

ASSEMBLY BILL

No. 235

Introduced by Assembly Member Halderman

February 3, 2011

An act to amend Section 6268 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 235, as introduced, Halderman. Public records: clemency records.

Existing law, the California Public Records Act, requires state and local agencies to make their records available for public inspection and, upon request of any person, to provide a copy of any public record unless the record is exempt from disclosure. Existing law authorizes the Governor, upon leaving office, from restricting access to certain records, as specified, except that the Governor shall not impose any restriction whatsoever with respect to certain files, including, among others, writings relating to applications for clemency or extradition in cases which have been closed for a period of at least 25 years.

This bill would, instead, prohibit the Governor from imposing any restriction whatsoever on public access to writings relating to applications for clemency or extradition.

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

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

1 SECTION 1. Section 6268 of the Government Code is amended
2 to read:

1 6268. Public records, as defined in Section 6252, in the custody
2 or control of the Governor when he or she leaves office, either
3 voluntarily or involuntarily, shall, as soon as is practical, be
4 transferred to the State Archives. Notwithstanding any other
5 provision of law, the Governor, by written instrument, the terms
6 of which shall be made public, may restrict public access to any
7 of the transferred public records, or any other writings he or she
8 may transfer, which have not already been made accessible to the
9 public. With respect to public records, public access, as otherwise
10 provided for by this chapter, shall not be restricted for a period
11 greater than 50 years or the death of the Governor, whichever is
12 later, nor shall there be any restriction whatsoever with respect to
13 enrolled bill files, press releases, speech files, or writings relating
14 to applications for clemency or extradition ~~in cases which have~~
15 ~~been closed for a period of at least 25 years.~~ Subject to any
16 restrictions permitted by this section, the Secretary of State, as
17 custodian of the State Archives, shall make all such public records
18 and other writings available to the public as otherwise provided
19 for in this chapter.

20 Except as to enrolled bill files, press releases, speech files, or
21 writings relating to applications for clemency or extradition, this
22 section shall not apply to public records or other writings in the
23 direct custody or control of any Governor who held office between
24 1974 and 1988 at the time of leaving office, except to the extent
25 that that Governor may voluntarily transfer those records or other
26 writings to the State Archives.

27 Notwithstanding any other provision of law, the public records
28 and other writings of any Governor who held office between 1974
29 and 1988 may be transferred to any educational or research
30 institution in California provided that with respect to public records,
31 public access, as otherwise provided for by this chapter, shall not
32 be restricted for a period greater than 50 years or the death of the
33 Governor, whichever is later. No records or writings may be
34 transferred pursuant to this paragraph unless the institution
35 receiving them agrees to maintain, and does maintain, the materials
36 according to commonly accepted archival standards. No public
37 records transferred shall be destroyed by that institution without
38 first receiving the written approval of the Secretary of State, as
39 custodian of the State Archives, who may require that the records
40 be placed in the State Archives rather than being destroyed. An

1 institution receiving those records or writings shall allow the
2 Secretary of State, as custodian of the State Archives, to copy, at
3 state expense, and to make available to the public, any and all
4 public records, and inventories, indices, or finding aids relating to
5 those records, which the institution makes available to the public
6 generally. Copies of those records in the custody of the State
7 Archives shall be given the same legal effect as is given to the
8 originals.

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