

LEGISLATIVE DIGEST

[Administrative Code - Protection of Biometric Information]

Ordinance amending the Administrative Code to prohibit the City from disclosing biometric information it possesses about its employees or other persons, collecting biometric information from its employees, or using biometric information from its employees for timekeeping purposes, with certain exceptions.

Existing Law

Administrative Code Chapter 12M, a 2006 initiative measure, limits the City's disclosure of "Private Information." The Chapter defines "Private Information" as "any information that (1) could be used to identify an individual, including without limitation name, address, social security number, medical information, financial information, date and location of birth, and names of relative; or (2) the law forbids any person from disclosing."

The Chapter bars the City from disclosing Private Information to any person or entity unless specifically authorized to do so by the subject individual or by contract or where required by Federal or State law or judicial order. The City may not enter into any contract for the primary purpose of disclosing Private Information and may not receive any compensation for the disclosure of Private Information.

No Contractor or Subcontractor who receives Private Information from the City in the performance of a contract may disclose that information to a Subcontractor or any other person or entity, unless the contract authorizes the disclosure, the Contractor has first received written approval from the contracting department to disclose the information, or the disclosure is expressly required by judicial order. The disclosure and the use of the information must be in accordance with any conditions or restrictions stated in the contract or the contracting department's approval and may not be used except as necessary in the performance of the obligations under the contract.

All City contracts must incorporate the Chapter by reference.

Amendments to Current Law

The proposal is an ordinance that would amend Chapter 12M to protect "Biometric Information."

First, the amendment would expand the definition of "Private Information" to include "Biometric Information." The amendment would define "Biometric Information" as:

[I]nformation derived from the biological and behavioral characteristics of an individual from which distinguishing, repeatable features can be extracted for the purpose of recognition. Biometric Information includes, but is not limited to, information regarding: Galton ridge structure, face topography, facial skin texture, hand topography, finger topography (including fingerprints), iris structure, vein structure of the hand, ridge structure of the palm, retinal pattern, and handwritten signature dynamics.

The proposal would make Biometric Information subject to the same restrictions as Private Information—the City could not disclose Biometric Information in its possession, about anyone, to any person or entity unless specifically authorized to do so by the subject individual or by contract or where required by Federal or State law or judicial order. Nor could the City enter into any contract for the primary purpose of disclosing Biometric Information or receive any compensation for the disclosure of Biometric Information.

The proposal would further bar the City from disclosing any Private Information (including Biometric Information) of its employees to any person or entity unless specifically authorized to do so by the subject employee or, for a represented employee, by the terms of an operative memorandum of understanding covering the represented employee, or where required by Federal or State law or judicial order.

Finally, the proposal would bar the City from collecting Biometric Information from its employees or from using Biometric Information from its employees for timekeeping purposes, unless specifically authorized to do so by the subject employee or, for a represented employee, by the terms of an operative memorandum of understanding covering the represented employee, or where required by Federal or State law or judicial order.

The ordinance would specifically provide that nothing in the Chapter would prevent the City from “using, issuing, or disclosing photographic identification or photographic identification cards, or from using, requiring, or disclosing signatures.” The ordinance generally would prohibit the City from collecting or disclosing fingerprints from its employees or using employee fingerprints for timekeeping purposes, or from disclosing fingerprints obtained from any person, subject to the exceptions listed above.