to establish a viable workforce for the needs of the corporation being courted.

In summary, as drafted, the bill could be interpreted in a manner that would have negative implications upon the State, its political subdivisions and California corporations. We hope our concerns will be eliminated if this bill proceeds forward. Thank you for your attention and should you have any questions, please contact me at chenton@itic.org or 650-544-7563.

About the IT Alliance for Public Sector (ITAPS): As a division of ITI, ITAPS is an alliance of leading technology companies offering the latest innovations and solutions to public sector markets. With a focus on the Federal, state and local levels of government, as well as on educational institutions, the ITAPS team advocates for improved procurement policies and practices, while identifying business development opportunities and sharing market intelligence with our industry participants.

Respectfully submitted,



Carol Henton
Vice President, State, Local and Education, Public Sector
Information Technology Alliance for Public Sector (ITAPS)
Division of the Information Technology Industry Council
Offices in Washington, DC and Silicon Valley, CA

Copy to: The Honorable Joel Anderson, California State Senate

63 Bovet Road, #360
San Mateo, CA 94402
650-544-7563
www.itic.org