

AMENDED IN SENATE APRIL 15, 2002

SENATE BILL

No. 1614

Introduced by Senator Speier

February 21, 2002

An act to add ~~Section 6253.95~~ *Sections 6253.95, 6254.23, 27212, and 27257.1* to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1614, as amended, Speier. Public records.

Existing law, the California Public Records Act, requires state and local agencies to make records that are not otherwise exempt from disclosure available to the public upon receipt of a request that reasonably describes an identifiable record, and upon payment of fees to cover costs. Existing law requires any agency that has information that constitutes an identifiable public record not otherwise exempt from disclosure that is in an electronic format to make that information available in an electronic format when requested by any person, except under specified circumstances.

This bill would provide that, notwithstanding any other provision of law, a state or local agency may not disclose an index or comprehensive compilation of birth records, ~~dissolution of marriage, legal separation, and marriage nullity decrees,~~ *or* death certificates, ~~or instruments affecting the title to real property~~ to any person for a commercial purpose, unless the person of record has provided his or her written consent for the information to be released in this format. This bill would also require a state or local agency to revise the forms used to collect the information contained in these documents to comply with these provisions.

Existing law requires the county recorder, upon the payment of proper fees and taxes, to accept for recordation any instrument, paper, or notice that is authorized or required by law to be recorded, and requires the county recorder to keep indices of various records.

This bill would designate records and indices maintained by the county recorder as official records, exempt those official records from disclosure under the California Public Records Act, but provide for public inspection of official records after preparation as specified. It would also permit a county recorder to provide restricted electronic access to, or sell compiled copies of, official records to parties with whom they have a relationship, and would also permit indices of county recorder records to be published on the Internet if one or more of specified elements are included. By imposing additional duties on local officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6253.95 is added to the Government
- 2 Code, to read:
- 3 6253.95. (a) (1) Notwithstanding any other provision of
- 4 law, except as provided in paragraph (2), a state or local agency
- 5 may not disclose an index or comprehensive compilation of the
- 6 records described in subdivision (b) for use by any person for a
- 7 commercial purpose.
- 8 (2) A state or local agency may disclose an index or
- 9 comprehensive compilation of the records described in
- 10 subdivision (b) for use by a person for a commercial purpose if the



1 index or compilation is limited to the inclusion of records
2 pertaining only to each person of record who has provided his or
3 her written consent for the information to be released in this
4 format.

5 (b) This section applies to all of the following records:

6 (1) An index of birth records, as described in Section 102230
7 of the Health and Safety Code.

8 ~~(2) An index of dissolution of marriage, legal separation, and~~
9 ~~marriage nullification decrees, as described in Section 103205 of~~
10 ~~the Health and Safety Code.~~

11 ~~(3)–~~

12 (2) An index of death certificates, as described in Section
13 102230 of the Health and Safety Code.

14 ~~(4) An index or comprehensive compilation of instruments~~
15 ~~affecting the title to real property that are recorded in a county~~
16 ~~recorder’s office, as described in Section 1169 of the Civil Code.~~

17 (c) A state or local agency shall revise the forms used to gather
18 information for birth certificates, ~~dissolution of marriage, legal~~
19 ~~separation, and marriage nullification records, and instruments~~
20 ~~affecting the title of real property in order to comply with this and~~
21 ~~death certificates in order to comply with this section.~~

22 (d) For the purposes of this section, “person of record” means
23 a person whose birth is recorded in a birth record, ~~each party to a~~
24 ~~marriage dissolution, legal separation, or marriage nullification~~
25 ~~action resulting in a decree, and each party whose interest in real~~
26 ~~property is recorded in an instrument affecting the title to real~~
27 ~~property—and a person whose death is recorded in a death~~
28 ~~certificate.~~

29 SEC. 2. *Section 6254.23 is added to the Government Code, to*
30 *read:*

31 *6254.23. Nothing in this chapter shall require the disclosure*
32 *of records defined as official records pursuant to Section 27212.*

33 SEC. 3. *Section 27212 is added to the Government Code, to*
34 *read:*

35 *27212. (a) For purposes of this section, “official records”*
36 *means those records maintained by the county recorder pursuant*
37 *to this chapter as included in the indices provided by this chapter.*

38 *(b) Subject to subdivisions (c) and (d) and Section 27257.1, a*
39 *county recorder may not publish or provide public Internet access*
40 *to official records.*



1 (c) A county recorder may provide restricted electronic access
2 to, or sell compiled copies of, official records to parties with whom
3 they have a relationship. The county recorder may charge those
4 fees necessary to recover the actual cost of providing access or
5 copies.

6 (d) After preparation, official records shall be available for
7 public inspection in the county recorder’s office during normal
8 business hours.

9 (e) No official record that is published, which is made
10 electronically accessible, copies of which are sold, or which is
11 made available for public inspection may contain the social
12 security number of any person.

13 SEC. 4. Section 27257.1 is added to the Government Code, to
14 read:

15 27257.1. Any index maintained by the county recorder
16 pursuant to Section 27257 may be published on the Internet
17 provided it excludes social security numbers and contains one or
18 more of the following elements:

- 19 (a) Names of parties included in the index.
- 20 (b) Date of recording.
- 21 (c) Document title or code.
- 22 (d) Multiple document code.
- 23 (e) Document identification, such as book and page or
24 document or instrument number.
- 25 (f) Correction date.
- 26 (g) Cross-reference to previously recorded document.
- 27 (h) Number of pages.
- 28 (i) Return mail date.

29 SEC. 5. Notwithstanding Section 17610 of the Government
30 Code, if the Commission on State Mandates determines that this
31 act contains costs mandated by the state, reimbursement to local
32 agencies and school districts for those costs shall be made pursuant
33 to Part 7 (commencing with Section 17500) of Division 4 of Title
34 2 of the Government Code. If the statewide cost of the claim for
35 reimbursement does not exceed one million dollars (\$1,000,000),
36 reimbursement shall be made from the State Mandates Claims
37 Fund.

