

AMENDED IN ASSEMBLY JUNE 22, 1998

AMENDED IN SENATE MAY 5, 1998

AMENDED IN SENATE APRIL 13, 1998

AMENDED IN SENATE MARCH 23, 1998

SENATE BILL

No. 2174

Introduced by Senator Rainey

February 20, 1998

An act to add Section 6257.5 to, and to add Chapter 3 (commencing with Section 15650) to Part 9 of Division 3 of Title 2 of, the Government Code, relating to the State Board of Equalization.

LEGISLATIVE COUNSEL'S DIGEST

SB 2174, as amended, Rainey. State Board of Equalization: records.

The California Public Records Act provides that except for exempt records, every state or local agency, upon request, shall make records available to any person upon payment of fees to cover costs.

Existing law generally prohibits members, employees, and agents of the State Board of Equalization from divulging or making known in any manner not provided by law specified information concerning the business affairs of companies reporting to the board.

This bill would provide certain ~~guidelines~~ *criteria* with regard to the release of records *by all agencies* under the act in light of the holding in *State Board of Equalization v.*

Superior Court, 10 Cal. App. 4th 1177. The bill would also require the State Board of Equalization to adopt regulations to establish procedures and guidelines to access public records, *and to study and report to the Legislature by January 1, 2000, concerning the feasibility and cost of indexing its public records.*

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

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

1 SECTION 1.

2 SECTION 1. Section 6257.5 is added to the
3 Government Code, to read:

4 ~~6257.5. (a) The Legislature hereby finds and declares~~
5 ~~that the State Board of Equalization was sued for denying~~
6 ~~requests for public records under this chapter. The~~
7 ~~request for records involved the board's working~~
8 ~~procedure in that the records showed the board's practice~~
9 ~~in interpreting and applying sales and use tax regulations.~~
10 ~~In ruling against the board in State Board of Equalization~~
11 ~~v. Superior Court, 10 Cal. App. 4th 1177, the Court of~~
12 ~~Appeal unequivocally affirmed the right of all persons to~~
13 ~~obtain public records from government agencies. The~~
14 ~~court stated that "[t]here is manifest public interest in the~~
15 ~~avoidance of secret law and a correlative interest in the~~
16 ~~disclosure of a public agency's working law." "The~~
17 ~~revelation of a public agency's working law promotes its~~
18 ~~accountability to the public and the consistent,~~
19 ~~predictable, and nonarbitrary application and~~
20 ~~enforcement of the law."~~

21 ~~(b)~~

22 6257.5. It is the intent of the Legislature in enacting
23 this section to codify the ruling of State Board of
24 Equalization v. Superior Court *and to thereby, 10 Cal.*
25 *App. 4th 1177, and thereby to ensure its application to all*
26 *agencies subject to this chapter. The following is*
27 *declaratory of existing case law and shall apply with*
28 *regard to the release of records pursuant to this chapter:*

29 ~~(1)~~



1 (a) The size or magnitude of a request for documents
 2 under this chapter ~~does not determine whether the~~
 3 ~~request reasonably describes identifiable records for~~
 4 ~~purposes of Section 6257 may not by itself be used as a~~
 5 *justification to deny the request if the request reasonably*
 6 *describes identifiable records.* A request reasonably
 7 describes identifiable records if the records can be
 8 located with reasonable effort.

9 ~~(2) Whether or not an agency is bound by its internal~~
 10 ~~documents or working law with respect to the~~
 11 ~~dispensation or adjudication of future disputes may not be~~
 12 ~~used by the agency as a justification to withhold public~~
 13 ~~records. The public interest is served by access to an~~
 14 ~~agency's public records, regardless of the precedential~~
 15 ~~value of the records.~~

16 (3) The fact that a public record may contain some
 17 confidential information, including confidential
 18 information about a taxpayer, is not a justification to
 19 withhold the entire document. Pursuant to Section 6257,
 20 the confidential information portion that is reasonably
 21 segregable shall be deleted prior to providing a copy of
 22 the record.

23 ~~(4)~~
 24 (b) This chapter does not allow limitations on access to
 25 a public record based upon the purpose for which the
 26 record is being requested.

27 ~~(5) In order to provide the requesting party with the~~
 28 ~~means to reasonably describe an identifiable record, the~~
 29 ~~agency shall, upon request, prepare a list of the public~~
 30 ~~records the agency maintains on the requested subject.~~

31 SEC. 2. Chapter 3 (commencing with Section 15650)
 32 is added to Part 9 of Division 3 of Title 2 of the
 33 Government Code, to read:

34
 35 CHAPTER 3. ACCESS TO PUBLIC RECORDS

36
 37 15650. For purposes of this chapter, "public record"
 38 means any public record as defined in subdivision (d) of
 39 Section 6252.



1 15651. (a) In light of State Board of Equalization v.
2 Superior Court, 10 Cal. App. 4th 1177, in which the Court
3 of Appeal affirmed an order of the superior court that the
4 State Board of Equalization disclose its working law, it is
5 the intent of the Legislature, in enacting this chapter, to
6 establish procedures and mechanisms that facilitate
7 maximum accessibility to the public records maintained
8 by the board.

9 (b) The Legislature finds and declares that greater
10 disclosure and better understanding of tax laws and
11 regulations will encourage increased tax compliance.

12 15652. Pursuant to Section 6253, the State Board of
13 Equalization shall ~~promulgate~~ *adopt* regulations to
14 establish procedures and guidelines to access public
15 records. These regulations shall facilitate maximum
16 public accessibility to the board's public records. These
17 regulations shall specifically identify and describe the
18 types of public records pertaining to the tax and the fee
19 programs maintained by the board.

20 15653. A copy of a disclosable public record shall be
21 promptly made open and available to any person making
22 a request pursuant to the California Public Records Act
23 (Chapter 3.5 (commencing with Section 6250) of
24 Division 7 of Title 1). ~~In no case, however, shall the~~
25 ~~records be provided by the State Board of Equalization~~
26 ~~later than 60 days after the request was made. The board~~
27 ~~shall consider and may adopt regulations to require access~~
28 ~~to public records within a shorter time.~~

29 15654. ~~The Notwithstanding Section 7550.5, the~~ State
30 Board of Equalization shall study and report to the
31 Legislature, on or before January 1, 2000, on the feasibility
32 and cost of creating and maintaining a subject matter
33 index of public records pertaining to the tax and fee
34 program administered by the board.

