



DATE: July 28, 2020

TO: Speaker Craig J. Coughlin, Majority Leader Louis Greenwald, and
Republican Leader Jon Bramnick

FROM: American Council of Engineering Companies (ACEC)
The American Institute of Certified Public Accountants (AICPA)
Computing Technology Industry Association (CompTIA)
Direct Marketing Association of Washington (DMAW)
Information Technology Industry Council (ITI)
New Jersey Society of CPAs (NJCPA)
Technet

RE: IT Industry Opposition to A. 702

Dear Speaker Coughlin and Leaders Greenwald and Bramnick,

On behalf of the hundreds of manufacturers and businesses our organizations represent, we write to request that leadership remove A. 702 from the voting session agenda list for Thursday July 30th, 2020. We are deeply concerned with A. 702, legislation that mandates that state contractors install tracking software to verify that they are working on state business. We respectfully urge against moving forward with the bill as it would jeopardize the privacy of New Jersey citizens, poses risks to the security of state and vendor computer networks, imposes impractical and unnecessary requirements on state contractors, and would lead to added costs to the state.

In our previous letter we outlined that provisions in A. 702 raise significant privacy and data security concerns. The specific type of software outlined in the bill automatically gathers data of all work performed by the contractor on a computer by tracking the total keystrokes and mouse event frequency and records screenshots at least once every three minutes. The software would record everything including passwords, personal health information, and other sensitive, personally identifiable information with no mechanism for redaction before being recorded or stored by the tracking software. A. 702 effectively mandates the installation of third-party spyware on state-owned and personal/private-owned devices for the sole purpose of reclassifying sensitive data for time-keeping purposes.

The requirements in A. 702 would also introduce unnecessary risk to the protection of the most sensitive data of New Jersey citizens. Since vendors would be required to retain large amounts of data over a period of years, the volume of information subject to data storage, recovery and security protocols would be immense. Contractors would also be required to maintain ownership of the data and stored off-site from a government run network, with no stipulations on how the data is stored. Without allowing contractors the discretion to apply proper internal risk management protocols and data minimization, the bill increases the risk of data disclosure.

The cost of doing business with New Jersey government agencies would also increase because of the mandates for contractors to purchase the tracking software, store large amounts of data for a long period of time, and take on substantial liability and risk. Furthermore, the requirements in the legislation would be especially burdensome for small businesses and independent contractors working with the state as they likely cannot afford to assume the cost and risk. At a time when most states and businesses have worked together towards implementing stronger data protections, A. 702 would run counter to that goal by weakening security.

Auditing contractor's use of the software to determine if it is operating as intended is also unaccounted for in this legislation. To ensure a fair playing field for impacted vendors, state agencies would need to monitor and audit software implementation for professional or technical services which is extremely broad and could likely include engineering, surveying, accounting/financial services, insurance-related services, attorneys, and environmental services, just to name a few. The bills make no appropriation to cover the added costs to the state for such compliance monitoring.

Lastly, A. 702 is unnecessary as the government contracting process already has thorough accountability and oversight. Project management and oversight also includes milestones, deadlines for deliverables, status meetings, scrutiny of invoices and audits of supporting documentation to compare and account for hourly billings, including employee timesheets.

We appreciate your thoughtful consideration of our concerns. In light of the serious privacy and data security concerns, impractical and unnecessary requirements, and likelihood of increasing the costs to New Jersey, we respectfully caution the Legislature from moving forward with this legislation.

Sincerely,

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