

AMENDED IN SENATE APRIL 27, 2009

SENATE BILL

No. 218

Introduced by Senator Yee

(Coauthors: Senators DeSaulnier and Runner)

*(Coauthors: Assembly Members Beall, DeVore, Furutani, Portantino,
and Smyth)*

February 23, 2009

An act to add Sections 71052, 89049, and 92034 to the Education Code, and to amend Section 6252 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 218, as amended, Yee. Public records: state agency: nonprofit entity.

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 they are exempt from disclosure. The act defines the term "state agency" for purposes of the act.

This bill would revise the definition of the term "state agency" to additionally include any entity, including, but not limited to, a nonprofit corporation, that receives public funds or performs a governmental function on behalf of the California Community Colleges, the California State University, or the University of California.

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 bodies in California State University, Fresno Assn., Inc. v. Superior Court (2001) 90 Cal. App.4th 810.

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 71052 is added to the Education Code,
2 to read:
 - 3 71052. Chapter 3.5 (commencing with Section 6250) of
4 Division 7 of Title 1 of the Government Code applies to any entity,
5 including, but not limited to, a nonprofit corporation, that receives
6 public funds or performs a governmental function on behalf of the
7 California Community Colleges.
- 8 SEC. 2. Section 89049 is added to the Education Code, to read:
 - 9 89049. Chapter 3.5 (commencing with Section 6250) of
10 Division 7 of Title 1 of the Government Code applies to any entity,
11 including, but not limited to, a nonprofit corporation, that receives
12 public funds or performs a governmental function on behalf of the
13 California State University.
- 14 SEC. 3. Section 92034 is added to the Education Code, to read:
 - 15 92034. Chapter 3.5 (commencing with Section 6250) of
16 Division 7 of Title 1 of the Government Code applies to any entity,
17 including, but not limited to, a nonprofit corporation, that receives
18 public funds or performs a governmental function on behalf of the
19 University of California.
- 20 SEC. 4. Section 6252 of the Government Code is amended to
21 read:
 - 22 6252. As used in this chapter:
 - 23 (a) "Local agency" includes a county; city, whether general law
24 or chartered; city and county; school district; municipal
25 corporation; district; political subdivision; or any board,
26 commission or agency thereof; other local public agency; or entities
27 that are legislative bodies of a local agency pursuant to subdivisions
28 (c) and (d) of Section 54952.
 - 29 (b) "Member of the public" means any person, except a member,
30 agent, officer, or employee of a federal, state, or local agency
31 acting within the scope of his or her membership, agency, office,
32 or employment.
 - 33 (c) "Person" includes any natural person, corporation,
34 partnership, limited liability company, firm, or association.
 - 35 (d) "Public agency" means any state or local agency.

1 (e) “Public records” includes any writing containing information
2 relating to the conduct of the public’s business prepared, owned,
3 used, or retained by any state or local agency regardless of physical
4 form or characteristics. “Public records” in the custody of, or
5 maintained by, the Governor’s office means any writing prepared
6 on or after January 6, 1975.

7 (f) “State agency” means every state office, officer, department,
8 division, bureau, board, and commission or other state body or
9 agency, or an entity subject to Section 71052, 89049, or 92034 of
10 the Education Code, except those agencies provided for in Article
11 IV (except Section 20 thereof) or Article VI of the California
12 Constitution.

13 (g) “Writing” means any handwriting, typewriting, printing,
14 photostating, photographing, photocopying, transmitting by
15 electronic mail or facsimile, and every other means of recording
16 upon any tangible thing any form of communication or
17 representation, including letters, words, pictures, sounds, or
18 symbols, or combinations thereof, and any record thereby created,
19 regardless of the manner in which the record has been stored.

20 *SEC. 5. It is the intent of the Legislature in enacting this act*
21 *to construe and clarify the meaning and effect of existing law and*
22 *to reject the court’s interpretation of state law regarding the*
23 *application of the California Public Records Act (Chapter 3.5*
24 *commencing with Section 6250) of Division 7 of Title 1 of the*
25 *Government Code) to auxiliary bodies in California State*
26 *University, Fresno Assn., Inc. v. Superior Court (2001) 90*
27 *Cal.App.4th 810.*