

STANDARDS BLOG

Editor's note: This month, I'm departing from tradition by including two blog entries instead of one, each of which relates to the theme of this month's issue. Together, they better represent the degree of activity that is currently playing out in the public sector on a key standards-related policy issue: how can governments best protect public records?

MEANWHILE, DEEP DOWN IN TEXAS: An Open Format Bill is Filed

February 06, 2007

Views: 3,754



Most of the attention this week relating to open document standards will focus on the responses ISO/IEC JTC 1 received regarding the Ecma 376/Microsoft OOXML submission during the "contradictions" phase of its Fast Track process, which ended on the February 5. I just posted [this entry](#) on that topic, reporting that a total of twenty national bodies have filed contradictions or other comments as part of this phase of the process.

But while this global drama has been playing out, I've learned that a third US state will consider requiring use of open document formats by government agencies (Massachusetts and Minnesota are the other two to date). That state is Texas, where a bill has been introduced to require that only "open document formats" should be utilized by government agencies. The bill has been designated as SB 446, and was filed on February 5 (the full text is reproduced at the end of this blog entry).

How does the Texas bill define an open document format? As stated in the bill, such a format would need to be based upon the Extensible Markup Language (more commonly referred to as XML), would need to have been already adopted as a standard, and would be required to meet the following additional criteria as well:

- (1) interoperable among diverse internal and external platforms and applications;
- (2) published without restrictions or royalties;
- (3) fully and independently implemented by multiple software providers on multiple platforms without any intellectual property reservations for necessary technology; and
- (4) controlled by an open industry organization with a well-defined inclusive process for evolution of the standard.

The language quoted is problematic in some ways (how many platforms and applications does it take to achieve diversity? Does "without restriction" mean without even those restrictions that are deemed to be consistent with the most "open" standards in use today, such as a license term providing for defensive suspension upon assertion of infringement by a licensee?). That aside, the excerpt quoted above clearly states the intention of the bill's proponents to exclude proprietary or overly limited specifications.

How would OOXML and ODF fare in Texas if the bill is adopted as written? ODF would appear to meet the test today, while OOXML would have difficulty with the third requirement at minimum for some time – and perhaps forever, depending upon whether "fully and independently implemented" means in an office productivity suite in addition to Office 2007. It could also be debated whether Ecma maintains an "inclusive process," given the relatively small size of its membership, and the fact that members at the highest level must be approved before they can join.

The broad application of the proposed legislation is also significant. If adopted in its current form, all "state agencies" would be affected – cutting a very wide swathe indeed. As defined, a state agency would include not only the state offices that would be immediately apparent, but also all attorneys that are admitted to the State Bar, as well as all state colleges and universities. Local lawyers and law firms may not take kindly to a bill that requires them to upgrade their IT infrastructure, and it will therefore be interesting to see whether the Texas bar association takes a position on the bill, and perhaps lobbies against at least this part of it.

Those affected by the bill in its final form (assuming it passes) would be required to create and save, as well as be able to receive, documents in approved open formats after the bill's effective date – December 1, 2007. Another section of the bill would bar those affected from converting any open document into a format "used by a single vendor." The conversion of existing documents into approved formats would not initially be mandated, but the Texas Department of Information Resources (DIR) would be required to draft guidelines by December 1, 2008 for performing such conversions, taking into account considerations such as cost, document life, and need for public access.

It will be very interesting indeed to see how this bill fares. On the plus side, the Texas DIR will be spared the wrenching experience that the IT managers of Massachusetts suffered when they sought to put such a policy in place on their own. Too, debate over the bill will occur in public. But on the negative side, the legislators of Texas may be surprised at the magnitude of effort that lobbyists on both sides of the issue may expend "educating" them on the issues at hand.

It will also be interesting to see if legislators in other states opt to file similar bills. One would assume that the greater the number of states in which similar initiatives are launched, the wider will be the public dialogue that will follow. Hopefully, this will lead to a progressively more informed debate, and an evolving consensus over the duties of government as regards public records.

That's an important topic, and as a result, I applaud the sponsors of this new bill, and look forward to the debates that will follow.

And what about the Minnesota bill? As you may recall, a Minnesota legislator filed a bill during the previous legislative session that also included a [bill-specific](#) definition of open standards that gave me some concern, because that definition was not only [quite detailed](#), but also in many ways not in line with traditional definitions of "open standards". Why was I concerned? Because if every state legislates its own definition of what constitutes an "open standard," then there will be no "standard" definition of an open standard. If that occurs, then how can vendors offer uniform licensing terms for products intended to be sold on a national basis, and how can standards organizations create intellectual property rights policies intended to meet the needs of the marketplace?

Obviously, last year's Minnesota bill highlighted the need for a consensus definition for an open standard. This time around, the Minnesota proponents of open formats have filed a new and shorter bill (on January 17 of this year), with a more concise definition of an open standard. I am told that the bill enjoys broader support. I've included the text of that draft bill after the California text, and you can find it on line at the [Minnesota government Web site](#) as well.

You can follow the progress of Texas S.B. No. 446 [here](#).

You can follow the progress of Minnesota H.F. No. 176 [here](#).

For further blog entries on ODF, click [here](#)

Full text of the Texas bill as of today's date:

A BILL TO BE ENTITLED

AN ACT

RELATING TO AN OPEN DOCUMENT FORMAT FOR ELECTRONIC STATE DOCUMENTS

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 2054, Government Code, is amended by adding Section 2054.124 to read as follows:

Sec. 2054.124. OPEN DOCUMENT FORMAT REQUIRED. (a) In this section, "state agency" means:

- (1) a board, commission, council, department, office, authority, or other agency in the executive branch of state government created under the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;
- (2) the legislature or a legislative agency; or
- (3) an appellate court or an agency in the judicial branch of state government, including the State Bar of Texas.

(b) Each electronic document created, exchanged, or maintained by a state agency must be created, exchanged, or maintained in an open, Extensible Markup Language based file format, specified by the department, that is:

- (1) interoperable among diverse internal and external platforms and applications;
- (2) published without restrictions or royalties;
- (3) fully and independently implemented by multiple software providers on multiple platforms without any intellectual property reservations for necessary technology; and
- (4) controlled by an open industry organization with a well-defined inclusive process for evolution of the standard.

(c) Each state agency must be able to receive electronic documents in an open, Extensible Markup Language based file format for office applications and may not change documents to a file format used by only one vendor.

(d) The department shall develop guidelines for state agencies to follow in determining whether existing electronic documents must be converted to an open, Extensible Markup Language based file format. In developing guidelines under this subsection, the department shall consider:

- (1) the cost of converting electronic documents;
- (2) the need for public access to the documents; and
- (3) the expected storage life of the documents.

SECTION 2. Not later than September 1, 2008, the Department of Information Resources shall develop the guidelines required by Section 2054.124(d), Government Code, as added by this Act.

SECTION 3. (a) Except as provided by Subsection (b) of this section, Section 2054.124, Government Code, as added by this Act, applies only to electronic documents created on or after the effective date of this Act.

(b) Section 2054.124, Government Code, as added by this Act, applies to electronic documents created, exchanged, or maintained before the effective date of this Act only to the extent required by the guidelines developed by the Department of Information Resources under Section 2054.124(d), Government Code, as added by this Act.

SECTION 4. This Act takes effect December 1, 2007

Full text of the Minnesota bill as of today's date:

A bill for an act relating to state government; establishing Preservation of State Documents Act; proposing coding for new law in Minnesota Statutes, chapter 16E.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. PRESERVATION OF STATE DOCUMENTS ACT.

Effective July 1, 2008, all documents including text, spreadsheets, and presentations of the state of Minnesota shall be created, exchanged, maintained, and preserved in an open, XML-based file format, as specified by the chief information office of the state, that is:

- (1) interoperable among diverse internal and external platforms and applications;
- (2) fully published and available royalty-free;
- (3) implemented by multiple vendors; and
- (4) controlled by an open industry organization with a well-defined inclusive process for evolution of the standard. By that date, the state of Minnesota shall be able to accept all documents received in open document format for office applications and shall not migrate to a file format currently used by only one organization.

And California Makes Four

February 28, 2007

Views: 3,404

The big news of the day is that a legislator in California has decided that it is time to convince his colleagues that the Golden State should become the latest U.S. State to get on the open formats bandwagon. The California initiative represents the third piece of legislation to the same purpose to be filed in recent weeks (the others were filed in Texas and Minnesota). A link to the California bill is [here](#), and the full text appears at the end of this blog entry.



As defined in the draft legislation, the bill would require that "all documents, including, but not limited to, text, spreadsheets, and presentations, produced by any state agency shall be created, exchanged, and preserved in an open extensible markup language-based, XML-based file format, as specified by the department." Significantly the bill continues:

When deciding how to implement this section, the department in its evaluation of open, XML-based file formats shall consider all of the following features:

- (1) Interoperable among diverse internal and external platforms and applications.
- (2) Fully published and available royalty-free.
- (3) Implemented by multiple vendors.
- (4) Controlled by an open industry organization with a well-defined inclusive process for evolution of the standard.

Happily for all concerned, this definition is very close, and in many cases identical, to the open standards definitions used in both the Texas and Minnesota bills. As I observed [at the time that the original Minnesota legislation was introduced](#) (which included a rather eclectic definition of an open standard), it would do more harm than good for every state to enact its own definition of an "open standard." Were this to happen, vendors would have neither the incentive, nor perhaps even the ability, to meet the multiple procurement requirements that were legislated, dooming the process to failure.

Like the Texas (but not the Minnesota) bill, the California legislation calls for the appropriate IT state agency (in this case, the California Department of IT Services) to create guidelines for use by state agencies to decide whether a given product is based on "open, XML-based formats," which guidelines should take into account considerations such as cost, the need for public accessibility and the expected storage life of the documents in question. This language is identical to that included in the Texas bill in its current form.

It was 18 months ago that Massachusetts launched this trend, when its Information Technical Division revised the Enterprise Technical Resource Model (ETRM) upon which its IT procurement is based. That revision not only required open standards and welcomed open source in its procurement, but also blessed a (then) relatively unknown open document format standard called Open Document Format, or ODF. Since then, government procurement based on open standards in general, and the virtues of ODF in particular, have been very much in the spotlight.

2006 saw the first filing of an open standards bill as well (in Minnesota), after ODF had been in the news for some time. That bill was not voted on before the legislative session ended. But earlier this year, the sponsor of the original bill reintroduced a similar (and in my view, much improved) bill in Minnesota. Another bill was introduced by a State Senator in Texas, using an identical definition of open standards. I am told that a State Representative has now agreed to join the State Senator as a co-sponsor of the Texas bill, allowing it to progress to the next step of consideration.

The California initiative was introduced by Democratic Assembly Member Mark Leno as A B 1668, and like the Texas bill, would (if enacted) go into force on January 1, 2008.

For further blog entries on ODF, click [here](#)

BILL NUMBER: AB 1668

INTRODUCED BY Assembly Member Leno

FEBRUARY 23, 2007

An act to add Section 11541.1 to the Government Code, relating to information technology.

LEGISLATIVE COUNSEL'S DIGEST

AB 1668, as introduced, Leno. Information technology: open-document software

Existing law sets forth the requirements for the acquisition of information technology goods and services, and establishes the duties and responsibilities of the Department of Technology Services. This bill would require all state agencies, beginning on or after January 1, 2008, to create, exchange, and preserve all documents, as specified, in an open extensible markup language-based, XML-based file format, and to start to become equipped to receive any document in an open, XML-based file format, as specified. The bill also would require the Department of Technology Services to evaluate, as specified, all open, XML-based file formats and to develop guidelines, as specified, for state agencies in using open, XML-based file formats.

Vote: majority; Appropriation: no; Fiscal committee: yes; State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS

SECTION 1. Section 11541.1 is added to the Government Code, to read:

11541.1. (a) Beginning on or after January 1, 2008, all documents, including, but not limited to, text, spreadsheets, and presentations, produced by any state agency shall be created, exchanged, and preserved in an open extensible markup language-based, XML-based file format, as specified by the department. When deciding how to implement this section, the department in its evaluation of open, XML-based file formats shall consider all of the following features:

- (1) Interoperable among diverse internal and external platforms and applications.
- (2) Fully published and available royalty-free.
- (3) Implemented by multiple vendors.
- (4) Controlled by an open industry organization with a well-defined inclusive process for evolution of the standard

(b) Beginning on or after January 1, 2008, state agencies shall start to become equipped to accept all documents in an open, XML-based file format for office applications, and shall not adopt a file format used by only one entity.

(c) The department shall develop guidelines for state agencies to follow in determining whether existing electronic documents need to be converted to an open, XML-based file format. The department shall consider all of the following:

- (1) The cost of converting electronic documents.
- (2) The need for the documents to be publicly accessible.

(3) The expected storage life of the documents.

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