

ASSEMBLY BILL

No. 1158

Introduced by Assembly Member Kuykendall

February 23, 1995

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1158, as introduced, Kuykendall. Public records.

Under existing law, the California Public Records Act, public records are open to inspection during the office hours of state and local agencies with specified exceptions.

This bill would add an exception for records pertaining to the retention, location, or expansion of a company within California.

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 6254 of the Government Code is
2 amended to read:
3 6254. Except as provided in Section 6254.7, nothing in
4 this chapter shall be construed to require disclosure of
5 records that are any of the following:
6 (a) Preliminary drafts, notes, or interagency or
7 intra-agency memoranda which are not retained by the
8 public agency in the ordinary course of business,
9 provided that the public interest in withholding those

1 records clearly outweighs the public interest in
2 disclosure.

3 (b) Records pertaining to pending litigation to which
4 the public agency is a party, or to claims made pursuant
5 to Division 3.6 (commencing with Section 810), until the
6 pending litigation or claim has been finally adjudicated or
7 otherwise settled.

8 (c) Personnel, medical, or similar files, the disclosure
9 of which would constitute an unwarranted invasion of
10 personal privacy.

11 (d) Contained in or related to:

12 (1) Applications filed with any state agency
13 responsible for the regulation or supervision of the
14 issuance of securities or of financial institutions,
15 including, but not limited to, banks, savings and loan
16 associations, industrial loan companies, credit unions, and
17 insurance companies.

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

21 (3) Preliminary drafts, notes, or interagency or
22 intra-agency communications prepared by, on behalf of,
23 or for the use of, any state agency referred to in paragraph
24 (1).

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

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

31 (f) Records of complaints to, or investigations
32 conducted by, or records of intelligence information or
33 security procedures of, the office of the Attorney General
34 and the Department of Justice, and any state or local
35 police agency, or any investigatory or security files
36 compiled by any other state or local police agency, or any
37 investigatory or security files compiled by any other state
38 or local agency for correctional, law enforcement, or
39 licensing purposes, except that state and local law
40 enforcement agencies shall disclose the names and



1 addresses of persons involved in, or witnesses other than
2 confidential informants to, the incident, the description
3 of any property involved, the date, time, and location of
4 the incident, all diagrams, statements of the parties
5 involved in the incident, the statements of all witnesses,
6 other than confidential informants, to the victims of an
7 incident, or an authorized representative thereof, an
8 insurance carrier against which a claim has been or might
9 be made, and any person suffering bodily injury or
10 property damage or loss, as the result of the incident
11 caused by arson, burglary, fire, explosion, larceny,
12 robbery, carjacking, vandalism, vehicle theft, or a crime
13 as defined by subdivision (c) of Section 13960, unless the
14 disclosure would endanger the safety of a witness or other
15 person involved in the investigation, or unless disclosure
16 would endanger the successful completion of the
17 investigation or a related investigation. However,
18 nothing in this division shall require the disclosure of that
19 portion of those investigative files which reflect the
20 analysis or conclusions of the investigating officer.

21 Other provisions of this subdivision notwithstanding,
22 state and local law enforcement agencies shall make
23 public the following information, except to the extent
24 that disclosure of a particular item of information would
25 endanger the safety of a person involved in an
26 investigation or would endanger the successful
27 completion of the investigation or a related investigation:

28 (1) The full name, current address, and occupation of
29 every individual arrested by the agency, the individual's
30 physical description including date of birth, color of eyes
31 and hair, sex, height and weight, the time and date of
32 arrest, the time and date of booking, the location of the
33 arrest, the factual circumstances surrounding the arrest,
34 the amount of bail set, the time and manner of release or
35 the location where the individual is currently being held,
36 and all charges the individual is being held upon,
37 including any outstanding warrants from other
38 jurisdictions and parole or probation holds.

39 (2) Subject to the restrictions imposed by Section 841.5
40 of the Penal Code, the time, substance, and location of all



1 complaints or requests for assistance received by the
2 agency and the time and nature of the response thereto,
3 including, to the extent the information regarding crimes
4 alleged or committed or any other incident investigated
5 is recorded, the time, date, and location of occurrence,
6 the time and date of the report, the name, age, and
7 current address of the victim, except that the address of
8 the victim of any crime defined by Section 261, 264, 264.1,
9 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75
10 of the Penal Code shall not be disclosed, the factual
11 circumstances surrounding the crime or incident, and a
12 general description of any injuries, property, or weapons
13 involved. The name of a victim of any crime defined by
14 Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289,
15 422.6, 422.7, or 422.75 of the Penal Code may be withheld
16 at the victim's request, or at the request of the victim's
17 parent or guardian if the victim is a minor. When a person
18 is the victim of more than one crime, information
19 disclosing that the person is a victim of a crime defined
20 by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, 289,
21 422.6, 422.7, or 422.75 of the Penal Code may be deleted
22 at the request of the victim, or the victim's parent or
23 guardian if the victim is a minor, in making the report of
24 the crime, or of any crime or incident accompanying the
25 crime, available to the public in compliance with the
26 requirements of this paragraph.

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

33 (h) The contents of real estate appraisals or
34 engineering or feasibility estimates and evaluations made
35 for or by the state or local agency relative to the
36 acquisition of property, or to prospective public supply
37 and construction contracts, until all of the property has
38 been acquired or all of the contract agreement obtained.
39 However, the law of eminent domain shall not be affected
40 by this provision.



1 (i) Information required from any taxpayer in
2 connection with the collection of local taxes which is
3 received in confidence and the disclosure of the
4 information to other persons would result in unfair
5 competitive disadvantage to the person supplying the
6 information.

7 (j) Library circulation records kept for the purpose of
8 identifying the borrower of items available in libraries,
9 and library and museum materials made or acquired and
10 presented solely for reference or exhibition purposes.
11 The exemption in this subdivision shall not apply to
12 records of fines imposed on the borrowers.

13 (k) Records the disclosure of which is exempted or
14 prohibited pursuant to federal or state law, including, but
15 not limited to, provisions of the Evidence Code relating
16 to privilege.

17 (l) Correspondence of and to the Governor or
18 employees of the Governor's office or in the custody of or
19 maintained by the Governor's legal affairs secretary,
20 provided that public records shall not be transferred to
21 the custody of the Governor's legal affairs secretary to
22 evade the disclosure provisions of this chapter.

23 (m) In the custody of or maintained by the Legislative
24 Counsel, except those records in the public data base
25 maintained by the Legislative Counsel that are described
26 in Section 10248.

27 (n) Statements of personal worth or personal financial
28 data required by a licensing agency and filed by an
29 applicant with the licensing agency to establish his or her
30 personal qualification for the license, certificate, or
31 permit applied for.

32 (o) Financial data contained in applications for
33 financing under Division 27 (commencing with Section
34 44500) of the Health and Safety Code, where an
35 authorized officer of the California Pollution Control
36 Financing Authority determines that disclosure of the
37 financial data would be competitively injurious to the
38 applicant and the data is required in order to obtain
39 guarantees from the United States Small Business
40 Administration. The California Pollution Control



1 Financing Authority shall adopt rules for review of
2 individual requests for confidentiality under this section
3 and for making available to the public those portions of
4 an application which are subject to disclosure under this
5 chapter.

6 (p) Records of state agencies related to activities
7 governed by Chapter 10.3 (commencing with Section
8 3512) of Division 4 of Title 1, Chapter 10.5 (commencing
9 with Section 3525) of Division 4 of Title 1, and Chapter 12
10 (commencing with Section 3560) of Division 4 of Title 1,
11 which reveal a state agency's deliberative processes,
12 impressions, evaluations, opinions, recommendations,
13 meeting minutes, research, work products, theories, or
14 strategy, or which provide instruction, advice, or training
15 to employees who do not have full collective bargaining
16 and representation rights under the above chapters.
17 Nothing in this subdivision shall be construed to limit the
18 disclosure duties of a state agency with respect to any
19 other records relating to the activities governed by the
20 employee relations acts referred to in this subdivision.

21 (q) Records of state agencies related to activities
22 governed by Articles 2.6 (commencing with Section
23 14081), 2.8 (commencing with Section 14087.5), and 2.91
24 (commencing with Section 14089) of Chapter 7 of Part 3
25 of Division 9 of the Welfare and Institutions Code, which
26 reveal the special negotiator's deliberative processes,
27 discussions, communications, or any other portion of the
28 negotiations with providers of health care services,
29 impressions, opinions, recommendations, meeting
30 minutes, research, work product, theories, or strategy, or
31 which provide instruction, advice, or training to
32 employees.

33 Except for the portion of a contract containing the rates
34 of payment, contracts for inpatient services entered into
35 pursuant to these articles, on or after April 1, 1984, shall
36 be open to inspection one year after they are fully
37 executed. In the event that a contract for inpatient
38 services which is entered into prior to April 1, 1984, is
39 amended on or after April 1, 1984, the amendment,
40 except for any portion containing the rates of payment,



1 shall be open to inspection one year after it is fully
2 executed. If the California Medical Assistance
3 Commission enters into contracts with health care
4 providers for other than inpatient hospital services, those
5 contracts shall be open to inspection one year after they
6 are fully executed.

7 Three years after a contract or amendment is open to
8 inspection under this subdivision, the portion of the
9 contract or amendment containing the rates of payment
10 shall be open to inspection.

11 Notwithstanding any other provision of law, the entire
12 contract or amendment shall be open to inspection by the
13 Joint Legislative Audit Committee. The Joint Legislative
14 Audit Committee shall maintain the confidentiality of the
15 contracts and amendments until such time as a contract
16 or amendment is fully open to inspection by the public.

17 (r) Records of Native American graves, cemeteries,
18 and sacred places maintained by the Native American
19 Heritage Commission.

20 (s) A final accreditation report of the Joint
21 Commission on Accreditation of Hospitals which has
22 been transmitted to the State Department of Health
23 Services pursuant to subdivision (b) of Section 1282 of the
24 Health and Safety Code.

25 (t) Records of a local hospital district, formed pursuant
26 to Division 23 (commencing with Section 32000) of the
27 Health and Safety Code, or the records of a municipal
28 hospital, formed pursuant to Article 7 (commencing with
29 Section 37600) or Article 8 (commencing with Section
30 37650) of Chapter 5 of Division 3 of Title 4 of this code,
31 which relate to any contract with an insurer or nonprofit
32 hospital service plan for inpatient or outpatient services
33 for alternative rates pursuant to Section 10133 or 11512 of
34 the Insurance Code. However, the record shall be open
35 to inspection within one year after the contract is fully
36 executed.

37 (u) Information contained in applications for licenses
38 to carry firearms issued pursuant to Section 12050 of the
39 Penal Code by the sheriff of a county or the chief or other
40 head of a municipal police department which indicates



1 when or where the applicant is vulnerable to attack or
2 which concerns the applicant's medical or psychological
3 history or that of members of his or her family.

4 (v) (1) Records of the Major Risk Medical Insurance
5 Program related to activities governed by Part 6.3
6 (commencing with Section 12695), and Part 6.5
7 (commencing with Section 12700), of Division 2 of the
8 Insurance Code, and which reveal the deliberative
9 processes, discussions, communications, or any other
10 portion of the negotiations with health plans, or the
11 impressions, opinions, recommendations, meeting
12 minutes, research, work product, theories, or strategy of
13 the board or its staff, or records that provide instructions,
14 advice, or training to employees.

15 (2) (A) Except for the portion of a contract that
16 contains the rates of payment, contracts for health
17 coverage entered into pursuant to Part 6.3 (commencing
18 with Section 12695), or Part 6.5 (commencing with
19 Section 12700), of Division 2 of the Insurance Code, on or
20 after July 1, 1991, shall be open to inspection one year
21 after they have been fully executed.

22 (B) In the event that a contract for health coverage
23 that is entered into prior to July 1, 1991, is amended on or
24 after July 1, 1991, the amendment, except for any portion
25 containing the rates of payment shall be open to
26 inspection one year after the amendment has been fully
27 executed.

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

32 (4) Notwithstanding any other provision of law, the
33 entire contract or amendments to a contract shall be open
34 to inspection by the Joint Legislative Audit Committee.
35 The Joint Legislative Audit Committee shall maintain the
36 confidentiality of the contracts and amendments thereto,
37 until the contract or amendments to a contract is open to
38 inspection pursuant to paragraph (3).

39 (w) (1) Records of the Major Risk Medical Insurance
40 Program related to activities governed by Chapter 14



1 (commencing with Section 10700) of Part 2 of Division 2
2 of the Insurance Code, and that reveal the deliberative
3 processes, discussions, communications, or any other
4 portion of the negotiations with health plans, or the
5 impressions, opinions, recommendations, meeting
6 minutes, research, work product, theories, or strategy of
7 the board or its staff, or records that provide instructions,
8 advice, or training to employees.

9 (2) Except for the portion of a contract that contains
10 the rates of payment, contracts for health coverage
11 entered into pursuant to Chapter 14 (commencing with
12 Section 10700) of Part 2 of Division 2 of the Insurance
13 Code, on or after January 1, 1993, shall be open to
14 inspection one year after they have been fully executed.

15 (3) Notwithstanding any other provision of law, the
16 entire contract or amendments to a contract shall be open
17 to inspection by the Joint Legislative Audit Committee.
18 The Joint Legislative Audit Committee shall maintain the
19 confidentiality of the contracts and amendments thereto,
20 until the contract or amendments to a contract is open to
21 inspection pursuant to paragraph (2).

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

31 (y) *Records pertaining to the retention, location, or*
32 *expansion of a company within California.*

33 Nothing in this section prevents any agency from
34 opening its records concerning the administration of the
35 agency to public inspection, unless disclosure is otherwise
36 prohibited by law.

37 Nothing in this section prevents any health facility from
38 disclosing to a certified bargaining agent relevant



1 financing information pursuant to Section 8 of the
2 National Labor Relations Act.

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