

Opinion: Calif. needs to import German transparency

By Joe Mathews

California could use a concert hall like Hamburg's Elbphilharmonie. The signature structure of 21st century Germany features performance space for the philharmonic, a dramatically curved escalator, and a dozen different public spaces for people to gather and enjoy city views.

But what California needs more than this stunning new piece of architecture is the scandal that built it. Originally planned in 2007 as a 186 million Euro project, with 77 million Euros from taxpayers, the Elbphilharmonie was so dogged by delays and overspending that its price tag approached 1 billion Euros, with taxpayers paying 789 million.



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The good news: the resulting scandal produced one of the world's most advanced government transparency laws. And that law, unlike the hall itself, could be transported to California, where transparency laws typically produce frustration.

In our state, open records laws often require citizens to bear the burden and expense of requesting documents, fighting for access, and paying for copies. And open meetings laws restrict our government representatives – we dictate when they can meet

and talk to each other. These restrictions on citizens and their representatives often produce conflict between the two.

Hamburg's transparency law works differently because it empowers both citizens and government officials. The law sets a default of openness by requiring government officials to make their work – contracts, memos, deliberations – viewable on the internet, almost as soon as they produce it. Knowledge is thus open to all, inside and outside government.

I recently visited Hamburg as the guest of journalist Angelika Gardiner and farmer Manfred Brandt, who let me sleep in his barn. Twenty years ago, Gardiner, Brandt and other citizens began using direct democracy to bring transparency to Hamburg government. In 2011, spurred by the troubled Elbphilharmonie construction, citizens' groups organized a ballot initiative campaign to create an information register online where the government would publish its documents and where citizens could search them, anonymously and free of charge.

The initiative attracted support so quickly that the Hamburg parliament adopted their proposal before a public vote could be held. Today, Hamburg's online portal offers contracts, reports, plans, grant awards, proposed resolutions, spatial data, permits, even payments and benefits for senior officials.

The law guarantees "immediate" access, which usually means documents are published within a week of their creation. The transparency has not been total. Smaller contracts (those less than 100,000 Euros) are sometimes excluded, and an expansive exemption for personal privacy requires redaction of some information that might seem relevant for holding local officials accountable.

But an evaluation of the law, required after five years, just concluded that both law and portal are working as intended. Among the most intriguing findings: Hamburg's government

officials, who once worried about the logistics of transparency, are now some of its biggest fans, using it to monitor what other Hamburg departments are doing. In this way, the transparency law has been most effective as a force for efficiency within government, breaking down bureaucratic silos. The links hand now knows what the recht hand is doing.

That's the lesson of Hamburg: with people so consumed with their own work and lives, the best check on government abuses and corruption are city officials themselves.

On a visit to the Rathaus, I asked Andreas Dressel, who leads the governing Social Democrats in the Hamburg parliament, how the transparency law might be adapted for a California city.

"The best thing to do is to translate it into English – and put it right directly into your law," he said adding, "You need it not just in California, but for the entire United States."

Certainly, a law that makes disclosure an automatic online default should be more effective and produce less fighting than our current records and meetings laws, which create conflict between public demands for access and government desire for secrecy.

Such transparency would jumpstart the nascent open data movement, which has seen some California governments put up data sets so that tech-savvy citizens can help solve government problems. And it's not hard to see how Hamburg-style transparency might make government responses to crises faster and more effective.

In San Diego, officials in different city and county departments failed to communicate effectively for months earlier this year as a deadly hepatitis epidemic spread, according to the nonprofit Voice of San Diego. If officials could have seen their separate work and information online, it's quite possible that a fuller response – which included a

declaration of emergency – might have come earlier and saved lives. So far 17 people have died.

Of course, such transparency would be opposed by government contractors, public employee unions, and the local governments over which they exert too much control. But it is for situations like this that we have direct democracy in California. And in Hamburg.

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