

Senate Bill No. 330

Passed the Senate August 19, 2010

Secretary of the Senate

Passed the Assembly August 16, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 72670, 72670.5, and 89901 of, and to add Section 92034 to, the Education Code, and to add Section 6254.30 to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 330, Yee. Public records: auxiliary organizations.

The California Public Records Act requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee unless those records are exempt from disclosure.

This bill would require specified entities to comply with the act, but would not require these entities to disclose information obtained in the process of soliciting potential donors that has actual or potential independent economic value because it is not generally known to the public or because the individuals can obtain economic value from its disclosure or use.

This bill would specify that it is not the intent of the Legislature to designate specified organizations as state agencies by subjecting these organizations to the requirements of the act.

The bill would exempt from disclosure under the act the names, addresses, and telephone numbers of persons who volunteer services or donate to specified entities if those persons request anonymity. However, the bill would provide that this exemption does not apply if a volunteer or donor meets specified conditions.

This bill would also provide that it is the intent of the Legislature to reject the court's interpretation of state law regarding the application of the act to auxiliary organizations, such as the CSU Fresno Association, at issue in *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810.

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

SECTION 1. Section 72670 of the Education Code is amended to read:

72670. The governing board of a community college district may establish auxiliary organizations for the purpose of providing

supportive services and specialized programs for the general benefit of its college or colleges. As used in this article, “auxiliary organization” may include, but is not limited to, the following entities:

(a) Any entity in which any official of a community college district participates as a director as part of his or her official position.

(b) Any entity formed or operating pursuant to Article 4 (commencing with Section 76060) of Chapter 1 of Part 47.

(c) Any entity that operates a commercial service for the benefit of a community college or district on a campus or other property of the district.

(d) Any entity whose governing instrument provides in substance both of the following:

(1) Its purpose is to promote or assist a community college or district, or to receive gifts, property, and funds to be used for the benefit of the community college or district or any person or organization having an official relationship therewith.

(2) Any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of the governing board of the district, an official of the district, or selected, ex officio, from the membership of the student body or the faculty or the governing board or the administrative staff of the district.

(e) Any entity that is designated as an auxiliary organization by the district governing board.

(f) An entity described in subdivision (b), (d), or (e) shall comply with Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(g) Nothing in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code shall require an entity described in this section to disclose information obtained in the process of soliciting potential donors that has actual or potential independent economic value because it is not generally known to the public or because individuals can obtain economic value from its disclosure or use.

(h) Nothing in this section shall require an entity described in this section to disclose information that is exempt from disclosure pursuant to Section 99040 of this code, Section 3426.1 of the Civil

Code, Section 1060 of the Evidence Code, or subdivision (k) of Section 6254 of the Government Code.

SEC. 2. Section 72670.5 of the Education Code is amended to read:

72670.5. (a) The Board of Governors of the California Community Colleges may establish auxiliary organizations for the purpose of providing supportive services and specialized programs for the general benefit of the mission of the California Community Colleges.

(b) As used in this article:

(1) “Auxiliary organization” may include, but is not limited to, the following entities:

(A) Any entity whose governing instrument provides in substance both of the following:

(i) That its purpose is to promote or assist the Board of Governors of the California Community Colleges, or to receive gifts, property, and funds to be used for the benefit of the Board of Governors of the California Community Colleges or any person or organization having an official relationship therewith.

(ii) That any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of the Board of Governors of the California Community Colleges or an official of the California Community Colleges, or selected, ex officio, from the membership of the Board of Governors or the administrative staff of the California Community Colleges.

(B) Any entity that, exclusive of the foregoing subdivisions of this section, is designated as an auxiliary organization by the Board of Governors of the California Community Colleges.

(2) “District governing board” includes the Board of Governors of the California Community Colleges, unless the context requires otherwise.

(c) Any agreement between the Board of Governors of the California Community Colleges and an auxiliary organization established pursuant to this section shall provide for full reimbursement from the auxiliary organization to the Board of Governors of the California Community Colleges for any services performed by the employees of the board under the direction of, or on behalf of, the auxiliary organization.

(d) An entity described in paragraph (1) of subdivision (b) shall comply with Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(e) Nothing in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code shall require an entity described in this section to disclose information obtained in the process of soliciting potential donors that has actual or potential independent economic value because it is not generally known to the public or because individuals can obtain economic value from its disclosure or use.

(f) It is not the intent of the Legislature in enacting subdivision (d) to designate an organization described in paragraph (1) of subdivision (b) as a state agency.

(g) Nothing in this section shall require an entity described in this section to disclose information that is exempt from disclosure pursuant to Section 99040 of this code, Section 3426.1 of the Civil Code, Section 1060 of the Evidence Code, or subdivision (k) of Section 6254 of the Government Code.

SEC. 3. Section 89901 of the Education Code is amended to read:

89901. As used in this article, the term “auxiliary organization” includes the following entities:

(a) Any entity in which any official of the California State University participates as a director as part of his or her official position.

(b) Any entity formed or operating pursuant to Article 1 (commencing with Section 89300) of Chapter 3.

(c) Any entity that operates a commercial service for the benefit of a campus of the California State University on a campus or other property of the California State University.

(d) Any entity whose governing instrument provides in substance both of the following:

(1) That its purpose is to promote or assist any campus of the California State University, or to receive gifts, property, and funds to be used for the benefit of such campus or any person or organization having an official relationship therewith.

(2) That any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of an official of any campus of the California State University, or selected, ex

officio, from the membership of the student body or the faculty or the administrative staff of campus.

(e) Any entity whose governing instrument provides in substance both of the following:

(1) That its purpose is to promote or assist the trustees of the California State University, or to receive gifts, property, and funds to be used for the benefit of the trustees of the California State University or any person or organization having an official relationship therewith.

(2) That any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of the trustees or an official of the California State University, or selected, ex officio, from the membership of the trustees or the administrative staff of the California State University.

(f) Any entity that, exclusive of the foregoing subdivisions of this section, is designated as an auxiliary organization by the trustees.

(g) An entity described in subdivision (b), (d), (e), or (f) shall comply with Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(h) Nothing in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code shall require an entity described in this section to disclose information obtained in the process of soliciting potential donors that has actual or potential independent economic value because it is not generally known to the public or because individuals can obtain economic value from its disclosure or use.

(i) It is not the intent of the Legislature in enacting subdivision (g) to designate an organization described in subdivision (b), (d), (e), or (f) as a state agency.

(j) Nothing in this section shall require an entity described in this section to disclose information that is exempt from disclosure pursuant to Section 99040 of this code, Section 3426.1 of the Civil Code, Section 1060 of the Evidence Code, or subdivision (k) of Section 6254 of the Government Code.

SEC. 4. Section 92034 is added to the Education Code, to read:

92034. As used in this article, the term “auxiliary organization” includes the following entities:

(a) An entity in which an official of the University of California participates as a director as part of his or her official duties.

(b) An entity that operates a commercial service for the benefit of a campus of the University of California on a campus or other property of the University of California.

(c) An entity whose governing instrument provides in substance both of the following:

(1) That its purpose is to promote or assist any campus of the University of California, or to receive gifts, property, and funds to be used for the benefit of that campus or any person or organization having an official relationship therewith.

(2) That any of its directors, governors, or trustees are either appointed or nominated by, or subject to the approval of, an official of any campus of the University of California, or serve, ex officio, from the membership of the student body or the faculty or the administrative staff of a campus.

(d) Any entity whose governing instrument provides in substance both of the following:

(1) That its purpose is to promote or assist the Regents of the University of California, or to receive gifts, property, and funds to be used for the benefit of the Regents of the University of California, or any person or organization having an official relationship therewith.

(2) That any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of the Regents or an official of the University of California, or serve, ex officio, from the membership of the regents or the administrative staff of the University of California.

(e) An entity that is designated by the regents as an auxiliary organization of the University of California.

(f) An entity described in subdivision (c), (d), or (e) shall comply with Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(g) Nothing in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code shall require an entity described in this section to disclose information obtained in the process of soliciting potential donors that has actual or potential independent economic value because it is not generally known to the public or because individuals can obtain economic value from its disclosure or use.

(h) It is not the intent of the Legislature in enacting subdivision (f) to designate an organization described in subdivision (c), (d), or (e) as a state agency.

(i) Nothing in this section shall require an entity described in this section to disclose information that is exempt from disclosure pursuant to Section 99040 of this code, Section 3426.1 of the Civil Code, Section 1060 of the Evidence Code, or subdivision (k) of Section 6254 of the Government Code.

SEC. 5. Section 6254.30 is added to the Government Code, to read:

6254.30. (a) Nothing in this chapter shall be construed to require disclosure of the name, address, or telephone number of a person who volunteers his or her services or donates to an entity described in paragraph (1) of subdivision (b) of Section 72670.5, Section 72670, 89901, or 92034 of the Education Code, if that person requests anonymity.

(b) Subdivision (a) does not apply if a volunteer or donor, in a quid pro quo arrangement, receives anything that has a value of five hundred dollars (\$500) or greater in exchange for the services or donation.

(c) Subdivision (a) does not apply if a volunteer or donor is a member of the governing board of an entity described in paragraph (1) of subdivision (b) of Section 72670.5 of, or Section 72670, 89901, or 92034 of, the Education Code.

(d) Subdivision (a) does not apply if a volunteer or donor engages in direct communication for the purpose of influencing the administrative or academic action within the California Community Colleges, the California State University, or the University of California.

SEC. 6. It is the intent of the Legislature in enacting this act to construe and clarify the meaning and effect of existing law and to reject the court's interpretation of state law regarding the application of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) to auxiliary organizations, such as the CSU Fresno Association, at issue in *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810.

SEC. 7. The Legislature finds and declares that Section 6 of this act imposes a limitation on the public's right of access to writings of public officials and agencies within the meaning of

Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following finding to demonstrate the interest protected by this limitation and the need for protecting that interest: The Legislature finds and declares that in order to protect the privacy of individuals who donate to specified entities and request anonymity, it is necessary to exempt those individuals' names from disclosure.

Approved _____, 2010

Governor