ASSEMBLY BILL

No. 134

Introduced by Assembly Members Logue and Mansoor

January 16, 2013

An act to amend Section 6254 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL’S DIGEST

AB 134, as introduced, Logue. The California Public Records Act: applications for licenses and licenses to carry firearms.

Existing law, the California Public Records Act, provides that public records are open to inspection at all times during the office hours of the state or local agency that retains those records, and every person has a right to inspect any public record, except as provided. However, existing law provides that nothing in the act shall be construed to require disclosure of information contained in an application for a license to carry a firearm that indicates when or where the applicant is vulnerable to attack or that concerns the applicant’s medical or psychological history or that of members of his or her family. Existing law also provides that the provisions shall not be construed to require disclosure of the home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses or in licenses to carry firearms, as specified.

This bill would instead provide that the California Public Records act shall not be construed to require the disclosure of the home address and telephone number of applicants that are set forth in applications to carry firearms or of licensees that are set forth in licenses to carry firearms, as specified. Because this bill would increase the duties of
county sheriffs and the chiefs or other heads of police departments that issue firearms license applications, this bill would impose a state-mandated local program.

This bill would also make technical, nonsubstantive changes to these provisions.

Existing constitutional provisions require that a statute that limits the right of access to public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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.

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.


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

1 SECTIION 1. Section 6254 of the Government Code is amended to read:
2 6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:
3 (a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.
4 (b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.
5 (c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
6 (d) Contained in or related to any of the following:
7 (1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial
institutions, including, but not limited to, banks, savings and loan
associations, industrial loan companies, credit unions, and
insurance companies.

(2) Examination, operating, or condition reports prepared by,
on behalf of, or for the use of, any state agency referred to in
paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency
communications prepared by, on behalf of, or for the use of, any
state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency
referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and
similar information relating to utility systems development, or
market or crop reports, that are obtained in confidence from any
person.

(f) Records of complaints to, or investigations conducted by,
or records of intelligence information or security procedures of,
the office of the Attorney General and the Department of Justice,
the California Emergency Management Agency, and any state or
local police agency, or any investigatory or security files compiled
by any other state or local police agency, or any investigatory or
security files compiled by any other state or local agency for
correctional, law enforcement, or licensing purposes. However,
state and local law enforcement agencies shall disclose the names
and addresses of persons involved in, or witnesses other than
confidential informants to, the incident, the description of any
property involved, the date, time, and location of the incident, all
diagrams, statements of the parties involved in the incident, the
statements of all witnesses, other than confidential informants, to
the victims of an incident, or an authorized representative thereof,
an insurance carrier against which a claim has been or might be
made, and any person suffering bodily injury or property damage
or loss, as the result of the incident caused by arson, burglary, fire,
explosion, larceny, robbery, carjacking, vandalism, vehicle theft,
or a crime as defined by subdivision (b) of Section 13951, unless
the disclosure would endanger the safety of a witness or other
person involved in the investigation, or unless disclosure would
endanger the successful completion of the investigation or a related
investigation. However, nothing in this division shall require the
disclosure of that portion of those investigative files that reflects
the analysis or conclusions of the investigating officer.
Customer lists provided to a state or local police agency by an
alarm or security company at the request of the agency shall be
construed to be records subject to this subdivision.
Notwithstanding any other provision of this subdivision, state
and local law enforcement agencies shall make public the following
information, except to the extent that disclosure of a particular
item of information would endanger the safety of a person involved
in an investigation or would endanger the successful completion
of the investigation or a related investigation:
(1) The full name and occupation of every individual arrested
by the agency, the individual’s physical description including date
of birth, color of eyes and hair, sex, height and weight, the time
and date of arrest, the time and date of booking, the location of
the arrest, the factual circumstances surrounding the arrest, the
amount of bail set, the time and manner of release or the location
where the individual is currently being held, and all charges the
individual is being held upon, including any outstanding warrants
from other jurisdictions and parole or probation holds.
(2) Subject to the restrictions imposed by Section 841.5 of the
Penal Code, the time, substance, and location of all complaints or
requests for assistance received by the agency and the time and
nature of the response thereto, including, to the extent the
information regarding crimes alleged or committed or any other
incident investigated is recorded, the time, date, and location of
occurrence, the time and date of the report, the name and age of
the victim, the factual circumstances surrounding the crime or
incident, and a general description of any injuries, property, or
weapons involved. The name of a victim of any crime defined by
Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a,
266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285,
286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the
Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83
of the November 7, 2006, statewide general election), 288.4, 288.5,
288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code
may be withheld at the victim’s request, or at the request of the
victim’s parent or guardian if the victim is a minor. When a person
is the victim of more than one crime, information disclosing that
the person is a victim of a crime defined in any of the sections of
the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim’s parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.
(i) Information required from any taxpayer in connection with
the collection of local taxes that is received in confidence and the
disclosure of the information to other persons would result in unfair
competitive disadvantage to the person supplying the information.
(j) Library circulation records kept for the purpose of identifying
the borrower of items available in libraries, and library and museum
materials made or acquired and presented solely for reference or
exhibition purposes. The exemption in this subdivision shall not
apply to records of fines imposed on the borrowers.
(k) Records, the disclosure of which is exempted or prohibited
pursuant to federal or state law, including, but not limited to,
provisions of the Evidence Code relating to privilege.
(l) Correspondence of and to the Governor or employees of the
Governor’s office or in the custody of or maintained by the
Governor’s Legal Affairs Secretary. However, public records shall
not be transferred to the custody of the Governor’s Legal Affairs
Secretary to evade the disclosure provisions of this chapter.
(m) In the custody of or maintained by the Legislative Counsel,
except those records in the public database maintained by the
Legislative Counsel that are described in Section 10248.
(n) Statements of personal worth or personal financial data
required by a licensing agency and filed by an applicant with the
licensing agency to establish his or her personal qualification for
the license, certificate, or permit applied for.
(o) Financial data contained in applications for financing under
Division 27 (commencing with Section 44500) of the Health and
Safety Code, where an authorized officer of the California Pollution
Control Financing Authority determines that disclosure of the
financial data would be competitively injurious to the applicant
and the data is required in order to obtain guarantees from the
United States Small Business Administration. The California
Pollution Control Financing Authority shall adopt rules for review
of individual requests for confidentiality under this section and for
making available to the public those portions of an application that
are subject to disclosure under this chapter.
(p) Records of state agencies related to activities governed by
Chapter 10.3 (commencing with Section 3512), Chapter 10.5
(commencing with Section 3525), and Chapter 12 (commencing
with Section 3560) of Division 4, that reveal a state agency’s
deliberative processes, impressions, evaluations, opinions,
recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator’s deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst’s Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.
(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant’s medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates applicants that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates licensees that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.3 (commencing with Section
12695), Part 6.5 (commencing with Section 12700), Part 6.6
(commencing with Section 12739.5), and Part 6.7 (commencing
with Section 12739.70) of Division 2 of the Insurance Code, and
that reveal any of the following:

(A) The deliberative processes, discussions, communications,
or any other portion of the negotiations with entities contracting
or seeking to contract with the board, entities with which the board
is considering a contract, or entities with which the board is
considering or enters into any other arrangement under which the
board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting
minutes, research, work product, theories, or strategy of the board
or its staff, or records that provide instructions, advice, or training
to employees.

(2) (A) Except for the portion of a contract that contains the
rates of payment, contracts entered into pursuant to Part 6.3
(commencing with Section 12695), Part 6.5 (commencing with
Section 12700), Part 6.6 (commencing with Section 12739.5), or
Part 6.7 (commencing with Section 12739.70) of Division 2 of the
Insurance Code, on or after July 1, 1991, shall be open to inspection
one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is
amended on or after July 1, 1991, the amendment, except for any
portion containing the rates of payment, shall be open to inspection
one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to
inspection pursuant to this subdivision, the portion of the contract
or amendment containing the rates of payment shall be open to
inspection.

(4) Notwithstanding any other law, the entire contract or
amendments to a contract shall be open to inspection by the Joint
Legislative Audit Committee. The committee shall maintain the
confidentiality of the contracts and amendments thereto, until the
contracts or amendments to the contracts are open to inspection
pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board
related to activities governed by Chapter 8 (commencing with
Section 10700) of Part 2 of Division 2 of the Insurance Code, and
that reveal the deliberative processes, discussions, communications,
or any other portion of the negotiations with health plans, or the
impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor’s net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with
Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency’s operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Emergency Management Agency for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, “voluntarily submitted” means submitted in the
absence of the office exercising any legal authority to compel
access to or submission of critical infrastructure information. This
subdivision shall not affect the status of information in the
possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a
person for the purpose of registration in the Advance Health Care
Directive Registry, except that those records shall be released at
the request of a health care provider, a public guardian, or the
registrant’s legal representative.

(ad) The following records of the State Compensation Insurance
Fund:

1. Records related to claims pursuant to Chapter 1
   (commencing with Section 3200) of Division 4 of the Labor Code,
   to the extent that confidential medical information or other
   individually identifiable information would be disclosed.

2. Records related to the discussions, communications, or any
   other portion of the negotiations with entities contracting or seeking
   to contract with the fund, and any related deliberations.

3. Records related to the impressions, opinions,
   recommendations, meeting minutes of meetings or sessions that
   are lawfully closed to the public, research, work product, theories,
   or strategy of the fund or its staff, on the development of rates,
   contracting strategy, underwriting, or competitive strategy pursuant
   to the powers granted to the fund in Chapter 4 (commencing with
   Section 11770) of Part 3 of Division 2 of the Insurance Code.

4. Records obtained to provide workers’ compensation
   insurance under Chapter 4 (commencing with Section 11770) of
   Part 3 of Division 2 of the Insurance Code, including, but not
   limited to, any medical claims information, policyholder
   information provided that nothing in this paragraph shall be
   interpreted to prevent an insurance agent or broker from obtaining
   proprietary information or other information authorized by law to
   be obtained by the agent or broker, and information on rates,
   pricing, and claims handling received from brokers.

5. (A) Records that are trade secrets pursuant to Section
   6276.44, or Article 11 (commencing with Section 1060) of Chapter
   4 of Division 8 of the Evidence Code, including without limitation,
   instructions, advice, or training provided by the State Compensation
   Insurance Fund to its board members, officers, and employees
   regarding the fund’s special investigation unit, internal audit unit,
and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers’ Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers’ Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the
contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) This paragraph is not intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, “fully executed” means the point in time when all of the necessary parties to the contract have signed the contract.

This section shall not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

This section shall not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

SEC. 2. The Legislature finds and declares that this act imposes a limitation on the public’s right of access to the meetings of public bodies or the 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 the interest:

In order to prevent crimes against applicants for licenses to carry firearms and persons who are licensed to carry firearms, it is necessary that this act take effect.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.