

SixTen and Associates

Mandate Reimbursement Services

KEITH B. PETERSEN, MPA, JD, President
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Telephone: (858) 514-8605
Fax: (858) 514-8645
E-Mail: Kbpsixten@aol.com

June 26, 2003

Certified Mail: 7001 0360 0000 5999 9956

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814



Re: TEST CLAIM OF Riverside Unified School District
Statutes of 2001/Chapter 355
California Public Records Act (K-14)

Dear Ms. Higashi:

Enclosed are the original and seven copies of the Riverside Unified School District test claim for the above referenced mandate.

I have been appointed by the District as its representative for the test claim. The District requests that all correspondence originating from your office and documents subject to service by other parties be directed to me, with copies to:

Michael H. Fine,
Business Services & Governmental
Relations Division
Riverside Unified School District
3380 14th Street
Sacramento, California 95814

Cheryl Miller
Associate Vice President,
Business Services
Santa Monica Community College
1900 Pico Boulevard
Santa Monica, CA 90405-1628

The Commission regulations provide for an informal conference of the interested parties

Paula Higashi, Executive Director,
Commission on State Mandates

June 26, 2003

within thirty days. If this meeting is deemed necessary, I request that it be conducted in conjunction with a regularly scheduled Commission hearing.

Sincerely,



Keith B. Petersen

C: Michael H. Fine, Business Services & Governmental Relations Division
Riverside Unified School District
Cheryl Miller, Associate Vice President, Business Services

State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
CSM 2 (1/91)

For Official Use Only

JUL 09 2003

COMMISSION ON
STATE MANDATES

TEST CLAIM FORM

Claim No. 02-TC-51

Local Agency or School District Submitting Claim

Riverside Unified School District

Contact Person

Telephone Number

Keith B. Petersen, President
SixTen and Associates

Voice: 858-514-8605
Fax: 858-514-8645

Claimant Address

Riverside Unified School District
3380 14th Street
Riverside, California 92516-2800

Representative Organization to be Notified

Dr. Carol Berg, Consultant, Education Mandated Cost Network
c/o School Services of California
1121 L Street, Suite 1060
Sacramento, CA 95814

Voice: 916-446-7517
Fax: 916-446-2011

This claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code citation(s) within the chaptered bill, if applicable.

California Public Records Act (K-14)

Chapter 355, Statutes of 2001
Chapter 982, Statutes of 2000
Chapter 83, Statutes of 1999
Chapter 620, Statutes of 1998
Chapter 923, Statutes of 1994
Chapter 926, Statutes of 1993
Chapter 970, Statutes of 1992
Chapter 463, Statutes of 1992
Chapter 908, Statutes of 1990
Chapter 1053, Statutes of 1985
Chapter 1657, Statutes of 1984
Chapter 802, Statutes of 1984
Chapter 163, Statutes of 1982
Chapter 535, Statutes of 1980
Chapter 556, Statutes of 1977
Chapter 1246, Statutes of 1975
Chapter 678, Statutes of 1975

Government Code Section 6253
Government Code Section 6253.1
Government Code Section 6253.5
Government Code Section 6253.9
Government Code Section 6254.3
Government Code Section 6255
Government Code Section 6259

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

Telephone No.

Michael H. Fine, Deputy Superintendent
Business Services & Governmental Relations Division

(909) 788-7134

Signature of Authorized Representative

Date

X 

June 13, 2003

1 Claim Prepared By:
2 Keith B. Petersen
3 SixTen and Associates
4 5252 Balboa Avenue, Suite 807
5 San Diego, CA 92117
6 Voice: (858) 514-8605
7
8

9 BEFORE THE
10 COMMISSION ON STATE MANDATES
11 STATE OF CALIFORNIA
12
13

14)
15)
16) No. CSM _____
17)
18 Test Claim of)
19)
20) Chapter 355, Statutes of 2001
21) Chapter 982, Statutes of 2000
22 Riverside Unified School District,) Chapter 83, Statutes of 1999
23) Chapter 620, Statutes of 1998
24) Chapter 923, Statutes of 1994
25) Chapter 926, Statutes of 1993
26 Test Claimant.) Chapter 970, Statutes of 1992
27) Chapter 463, Statutes of 1992
28) Chapter 908, Statutes of 1990
29) Chapter 1053, Statutes of 1985
30) Chapter 1657, Statutes of 1984
31) Chapter 802, Statutes of 1984
32) Chapter 163, Statutes of 1982
33) Chapter 535, Statutes of 1980
34) Chapter 556, Statutes of 1977
35) Chapter 1246, Statutes of 1975
36) Chapter 678, Statutes of 1975
37) (Continued on next page)
38) California Public Records Act (K-14)
39)
40)
41) TEST CLAIM FILING
42)
43)
44)
45)

1) Government Code Section 6253
2) Government Code Section 6253.1
3) Government Code Section 6253.5
4) Government Code Section 6253.9
5) Government Code Section 6254.3
6) Government Code Section 6255
7) Government Code Section 6259
8)
9)
10)
11)

12 PART I. AUTHORITY FOR THE CLAIM

13 The Commission on State Mandates has the authority pursuant to Government
14 Code section 17551(a) to "...hear and decide upon a claim by a local agency or school
15 district that the local agency or school district is entitled to be reimbursed by the state for
16 costs mandated by the state as required by Section 6 of Article XIII B of the California
17 Constitution." Riverside Unified School District is a "school district" as defined in
18 Government Code section 17519.¹

19 PART II. LEGISLATIVE HISTORY OF THE CLAIM

20 This test claim alleges mandated costs reimbursable by the state for school
21 districts, community college districts and county offices of education to comply with
22 public records disclosure requirements including notification, assisting members of the
23 public, responses in electronic format, redaction of records and the payment of courts

¹ Government Code Section 17519, added by Chapter 1459/84:

""School District" means any school district, community college district, or county superintendent of schools."

1 costs and attorney fees.

2 SECTION 1. LEGISLATIVE HISTORY PRIOR TO JANUARY 1, 1975

3 Chapter 1473, Statutes of 1968, Section 39, added Chapter 3.5 to Division 7 of
4 Title 1 of the Government Code. Section 6251² provided that the chapter shall be
5 known as the California Public Records Act.

6 Section 6252³ provided definitions which included "school district" in its definition
7 of a "local agency".

² Government Code Section 6251, added by Chapter 1473, Statutes of 1968,
Section 39:

"This chapter shall be known and may be cited as the California Public Records
Act."

³ Government Code Section 6252, as amended by Chapter 575, Statutes of
1970, Section 2:

"As used in this chapter:

(a) "State agency means every state office, officer, department, division, bureau,
board, and commission or other state agency, except those agencies provided for in
Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city
and county; school district; municipal corporation; district; political subdivision; or any
board, commission or agency thereof; or other local public agency.

(c) "Person" includes any natural person, corporation, partnership, firm, or
association.

(d) "Public records" includes any writing containing information relating to the
conduct of the public's business prepared, owned, used, or retained by any state or local
agency regardless of physical form or characteristics.

(e) "Writing" means handwriting, typewriting, printing, photostating,
photographing, and every other means of recording upon any form of communication or
representation, including letters, words, pictures, sounds, or symbols, or combination
thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints,
magnetic or punched cards, discs, drums, and other documents."

1 Section 6253⁴ required public records to be open for inspection at all times during
2 the office hours of the agency and provided that every citizen has a right to inspect any
3 public record, except as therein provided.

4 Sections 6253.5⁵ and 6254⁶ set forth exceptions to the public records disclosure

⁴ Government Code Section 6253, as amended by Chapter 664, Statutes of 1973. Section 1:

“(a) Public records are open to inspection at all times during the office hours of the state or local agency and every citizen has a right to inspect any public record, except as hereafter provided. Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.”

The following state and local bodies shall establish written guidelines for accessibility of records by July 1, 1974. A copy of these guidelines shall be posted in a conspicuous public place at the offices of such bodies by July 1, 1974, and a copy of such guidelines shall be available upon request free of charge to any person requesting that body's records:

[List of agencies, Department of Motor Vehicles through Golden Gate Bridge, Highway and Transportation District, intentionally omitted.]

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make such records accessible to the public.”

⁵ Government Code Section 6253.5, as amended by Chapter 1445, Statutes of 1974, Section 10:

“Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative referendum, and recall petitions and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda.”

⁶ Government Code Section 6254, as amended by Chapter 1295, Statutes of 1970, Section 1.5:

“Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

(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) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

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

(d) Contained in or related to:

(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 subdivision (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 subdivision (1); or

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

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which 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, and any state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;

(h) The contents of real estate appraisals, 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 such time as all of the property has been acquired or all of the contract agreement obtained, provided, 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

1 requirements.

2 Section 6255⁷ provided that an agency was required to justify withholding any
3 record by demonstrating that the record in question was exempt under express
4 provisions of the appropriate chapter or, that on the facts of the particular case, the
5 public interest served by not making the record public clearly outweighed the public
6 interest served by disclosure of the record.

taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

(j) Library and museum materials made or acquired and presented solely for reference or exhibition purposes; and

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

(l) In the custody of or maintained by the Governor or employees of the Governor's office employed directly in his office, provided that public records shall not be transferred to the custody of the Governor's office to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel.

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

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law."

⁷Government Code Section 6255, added by Chapter 1473, Statutes of 1968, Section 39:

"The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not the record clearly outweighs the public interest served by disclosure of the record."

1 Section 6256⁸ required that any person may receive a copy of any identifiable
2 public record or copy thereof and that, upon request, an exact copy be provided unless
3 it was impracticable to do so. Computer data was to be provided in a form determined
4 by the agency.

5 Section 6257⁹ required that a request for an identifiable public record or certified
6 copy, be accompanied by payment of a reasonable fee.

7 Section 6258¹⁰ provided that any person could institute proceedings in any court
8 of competent jurisdiction to enforce his right to inspect or to receive a copy of any public

⁸ Government Code Section 6256, as amended by Chapter 575, Statutes of 1970, Section 3:

“Any person may receive a copy of any identifiable public record or copy thereof. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the agency.”

⁹ Government Code Section 6257, added by Chapter 1473, Statutes of 1968, Section 39:

“A request for a copy of an identifiable public record or information produced therefrom, or a certified copy of such record, shall be accompanied by payment of a reasonable fee or deposit established by the state or local agency, or the prescribed statutory fee, where applicable.”

¹⁰ Government Code Section 6258, as amended by Chapter 575, Statutes of 1970, Section 4:

“Any person may institute proceedings for injunctive or declarative relief in any court of competent jurisdiction to enforce his right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in such proceedings shall be set by the judge of the court with the object of securing a decision as to such matters at the earliest possible time.”

1 record. The times for responsive pleadings and for hearings in such proceedings were
2 to be set by the judge of the court with the object of securing a decision as to such
3 matters at the earliest possible time.

4 Section 6259¹¹ provided a judicial procedure to be followed when a member of
5 the public claimed public records were being improperly withheld.

6 SECTION 2. LEGISLATIVE HISTORY AFTER DECEMBER 31, 1974

7 Chapter 678, Statutes of 1975, Section 26, amended Government Code Section
8 6253.5 by making non-substantive, technical changes.

9 Chapter 1246, Statutes of 1975, Section 9, amended Government Code Section
10 6259¹² by requiring the court to award court costs and reasonable attorney fees to a

¹¹Government Code Section 6259, added by Chapter 1473, Statutes of 1968, Section 39:

“Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Sections 6254 or 6255, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court.”

¹²Government Code Section 6259, as amended by Chapter 1246, Statutes of 1975, Section 9:

1 plaintiff who prevails in a petition alleging that public records were improperly withheld.
2 Court costs and reasonable attorney's fees shall be awarded to a public agency only
3 upon a finding that the plaintiff's case was clearly frivolous. Therefore, for the first time,
4 a public agency could be required, when ordered by the court, to pay a plaintiff's court
5 costs and attorney's fees.

6 Chapter 556, Statutes of 1977, Section 4, amended Government Code Section
7 6253.5¹³ by adding a provision authorizing specified officers and entities to examine

"Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Sections 6254 or 6255, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court. The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. Such costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency."

¹³Government Code Section 6253.5, as amended by Chapter 556, Statutes of 1977, Section 4:

"Notwithstanding the provisions of Sections 6252 and 6253, statewide, county,

1 materials upon court approval.

2 Chapter 535, Statutes of 1980, Section 1, amended Government Code Section
3 6253.5¹⁴ by adding authority for proponents of a recall petition to examine insufficient

city, and district initiative, referendum, and recall petitions and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, and a city attorney shall be permitted to examine such material upon approval of the appropriate superior court."

¹⁴Government Code Section 6253.5, as amended by Chapter 535, Statutes of 1980, Section 1:

"Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda and, if the petition is found to be insufficient, by the proponents of the petition and such representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, and a city attorney shall be permitted to examine such material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, such examination shall commence not later than 21 days after certification of insufficiency.

As used in this section "proponents of the petition" means the following:

(a) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure.

(b) For other initiative and referenda on measures, the person or persons

1 petitions in order to determine which signatures were disqualified and the reasons
2 therefor.

3 Chapter 968, Statutes of 1981, Section 3.4, repealed former Government Code
4 Section 6257 and Section 3.5 added a new Government Code Section 6257¹⁵ which
5 required that each state or local agency, upon request for a copy of a public record,
6 make non-exempt records promptly available to any person, upon payment of fees
7 covering only the direct costs of duplication or a statutory fee, if applicable. The
8 amendment also required that any reasonably segregable portion of a record shall be
9 provided after deletion of portions exempt by law. Therefore, for the first time, public
10 agencies were required to delete exempted portions and provide redacted copies of
11 public records.

12 Chapter 163, Statutes of 1982, Section 2, amended Government Code Section

who publish a notice of intention to circulate petitions, or, where publication is not
required, who file petitions with the clerk.

(c) For recall measures, the person or persons defined in Section 29711
of the Elections Code.”

¹⁵Government Code Section 6257, added by Chapter 968, Statutes of 1981,
Section 3.5:

“Except with respect to public records exempt by express provisions of law from
disclosure, each state or local agency, upon any request for a copy of records, which
reasonably describes an identifiable record, or information produced therefrom, shall
make the records promptly available to any person, upon payment of fees covering
direct costs of duplication, or a statutory fee, if applicable. Any reasonably segregable
portion of a record shall be provided to any person requesting such record after deletion
of the portions which are exempt by law.”

1 6253.5¹⁶ by adding school district or community college district attorneys to the provision
2 authorizing specified officers and entities to examine materials upon court approval.
3 Subdivision (d) was added to further define “proponents of the petition” to include the
4 person or persons having charge of the petition who submits the petition pursuant to

¹⁶ Government Code Section 6253.5, as amended by Chapter 163, Statutes of 1982, Section 2:

“Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, and petitions circulated pursuant to Section 5091 of the Education Code, and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda and, if the petition is found to be insufficient, by the proponents of the petition and such representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine such material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, such examination shall commence not later than 21 days after certification of insufficiency.

As used in this section “proponents of the petition” means the following:

(a) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure.

(b) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the clerk.

(c) For recall measures, the person or persons defined in Section 29711 of the Elections Code.

(d) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.”

1 Education Code Section 5091. Therefore, for the first time, school districts may be
2 required to examine petition materials pertaining to elections to fill a vacancy on the
3 governing board, when appropriate, after obtaining approval of the superior court.

4 Chapter 802, Statutes of 1984, Section 1, amended Government Code Section
5 6259¹⁷ to letter the two paragraphs as subdivisions (a) and (b). Subdivision (c) was

¹⁷Government Code Section 6259, added by Chapter 1473, Statutes of 1968, Section 39, as amended by Chapter 802, Statutes of 1984, Section 1:

“(a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Sections 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1985, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of the extraordinary writ of review as defined in Section 1067 of the code of Civil Procedure. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.”

1 added to allow an order of the Superior Court to be reviewed immediately by an
2 appellate court by an extraordinary writ of review. New subdivision (d) restated the
3 provision of former subdivision (c) which allows the court to award attorney's fees and
4 costs.

5 Chapter 1657, Statutes of 1984, Section 1, added Government Code Section
6 6254.3¹⁸ which provides in subdivision (a) that the home addresses and home telephone
7 numbers of state employees shall not be deemed to be public records and shall not be
8 open to public inspection, with specified exceptions. Subdivision (b) provides that, upon

¹⁸ Government Code Section 6254.3, added by Chapter 1657, Statutes of 1984,
Section 1:

“(a) The home addresses and home telephone numbers of state employees shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another state agency necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of state employees performing law enforcement-related functions shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) Upon written request of any employee, a state agency shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and a state agency shall remove the employee's home address and home telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.”

1 written request of any employee, a state agency shall not disclose the employee's home
2 address or home telephone number to an employee organization and the state agency
3 shall remove the employee's home address and home telephone number from any
4 mailing list maintained by the agency, except if the list is used exclusively by the agency
5 to contact the employee for any use of which is deemed necessary and proper within the
6 limitations of the standards of the agency.

7 Chapter 1053, Statutes of 1985, Section 1, amended Government Code Section
8 6253.5¹⁹ by adding petitions for the reorganization of school districts and petitions for the

¹⁹Government Code Section 6253.5, as amended by Chapter 1053, Statutes of 1985, Section 1:

"Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, and petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda and, if the petition is found to be insufficient, by the proponents of the petition and such representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine such material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, such examination shall commence not later than 21 days after certification of insufficiency.

As used in this section "proponents of the petition" means the following:

1 reorganization of community college districts to the list of materials which are not subject
2 to public disclosure except as specified in the section. Subdivision (e) was added to
3 define "proponents of the petition" for purposes of petitions circulated for the
4 reorganization of school districts. Subdivision (f) was added to define "proponents of the
5 petition" for purposes of petitions circulated for the reorganization of community college
6 districts.

7 Chapter 908, Statutes of 1990, Section 2, amended subdivision (c) of
8 Government Code Section 6259²⁰ by specifying the procedures required by a party

(a) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure.

(b) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the clerk.

(c) For recall measures, the person or persons defined in Section 29711 of the Elections Code.

(d) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(e) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(f) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code."

²⁰Government Code Section 6259, added by Chapter 1473, Statutes of 1968, Section 39, as amended by Chapter 908, Statutes of 1990, Section 2:

"(a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order

1 before filing a petition for review of a court order to disclose or not disclose public
2 records.

3 Chapter 463, Statutes of 1992, Section 1, amended Government Code Section

the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Sections 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991 ~~1985~~, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of the extraordinary writ of review as defined in Section 1067 of the code of Civil Procedure. ~~Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 10 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits.~~ Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency."

1 6254.3²¹ by adding employees of a school district or county office of education to those
2 people whose addresses and telephone numbers are not deemed to be public records.
3 Therefore, for the first time, school districts and county offices of education are required
4 to limit disclosure of its employees' home addresses and telephone numbers to only
5 those identified in subparagraphs (1) through (4) and, upon the written request of an
6 employee, to also refuse disclosure to an employee organization.

²¹ Government Code Section 6254.3, as amended by Chapter 463, Statutes of 1992, Section 1:

“(a) The home addresses and home telephone numbers of state employees and employees of a school district or county office of education shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another state agency, school district, or county office of education when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of ~~state~~ employees performing law enforcement-related functions shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state, school districts, and county office of education employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) Upon written request of any employee, a state agency, school district, or county office of education shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and ~~a state an~~ agency shall remove the employee's home address and home telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.”

1 Chapter 970, Statutes of 1992, Section 22, amended Government Code Section
2 6253.5²² by adding the definition of "petition" for purposes of the section, and by making
3 technical changes.

4 Chapter 926, Statutes of 1993, Section 1, amended Government Code Section
5 6259 by making technical changes.

6 Chapter 923, Statutes of 1994, Section 32, amended Government Code Section
7 6253.5 by making technical changes.

8 Chapter 620, Statutes of 1998, Section 4, renumbered former Government Code
9 Section 6253 as Government Code Section 6253.4, and Section 5, added a new
10 Government Code Section 6253²³. Subdivision (a) of new section 6253 requires that

²²Government Code Section 6253.5, as amended by Chapter 970, Statutes of 1992, Section 22:

"(a) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature."

²³Government Code Section 6253, added by Chapter 620, Statutes of 1998, Section 5:

"(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the agency.

1 public records shall be open to inspection at all times during the office hours of the state
2 or local agency and that every person has a right to inspect any public record except as
3 therein provided. Subdivision (b) provides that the state or local agency must make
4 records promptly available to any person upon payment of fees covering the direct costs
5 of duplication or a statutory fee, if applicable. Subdivision (c) requires that each agency
6 determine whether a request, in whole or in part, seeks copies of disclosable public

(c) Each agency, upon request for a copy of records shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(d) Nothing in this chapter shall be construed to permit an agency to obstruct the inspection or copying of public records. Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter."

1 records in the possession of the agency and, for the first time, requires the agency to
2 promptly notify the person making the request of that determination and the reasons
3 therefore. Subdivision (c) also allows an agency, in unusual circumstances, to extend
4 the time allowed for production and requires the head of the agency to provide written
5 notice of that fact to the person making the request setting forth the reasons for the
6 extension and the date on which a determination is expected to be dispatched.
7 Subdivision (d) provides that nothing in the chapter shall be construed to permit an
8 agency to obstruct the inspection or copying of public records and, for the first time,
9 requires that any notification of denial of any request for records shall set forth the
10 names and titles or positions of each person responsible for the denial.

11 Chapter 620, Statutes of 1998, Section 10, repealed Government Code Section
12 6257.

13 Chapter 83, Statutes of 1999, Section 64, amended Government Code Section
14 6253 by making technical changes.

15 Chapter 982, Statutes of 2000, Section 1, amended Government Code Section
16 6253²⁴ by adding subdivision (c)(4) to add the need to compile data, to write

²⁴Government Code Section 6253, added by Chapter 620, Statutes of 1998, Section 5, as amended by Chapter 982, Statutes of 2000, Section 1:

“(c) Each agency, upon request for a copy of records shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the

1 programming language of a computer program, or to construct a computer report to
2 extract data, to the list of examples of "unusual circumstances" which would justify an
3 extension of time.

4 Chapter 982, Statutes of 2000, Section 2, added Government Code Section
5 6253.9²⁵ which, for the first time, requires agencies which have non-exempt public

request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data."

²⁵Government Code Section 6253.9, added by Chapter 982, Statutes of 2000, Section 2:

"(a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of

1 records in an electronic format to make that information available in an electronic format,
2 when requested.

3 Chapter 982, Statutes of 2000, Section 3, amended Government Code Section
4 6255²⁶ by adding subdivision (b) which requires that a response to a written request for

duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.”

²⁶Government Code Section 6255, as amended by Chapter 982, Statutes of 2000, Section 3:

“(a)The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing making the record

1 inspection or copies of public records that includes a determination that the request is
2 denied, in whole or in part, to be in writing. The section was also amended to make
3 non-substantive technical changes. Therefore, for the first time, school districts are
4 required, when a determination that a request for disclosure of a document is denied in
5 whole or in part, to respond in writing.

6 Chapter 355, Statutes of 2001, Section 3, added Government Code Section
7 6253.²⁷ which, for the first time, requires a public agency, upon receipt of a request to

public clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

²⁷Government Code Section 6253.1, added by Chapter 355, Statutes of 2001, Section 3:

“(a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

(2) Describe the information technology and physical location in which the records exist.

(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.

(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Section 6253.

(d) This section shall not apply to a request for public records if any of the following applies:

(1) The public agency makes available the requested records pursuant to

1 inspect a public record by a member of the public, to do all of the following: (1) assist the
2 member of the public to identify records and information that are responsive to the
3 request or to the purpose of the request; (2) describe the information technology and
4 physical location in which the records exist; and (3) provide suggestions for overcoming
5 any practical basis for denying access to the records or information sought.

6 PART III. STATEMENT OF THE CLAIM

7 SECTION 1. COSTS MANDATED BY THE STATE

8 The Government Code Sections referenced in this test claim result in school
9 districts, community college districts and county offices of education incurring costs
10 mandated by the state, as defined in Government Code section 17514²⁸, by creating
11 new state-mandated duties related to the uniquely governmental function of providing
12 service to students and the public and these statutes apply to school districts and do not

Section 6253.

(2) The public agency makes available an index of its records.”

²⁸ Government Code section 17514, added by Chapter 1459, Statutes of 1984:

““Costs mandated by the state” means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

1 apply generally to all residents and entities in the state.²⁹

2 The new duties mandated by the state upon school districts, community colleges
3 and county offices of education require state reimbursement of the direct and indirect
4 costs of labor, materials and supplies, data processing services and software,
5 contracted services and consultants, equipment and capital assets, staff and student
6 training and travel to implement the following activities:

- 7 A) Pursuant to Chapter 3.5 of the Government Code (Government Code Sections
8 6250, et. seq.) to establish and implement policies and procedures, and to
9 periodically update those policies and procedures, to provide for the processing
10 of requests for disclosure of public documents pursuant to the California Public
11 Records Act.
- 12 B) Pursuant to Government Code Section 6253, subdivision (a), providing redacted
13 copies of requested documents deleting portions exempted by law.
- 14 C) Pursuant to Government Code Section 6253, subdivision (b), providing copies of
15 public records to the public, including the determination and collection of the fee.
- 16 D) Pursuant to Government Code Section 6253, subdivision (c), promptly notifying a

²⁹ Public schools are a Article XIII B, Section 6 "program," pursuant to Long Beach Unified School District v. State of California, (1990) 225 Cal.App.3d 155; 275 Cal.Rptr. 449:

"In the instant case, although numerous private schools exist, education in our society is considered to be a peculiarly government function. (Cf. Carmel Valley Fire Protection Dist. V. State of California (1987) 190 Cal.App.3d at p.537) Further, public education is administered by local agencies to provide service to the public. Thus public education constitutes a 'program' within the meaning of Section 6."

1 person making a request for a copy of records, within 10 days from receipt of the
2 request, of the determination of whether the requested records are disclosable
3 public records.

4 E) Pursuant to Government Code Section 6253, subdivision (c), when it is
5 determined that an extension is necessary, setting forth the reasons for the
6 extension in writing.

7 F) Pursuant to Government Code Section 6253, subdivision (c), when it is
8 determined that an extension is necessary, setting forth, in writing, a date upon
9 which a determination is expected to be dispatched.

10 G) Pursuant to Government Code Section 6253, subdivision (d), when denying a
11 request for disclosure of public records, setting forth the names and titles or
12 positions of each person responsible for the denial.

13 H) Pursuant to Government Code Section 6253.1, when members of the public make
14 a request to inspect a public record or obtain a copy of a public record,

15 (1) Assisting members of the public identify records and information that are
16 responsive to the request or to the purpose of the request, if stated,

17 (2) Describing the information technology and physical location in which the
18 records exist, and

19 (3) Providing suggestions for overcoming any practical basis for denying
20 access to the records or information sought.

21 I) Pursuant to Government Code Section 6253.5, when necessary, examining

1 petitions for the district when petitions are filed to fill vacancies on the governing
2 board and petitions for recall, after obtaining approval of the appropriate superior
3 court.

4 J) Pursuant to Government Code Section 6253.9, subdivision (a), making
5 disclosable public records in an electronic format available in an electronic format
6 when requested.

7 K) Pursuant to Government Code Section 6254.3, subdivision (a), limiting disclosure
8 of employees' home addresses and telephone numbers to those identified in
9 subparagraphs (1) through (4) and, upon the written request of an employee,
10 refusing disclosure to an employee organization.

11 L) Pursuant to Government Code Section 6254.3, subdivision (b), removing an
12 employee's home address and home telephone number from any mailing list
13 maintained by the agency when requested by that employee.

14 M) Pursuant to Government Code Section 6255, subdivision (b), responding in
15 writing when a determination has been made that a request for disclosure of a
16 document is denied in whole or in part.

17 N) Pursuant to Government Code Section 6259, when ordered by a court, paying to
18 a prevailing plaintiff his or her court costs and reasonable attorney fees.

19 SECTION 2. EXCEPTIONS TO MANDATE REIMBURSEMENT

1 None of the Government Code Section 17556³⁰ statutory exceptions to a finding
2 of costs mandated by the state apply to this test claim. Note, that to the extent school
3 districts may have previously performed functions similar to those mandated by the
4 referenced code sections, such efforts did not establish a preexisting duty that would
5 relieve the state of its constitutional requirement to later reimburse school districts when

³⁰ Government Code section 17556, as last amended by Chapter 589, Statutes of 1989:

“The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.”

1 these activities became mandated.³¹

2 SECTION 3. FUNDING PROVIDED FOR THE MANDATED PROGRAM

3 Local agencies are authorized to collect their direct costs of duplication or
4 statutory fees when providing copies of public records pursuant to Government Code
5 Section 6253, subdivision (b). To the extent such costs and fees are collected, they
6 would reduce the expenses claimed. Otherwise, no funds are appropriated by the state
7 for reimbursement of these costs mandated by the state and there is no other provision
8 of law for recovery of costs from any other source.

9 PART IV. ADDITIONAL CLAIM REQUIREMENTS

10 The following elements of this claim are provided pursuant to Section 1183, Title
11 2, California Code of Regulations:

12 Exhibit 1: Declaration of Michael H. Fine
13 Riverside Unified School District
14
15 Declaration of Cheryl Miller
16 Santa Monica Community College District
17

18
19 Exhibit 2: Copies of Statutes Cited
20
21 Chapter 355, Statutes of 2001
22 Chapter 982, Statutes of 2000
23 Chapter 83, Statutes of 1999
24 Chapter 620, Statutes of 1998

³¹Government Code Section 17565:

“If a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.”

Test Claim of Riverside Unified School District
Chapter 355/01 California Public Records Act (K-14)

- 1 Chapter 923, Statutes of 1994
- 2 Chapter 926, Statutes of 1993
- 3 Chapter 970, Statutes of 1992
- 4 Chapter 463, Statutes of 1992
- 5 Chapter 908, Statutes of 1990
- 6 Chapter 1053, Statutes of 1985
- 7 Chapter 1657, Statutes of 1984
- 8 Chapter 802, Statutes of 1984
- 9 Chapter 163, Statutes of 1982
- 10 Chapter 535, Statutes of 1980
- 11 Chapter 556, Statutes of 1977
- 12 Chapter 1246, Statutes of 1975
- 13 Chapter 678, Statutes of 1975

Exhibit 3: Copies of Code Sections Cited

- 16 Government Code Section 6253
- 17 Government Code Section 6253.1
- 18 Government Code Section 6253.5
- 19 Government Code Section 6253.9
- 20 Government Code Section 6254.3
- 21 Government Code Section 6255
- 22 Government Code Section 6259

24 /

25 /

26 /

27 /

28

1 PART V. CERTIFICATION

2 I certify by my signature below, under penalty of perjury, that the statements
3 made in this document are true and complete of my own knowledge or information and
4 belief.

5 Executed on June 13, 2003, at Riverside, California by:

6 
7 _____
8 Michael H. Fine
9 Deputy Superintendent
10 Business Services & Governmental Relations Division

11
12 Voice: (909) 788-7134
13 Fax: (909) 788-7110
14
15

16
17 PART VI. APPOINTMENT OF REPRESENTATIVE

18 Riverside Unified School District appoints Keith B. Petersen, SixTen and
19 Associates, as its representative for this test claim.
20

21 
22 _____
23 Michael H. Fine
24 Deputy Superintendent
Business Services & Governmental Relations Division

21 6/13/03
22 _____
23 Date

**EXHIBIT 1
DECLARATION**

DECLARATION OF Michael H. Fine

Riverside Unified School District

Test Claim of Riverside Unified School District

COSM No. _____

Chapter 355, Statutes of 2001
Chapter 982, Statutes of 2000
Chapter 83, Statutes of 1999
Chapter 620, Statutes of 1998
Chapter 923, Statutes of 1994
Chapter 926, Statutes of 1993
Chapter 970, Statutes of 1992
Chapter 463, Statutes of 1992
Chapter 908, Statutes of 1990
Chapter 1053, Statutes of 1985
Chapter 1657, Statutes of 1984
Chapter 802, Statutes of 1984
Chapter 163, Statutes of 1982
Chapter 535, Statutes of 1980
Chapter 556, Statutes of 1977
Chapter 1246, Statutes of 1975
Chapter 678, Statutes of 1975

Government Code Section 6253
Government Code Section 6253.1
Government Code Section 6253.5
Government Code Section 6253.9
Government Code Section 6254.3
Government Code Section 6255
Government Code Section 6259

California Public Records Act (K-14)

I, Michael H. Fine, Deputy Superintendent, Business Services & Governmental Relations Division, Riverside Unified School District, make the following declaration and statement.

In my capacity as Deputy Superintendent, Business Services & Governmental Relations Division, I am responsible for the receipt, processing and compliance with the

California Public Records Act. I am familiar with the provisions and requirements of the statutes and Government Code Sections enumerated above.

These Government Code sections require the Riverside Unified School District to implement the following activities:

- A) Pursuant to Chapter 3.5 of the Government Code (Government Code Sections 6250, et. seq.) to establish and implement policies and procedures, and to periodically update those policies and procedures, to provide for the processing of requests for disclosure of public documents pursuant to the California Public Records Act.
- B) Pursuant to Government Code Section 6253, subdivision (a), providing redacted copies of requested documents deleting portions exempted by law.
- C) Pursuant to Government Code Section 6253, subdivision (b), retrieving, inspecting, and handling of files from which copies are made.
- D) Pursuant to Government Code Section 6253, subdivision (c), promptly notifying a person making a request for a copy of records, within 10 days from receipt of the request, of the determination of whether the requested records are disclosable public records.
- E) Pursuant to Government Code Section 6253, subdivision (c), when it is determined that an extension is necessary, setting forth the reasons for the extension in writing.

- F) Pursuant to Government Code Section 6253, subdivision (c), when it is determined that an extension is necessary, setting forth, in writing, a date upon which a determination is expected to be dispatched.
- G) Pursuant to Government Code Section 6253, subdivision (d), when denying a request for disclosure of public records, setting forth the names and titles or positions of each person responsible for the denial.
- H) Pursuant to Government Code Section 6253.1, when members of the public make a request to inspect a public record or obtain a copy of a public record,
 - (1) Assisting members of the public identify records and information that are responsive to the request or to the purpose of the request, if stated,
 - (2) Describing the information technology and physical location in which the records exist, and
 - (3) Providing suggestions for overcoming any practical basis for denying access to the records or information sought.
- I) Pursuant to Government Code Section 6253.5, when necessary, examining petitions that are filed to fill vacancies on the governing board and petitions for recall, after obtaining approval of the appropriate superior court.
- J) Pursuant to Government Code Section 6253.9, subdivision (a), making disclosable public records in an electronic format available in an electronic format when requested.
- K) Pursuant to Government Code Section 6254.3, subdivision (a), limiting disclosure

of employees' home addresses and telephone numbers to those identified in subparagraphs (1) through (4) and, upon the written request of an employee, refusing disclosure to an employee organization.

- L) Pursuant to Government Code Section 6254.3, subdivision (b), removing an employee's home address and home telephone number from any mailing list maintained by the agency when requested by that employee.
- M) Pursuant to Government Code Section 6255, subdivision (b), responding in writing when a determination has been made that a request for disclosure of a document is denied in whole or in part.
- N) Pursuant to Government Code Section 6259, when ordered by a court, paying to a prevailing plaintiff his or her court costs and reasonable attorney fees.

It is estimated that the Riverside Unified School District, to the extent public records disclosure requests are made, incurred more than \$1,000 in staffing and other costs, annually, in excess of any fees collected pursuant to Government Code Section 6253, subdivision (b) and funding provided to school districts and the state for the period from July 1, 2001 through June 30, 2002 to implement these new duties mandated by the state for which the school district has not been reimbursed by any federal, state, or local government agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and where

Declaration of Michael H. Fine
Chapter 355/01 California Public Records Act (K-14)

so stated I declare that I believe them to be true.

EXECUTED this 25 day of June, 2003, at Riverside, California.



Michael H. Fine,
Deputy Superintendent
Business Services & Governmental Relations Division
Riverside Unified School District

DECLARATION OF Cheryl Miller

Santa Monica Community College District

Test Claim of Riverside Unified School District

COSM No. _____

Chapter 355, Statutes of 2001
Chapter 982, Statutes of 2000
Chapter 83, Statutes of 1999
Chapter 620, Statutes of 1998
Chapter 923, Statutes of 1994
Chapter 926, Statutes of 1993
Chapter 970, Statutes of 1992
Chapter 463, Statutes of 1992
Chapter 908, Statutes of 1990
Chapter 1053, Statutes of 1985
Chapter 1657, Statutes of 1984
Chapter 802, Statutes of 1984
Chapter 163, Statutes of 1982
Chapter 535, Statutes of 1980
Chapter 556, Statutes of 1977
Chapter 1246, Statutes of 1975
Chapter 678, Statutes of 1975

Government Code Section 6253
Government Code Section 6253.1
Government Code Section 6253.5
Government Code Section 6253.9
Government Code Section 6254.3
Government Code Section 6255
Government Code Section 6259

California Public Records Act (K-14)

I, Cheryl Miller, Associate Vice President Business Services, Santa Monica Community College District, make the following declaration and statement.

In my capacity as Associate Vice President Business Services, I am responsible for the receipt, processing and compliance with the California Public Records Act. I am familiar with the provisions and requirements of the statutes and Government Code

Sections enumerated above.

These Government Code sections require the Santa Monica Community College District to implement the following activities:

- A) Pursuant to Chapter 3.5 of the Government Code (Government Code Sections 6250, et. seq.) to establish and implement policies and procedures, and to periodically update those policies and procedures, to provide for the processing of requests for disclosure of public documents pursuant to the California Public Records Act.
- B) Pursuant to Government Code Section 6253, subdivision (a), providing redacted copies of requested documents deleting portions exempted by law.
- C) Pursuant to Government Code Section 6253, subdivision (b), providing copies of public records to the public, including the determination and collection of the fee.
- D) Pursuant to Government Code Section 6253, subdivision (c), promptly notifying a person making a request for a copy of records, within 10 days from receipt of the request, of the determination of whether the requested records are disclosable public records.
- E) Pursuant to Government Code Section 6253, subdivision (c), when it is determined that an extension is necessary, setting forth the reasons for the extension in writing.
- F) Pursuant to Government Code Section 6253, subdivision (c), when it is determined that an extension is necessary, setting forth, in writing, a date upon

which a determination is expected to be dispatched.

- G) Pursuant to Government Code Section 6253, subdivision (d), when denying a request for disclosure of public records, setting forth the names and titles or positions of each person responsible for the denial.
- H) Pursuant to Government Code Section 6253.1, when members of the public make a request to inspect a public record or obtain a copy of a public record,
 - (1) Assisting members of the public identify records and information that are responsive to the request or to the purpose of the request, if stated,
 - (2) Describing the information technology and physical location in which the records exist, and
 - (3) Providing suggestions for overcoming any practical basis for denying access to the records or information sought.
- I) Pursuant to Government Code Section 6253.5, when necessary, examining petitions that are filed to fill vacancies on the governing board and petitions for recall, after obtaining approval of the appropriate superior court.
- J) Pursuant to Government Code Section 6253.9, subdivision (a), making disclosable public records in an electronic format available in an electronic format when requested.
- K) Pursuant to Government Code Section 6254.3, subdivision (a), limiting disclosure of employees' home addresses and telephone numbers to those identified in subparagraphs (1) through (4) and, upon the written request of an employee,

refusing disclosure to an employee organization.

- L) Pursuant to Government Code Section 6254.3, subdivision (b), removing an employee's home address and home telephone number from any mailing list maintained by the agency when requested by that employee.
- M) Pursuant to Government Code Section 6255, subdivision (b), responding in writing when a determination has been made that a request for disclosure of a document is denied in whole or in part.
- N) Pursuant to Government Code Section 6259, when ordered by a court, paying to a prevailing plaintiff his or her court costs and reasonable attorney fees.

It is estimated that Santa Monica Community College District, to the extent public records disclosure requests are made, incurred more than approximately \$1,000 in staffing and other costs, annually, in excess of any fees collected pursuant to Government Code Section 6253, subdivision (b), and of any funding provided to school districts and the state for the period from July 1, 2001 through June 30, 2002 to implement these new duties mandated by the state for which the school district has not been reimbursed by any federal, state, or local government agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the

/

Declaration of Cheryl Miller
Test Claim of Riverside Unified School District
Chapter 355/01 of California Public Records Act (K-14)

foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

EXECUTED this 3rd day of June, 2003, at Santa Monica, California.

Cheryl Miller

Cheryl Miller
Associate Vice President Business Services
Santa Monica Community College District

EXHIBIT 2
COPIES OF STATUTES CITED

CHAPTER 678

An act to amend Sections 491 and 10131.7 of, and to amend and renumber Section 10342 of, the Business and Professions Code, to amend Sections 3059 and 4456 of the Civil Code, to amend Sections 684.1 and 1699 of the Code of Civil Procedure, to amend Section 9506 of the Commercial Code, to amend Sections 1203, 1230, 1796, 6751.1, 13253.5, 14009, 14262, 16725, 17522.5, 20811, and 31913.5 of, to add an article heading immediately preceding Section 526 of, and to repeal Section 13192.3 of, the Education Code, to amend Section 14800 of the Elections Code, to amend Section 8022 of the Fish and Game Code, to amend Section 60014 of the Food and Agricultural Code, to amend Sections 4107, 6253.5, 8668, 14254, 14810, 20815, 53570, 55551, 68515, and 74662 of, to amend and renumber Sections 18850.1 and 18850.2 of, to amend and renumber the heading of Chapter 17 (commencing with Section 7290) of Division 7 of Title 1 of, and to repeal Section 34217.1 of, the Government Code, to amend Section 6038 of the Harbors and Navigation Code, to amend Sections 11007, 11161, 11163, 11164, 11167, 11176, 13915, 19881, and 33427 of, and to repeal Sections 19880 and 25956 of, the Health and Safety Code, to amend Section 12900 of the Insurance Code, to amend Sections 227, 2631.1, and 7354.5 of the Labor Code, to amend Section 626 of the Penal Code, to amend Section 5135 of, and to repeal Chapter 5 (commencing with Section 2851) of Part 2 of Division 1 of, the Public Utilities Code, to amend Section 7272.5 of, to amend and renumber Section 255.6 of, and to repeal Section 7272.5 of, the Revenue and Taxation Code, to amend and renumber Sections 2400, 2404, 2404.2, 2404.5, and 2406 of, and to add Chapter 18 (commencing with Section 27500) to Part 3 of Division 16 of, the Streets and Highways Code, to amend Sections 1461 and 2801 of the Unemployment Insurance Code, to add Chapter 7 (commencing with Section 12000) to Division 5 of, to repeal Section 12000 of, and to repeal Chapter 5 (commencing with Section 11900) of Division 5 of, the Vehicle Code, to amend Sections 12912 and 22264 of the Water Code, to amend Sections 727, 11151, and 16140 of, and to amend the heading of Division 4 (commencing with Section 4000) of, to repeal the heading of Article 2.3 (commencing with Section 16140) of, and to add a chapter heading immediately preceding Section 16140 of, Part 4 of Division 9 of, the Welfare and Institutions Code, to amend Section 8 of Chapter 1064 of the Statutes of 1973 and Section 1 of Chapter 1076 of the Statutes of 1974, and to repeal Chapter 805 of the Statutes of

presented to him by the prime contractor,

(2) When the listed subcontractor becomes bankrupt or insolvent, or,

(3) When the listed subcontractor fails or refuses to perform his subcontract, or

(4) When the listed subcontractor fails or refuses to meet the bond requirements of the prime contractor as set forth in Section 4108, or

(5) When the prime contractor demonstrates to the awarding authority, or its duly authorized officer, subject to the further provisions set forth in Section 4107.5, that the name of the subcontractor was listed as the result of an inadvertent clerical error, or

(6) When the listed subcontractor is not licensed pursuant to the Contractors License Law, or

(7) When the awarding authority, or its duly authorized officer, determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work.

Prior to approval of the prime contractor's request for such substitution the awarding authority, or its duly authorized officer, shall give notice in writing to the listed subcontractor of the prime contractor's request to substitute and of the reasons for such request. Such notice shall be served by certified or registered mail to the last known address of such subcontractor. The listed subcontractor who has been so notified shall have five working days within which to submit written objections to the substitution to the awarding authority. Failure to file such written objections shall constitute the listed subcontractor's consent to the substitution.

If written objections are filed, the awarding authority shall give notice in writing of at least five working days to the listed subcontractor of a hearing by the awarding authority on the prime contractor's request for substitution.

(b) Permit any such subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original bid, without the consent of the awarding authority, or its duly authorized officer.

(c) Other than in the performance of "change orders" causing changes or deviations from the original contract, sublet or subcontract any portion of the work in excess of one-half of 1 percent of the prime contractor's total bid as to which his original bid did not designate a subcontractor.

SEC. 26. Section 6253.5 of the Government Code is amended to read:

6253.5. Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters

have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda.

SEC. 27. The heading of Chapter 17 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code is amended and renumbered to read:

CHAPTER 17.5. USE OF A FOREIGN LANGUAGE IN PUBLIC SERVICES

SEC. 28. Section 8668 of the Government Code is amended to read:

8668. (a) Any disaster council previously accredited, the State Civil Defense and Disaster Plan, the State Emergency Resources Management Plan, the State Fire Disaster Plan, the State Law Enforcement Mutual Aid Plan, all previously approved civil defense and disaster plans, all mutual aid agreements, and all other documents and agreements existing as of the effective date of this chapter, shall remain in full force and effect until revised, amended, or revoked in accordance with the provisions of this chapter.

(b) Nothing in this chapter shall be construed to diminish or remove any authority of any city, county, or city and county granted by Section 7 of Article XI of the California Constitution.

SEC. 29. Section 14254 of the Government Code is amended to read:

14254. As used in this chapter, "project" includes the erection, construction, alteration, repair or improvement of any state structure, building, road, or other state improvement of any kind which will exceed in cost a total of ten thousand dollars (\$10,000).

SEC. 30. Section 14810 of the Government Code is amended to read:

14810. The department shall adopt, publish and apply uniform standards of rating bidders, on the basis of questionnaires and required statements, with respect to contracts upon which each bidder is qualified to bid.

The department may remove, for a period not to exceed 90 calendar days, from any list of qualified bidders prepared by the department any bidder who, based upon his performance on contracts which he has previously been awarded by the state, has demonstrated a lack of reliability in complying with and completing such previously awarded contracts.

Any bidder temporarily removed under this section shall be returned to the list of qualified bidders at any time during this 90-day period, upon demonstrating to the department's satisfaction that the problems which resulted in the bidder's previously demonstrated unreliability in completing state contracts, have been corrected.

SEC. 31. Section 18850.1 of the Government Code, as added by

- (8) Stateline Beach
- (9) Celio Ranch
- (10) Ward Valley (including Page Meadows)
- (11) Blackwood Canyon

SEC. 80. Section 1 of Chapter 1076 of the Statutes of 1974 is amended to read:

Section 1. Chapter 7.7 (commencing with Section 25880) of Division 20 of the Health and Safety Code is repealed.

SEC. 81. Any section of any act enacted by the Legislature during the 1975 portion of the 1975-76 Regular Session, which takes effect on or before January 1, 1976, and which amends, amends and renumbers, or repeals a section amended, amended and renumbered, or repealed by this act, shall prevail over this act, whether such act is enacted prior or subsequent to this act.

CHAPTER 1246

An act to amend Sections 6252, 6254, 6257, and 6259 of, to add Sections 6261, 9131, 9132, 12022 and 12032, and to add Article 3.5 (commencing with Section 9070) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of, the Government Code, relating to public records.

[Approved by Governor October 1, 1975. Filed with Secretary of State October 1, 1975.]

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

SECTION 1. Article 3.5 (commencing with Section 9070) is added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, to read:

Article 3.5. Legislative Open Records Act

9070. The Legislature finds and declares that access to information concerning the conduct of the people's business by the Legislature is a fundamental and necessary right of every citizen in this state.

9071. This article shall be known and may be cited as the Legislative Open Records Act.

9072. As used in this article:

(a) "Person" includes any natural person, corporation, partnership, firm, or association.

(b) "Legislature" includes any Member of the Legislature, any legislative officer, any standing, joint, or select committee or subcommittee of the Senate and Assembly, and any other agency or employee of the Legislature.

(c) "Legislative records" means any writing prepared on or after December 2, 1974 which contains information relating to the conduct of the public's business prepared, owned, used, or retained by the Legislature.

(d) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

9073. Legislative records are open to inspection at all times

expenditures for the Governor in the following categories:

- (a) Travel and living expense reimbursement.
- (b) Automotive and charter or lease airplane expenses.
- (c) Rent.
- (d) Telephone.
- (e) Postage.
- (f) Printing.
- (g) Office supplies.

SEC. 8. Section 6257 of the Government Code is amended to read:

6257. A request for a copy of an identifiable public record or information produced therefrom, or a certified copy of such record, shall be accompanied by payment of a reasonable fee or deposit established by the state or local agency, provided such fee shall not exceed ten cents (\$0.10) per page or the prescribed statutory fee, where applicable.

SEC. 9. Section 6259 of the Government Code is amended to read:

6259. Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Section 6254 or 6255, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court. The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. Such costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

CHAPTER 556

An act to amend Sections 3512, 3756, and 27300 of the Elections Code, and to amend Section 6253.5 of the Government Code, relating to election petitions.

[Approved by Governor September 2, 1977. Filed with
Secretary of State September 3, 1977.]

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

SECTION 1. Section 3512 of the Elections Code is amended to read:

3512. Officers required by law to receive or file in their offices any initiative or referendum petition shall preserve the petition until eight months after the certification of the results of the election for which the petition qualified or attempted to qualify for placement on the ballot. Thereafter, the petition shall be destroyed as soon as practicable unless it is in evidence in some action or proceeding then pending or unless the officer has received a written request from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city and county, or district, including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities, the subject of which relates to the petition's qualification or disqualification for placement on the ballot, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 as set forth in Title 9 (commencing with Section 81000) of the Government Code.

SEC. 2. Section 3756 of the Elections Code is amended to read:

3756. An initiative or referendum petition received or filed in the office of the county clerk shall be preserved until eight months after the certification of the results of the election for which the petition qualified or attempted to qualify for placement on the ballot. Public access to any such petition shall be restricted in accordance with the provisions of Section 6253.5 of the Government Code. At the end of the eight-month period, the petition shall be destroyed as soon as practicable unless it is in evidence in some action or proceeding then pending, or unless the clerk has received a written request from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city and county, or district including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 as set forth in Title 9 (commencing with Section 81000) of the Government Code.

SEC. 3. Section 27300 of the Elections Code is amended to read:

27300. The clerk or, in the case of the recall of a state officer, the Secretary of State, shall preserve in his office all recall petitions filed for eight months after the certification of the results of the election for which the petition qualified or, if no election is held, eight months after the clerk's final examination of the petition. Public access to any such petition shall be restricted in accordance with provisions of Section 6253.5 of the Government Code. At the end of the eight-month period, the petition shall be destroyed as soon as

practicable, unless it is in evidence in some action or proceeding then pending or unless a written request is received from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city, or district, including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 as set forth in Title 9 (commencing with Section 81000) of the Government Code.

SEC. 4. Section 6253.5 of the Government Code is amended to read:

6253.5. Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, and a city attorney shall be permitted to examine such material upon approval of the appropriate superior court.

CHAPTER 535

An act to amend Section 6253.5 of the Government Code, relating to public records.

[Approved by Governor July 16, 1980. Filed with
Secretary of State July 17, 1980.]

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

SECTION 1. Section 6253.5 of the Government Code is amended to read:

6253.5. Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda and, if the petition is found to be insufficient, by the proponents of the petition and such representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, and a city attorney shall be permitted to examine such material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, such examination shall commence not later than 21 days after certification of insufficiency.

As used in this section "proponents of the petition" means the following:

(a) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure.

(b) For other initiative and referenda on measures, the person or

persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the clerk.

(c) For recall measures, the person or persons defined in Section 29711 of the Elections Code.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 163

An act to amend Section 5091 of the Education Code, and to amend Section 6253.5 of the Government Code, relating to elections.

[Approved by Governor April 24, 1982. Filed with Secretary of State April 26, 1982.]

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

SECTION 1. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 30 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 30 days after he or she files the resignation with the county superintendent of schools.

In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 30-day period as required by this section, the county superintendent of schools shall call an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next regular election date provided pursuant to Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code not less than 98 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) If a provisional appointment is made within the 30-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1½ percent of the number of registered voters of the district at the time of the last regular election for governing board members.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination; provided, however, if a regular election date, as defined in Section 2500 of the Elections Code, occurs between the

120th day and the 150th day following the determination, the county superintendent of schools may call such election to be conducted on the regular election date.

(d) A provisional appointment made pursuant to subdivision (a) confers no powers or duties of a governing board member upon the appointee during the 30-day period following his appointment and within which a petition calling for special election may be filed. If a petition is not filed within the 30-day period, the appointee shall thereafter have all the powers and perform all the duties of a governing board member.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) Whenever a petition calling for a special election is circulated, the petition shall contain the clerk's estimate of the cost of conducting the special election.

No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

The petition filed with the county superintendent of schools shall be subject to the restrictions in Section 6253.5 of the Government Code.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 2. Section 6253.5 of the Government Code is amended to read:

6253.5. Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, and petitions circulated pursuant to Section 5091 of the Education Code, and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda and, if the petition is found to be insufficient, by the proponents of the petition and such representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine such material upon approval of the appropriate superior

court.

If the proponents of a petition are permitted to examine the petition and memoranda, such examination shall commence not later than 21 days after certification of insufficiency.

As used in this section "proponents of the petition" means the following:

(a) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure.

(b) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the clerk.

(c) For recall measures, the person or persons defined in Section 29711 of the Elections Code.

(d) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

CHAPTER 802

An act to amend Section 6259 of the Government Code, relating to public records.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 6259 of the Government Code is amended to read:

6259. (a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1985, an order of the court, either directing disclosure by a public official or supporting

the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of the extraordinary writ of review as defined in Section 1067 of the Code of Civil Procedure. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

CHAPTER 1657

An act to add Section 6254.3 to the Government Code, relating to public records.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 6254.3 is added to the Government Code, to read:

6254.3. (a) The home addresses and home telephone numbers of state employees shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another state agency when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations adopted by the Public Employment Relations Board, except that the home addresses and home telephone numbers of state employees performing law enforcement-related functions shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) Upon written request of any employee, a state agency shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and a state agency shall remove the employee's home address and home telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

SEC. 2. It is the intent of the Legislature that this act shall not apply to any court action filed prior to April 1, 1984.

SEC. 3. Nothing herein shall be deemed to affect existing rights under the provisions of Sections 1798.3 and 1798.60 of the Civil Code.

SEC. 4. This act shall not be construed to limit or affect Section 1808 of the Vehicle Code.

CHAPTER 1053

An act to amend Section 6253.5 of the Government Code, relating to public records.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 6253.5 of the Government Code is amended to read:

6253.5. Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed

particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda and, if the petition is found to be insufficient, by the proponents of the petition and such representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine such material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, such examination shall commence not later than 21 days after certification of insufficiency.

As used in this section "proponents of the petition" means the following:

(a) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure.

(b) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the clerk.

(c) For recall measures, the person or persons defined in Section 29711 of the Elections Code.

(d) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(e) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(f) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

CHAPTER 908

An act to amend Sections 6258 and 6259 of the Government Code, relating to public records.

[Approved by Governor September 13, 1990. Filed with Secretary of State September 14, 1990.]

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

SECTION 1. Section 6258 of the Government Code is amended to read:

6258. Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

SEC. 2. Section 6259 of the Government Code is amended to read:

102850

6259. (a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 10 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

An act to amend Section 6254.3 of the Government Code, relating to public records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 6254.3 of the Government Code is amended to read:

6254.3. (a) The home addresses and home telephone numbers of state employees and employees of a school district or county office of education shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another state agency, school district, or county office of education when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of employees performing law enforcement-related functions shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state, school districts, and county office of education employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) Upon written request of any employee, a state agency, school district, or county office of education shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and an agency shall remove the employee's home address and home telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

SEC. 2. Notwithstanding Section 17610 of the Government Code, 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. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the protections provided to school employees at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 970

An act to amend Sections 5022, 19700, 35105, 37612, and 72027 of the Education Code, to amend Sections 44, 60, 1006.3, 1633, 4052, 5354, 6163, 6864, 8944, 9444, 9744, 9854, 25500, and 27023 of, and to add Sections 311.6 and 5355 to, the Elections Code, to amend Section 6253.5 of the Government Code, to amend Sections 32100.5 of the Health and Safety Code, and to amend Section 9314 of the Public Resources Code, relating to elections.

148810

(b) No person may be a candidate nor have his or her name printed upon any ballot as a candidate for a party nomination for the office of State Senator or Member of the Assembly, or for any state constitutional office, or for Insurance Commissioner at the direct primary election unless he or she has filed the declaration of intention provided for in this section. However, if the incumbent of the office who is affiliated with any qualified political party files a declaration of intention, but for any reason fails to qualify for nomination for the office by the last day prescribed for the filing of nomination papers, an additional five days shall be allowed for the filing of nomination papers for the office, and any person, other than the incumbent if otherwise qualified, may file nomination papers for the office during the extended period, notwithstanding that he or she has not filed a written and signed declaration of intention to become a candidate for the office as provided in subdivision (a).

SEC. 21. Section 27023 of the Elections Code is amended to read:

27023. (a) Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the clerk, or in the case of a state officer, the Secretary of State, an answer, in not more than 200 words, to the statement of the proponents.

(b) If an answer is filed, the officer shall, within seven days after the filing of the notice of intention, also serve a copy of it, by personal delivery or by certified mail, on one of the proponents named in the notice of intention.

(c) The answer shall be signed and shall be accompanied by the printed name and business or residence address of the officer sought to be recalled.

SEC. 22. Section 6253.5 of the Government Code is amended to read:

6253.5. Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county clerks in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents

as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency.

(a) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature.

(b) As used in this section "proponents of the petition" means the following:

(1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure.

(2) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the clerk.

(3) For recall measures, the person or persons defined in Section 29711 of the Elections Code.

(4) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(5) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(6) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

SEC. 23. Section 32100.5 of the Health and Safety Code is amended to read:

32100.5. An election which shall be known as the hospital district general election, shall be held in each local hospital district on the first Tuesday after the first Monday in November in each even-numbered year, at which a successor shall be chosen to each officer whose term shall expire when the successor takes office pursuant to Section 23556 of the Elections Code. The hospital district general election shall be consolidated with the statewide general election pursuant to Chapter 4 (commencing with Section 23300), Part 2, Division 14 of the Elections Code.

The person receiving the highest number of votes for each office to be filled at the election shall be elected thereto. The term of office of each elective officer of the district elected, shall be four years, or

counties to waive or minimize the charges for costs of elections conducted pursuant to this division.

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Moreover, no reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for other costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law for those other costs. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 926

An act to amend Sections 6086.13 and 17204 of the Business and Professions Code, to amend Sections 575.1, 712.020, 1094.6, 1987.5, 2020, and 2025 of, and to repeal Section 1167.6 of, the Code of Civil Procedure, and to amend Sections 6259 and 26800 of the Government Code, relating to civil remedies.

[Approved by Governor October 7, 1993. Filed with Secretary of State October 8, 1993.]

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

SECTION 1. Section 6086.13 of the Business and Professions Code is amended to read:

6086.13. (a) Any order of the Supreme Court imposing suspension or disbarment of a member of the State Bar, or accepting a resignation with a disciplinary matter pending may include an order that the member pay a monetary sanction not to exceed five thousand dollars (\$5,000) for each violation, subject to a total limit of fifty thousand dollars (\$50,000).

(b) Monetary sanctions collected under subdivision (a) shall be deposited into the Client Security Fund.

(c) The State Bar shall, with the approval of the Supreme Court, adopt rules setting forth guidelines for the imposition and collection of monetary sanctions under this section.

(d) The authority granted under this section is in addition to the provisions of Section 6086.10 and any other authority to impose costs or monetary sanctions.

(e) Monetary sanctions imposed under this section shall not be collected to the extent that the collection would impair the collection of criminal penalties or civil judgments arising out of transactions connected with the discipline of the attorney. In the event monetary sanctions are collected under this section and criminal penalties or civil judgments arising out of transactions connected with the discipline of the attorney are otherwise uncollectible, those penalties or judgments may be reimbursed from the Client Security Fund to the extent of the monetary sanctions collected under this section.

SEC. 2. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions for any relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county in the

allow the use of any deposition in the interests of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court.

(4) Any party may use a video tape deposition of a treating or consulting physician or of any expert witness even though the deponent is available to testify if the deposition notice under subdivision (d) reserved the right to use the deposition at trial, and if that party has complied with subparagraph (I) of paragraph (2) of subdivision (l).

(5) Subject to the requirements of this section, a party may offer in evidence all or any part of a deposition, and if the party introduces only part of the deposition, any other party may introduce any other parts that are relevant to the parts introduced.

(6) Substitution of parties does not affect the right to use depositions previously taken.

(7) When an action has been brought in any court of the United States or of any state, and another action involving the same subject matter is subsequently brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the initial action may be used in the subsequent action as if originally taken in that subsequent action. A deposition previously taken may also be used as permitted by the Evidence Code.

SEC. 10. Section 6259 of the Government Code is amended to read:

6259. (a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant

to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

SEC. 11. Section 26800 of the Government Code is amended to read:

26800. The county clerk shall act as clerk of the superior court in and for his or her county. However, in any county in which a superior court executive officer has been appointed pursuant to Section 69898, the term "county clerk" shall mean the superior court executive officer to the extent that the superior court, by local rule, has delegated any duties of the county clerk to the superior court executive officer.

SEC. 11.5. Section 3.5 of this bill incorporates amendments to Section 575.1 of the Code of Civil Procedure proposed by both this bill and SB 425. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 575.1 of the Code of Civil Procedure, and (3) this bill is enacted after SB 425, in which case Section 3 of this bill shall not become operative.

SEC. 12. Notwithstanding Section 17610 of the Government Code, 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. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 923

An act to amend Sections 203 and 416.80 of the Code of Civil Procedure, to amend Sections 5000.1, 5000.5, 5006, 5008, 5010, 5010.7, 5013, 5018, 5019, 5029, 5091, 5342, 5344, 5363, 5440, 5441, 5442, 15101, 15121, 16062, 18558, 19700, 24903, 39310, 41022, and 84042 of the Education Code, to amend Sections 810.2, 1780, 6253.5, 6254.4, 6547, 6547.2, 7060.5, 12172, 12172.5, 16100.6, 23274, 23353, 23359, 23365, 23374.3, 23374.13, 23559, 23702, 23709, 23713, 23720, 23721, 23722, 24001, 24009, 25210.18a, 25210.23, 26298.10, 26298.12, 26802, 29907.5, 31105.2, 34050, 34450, 34452, 34457, 34458, 34460, 34871, 34882, 34904,

163030

that is 130 or more days after the vacancy occurs.

(2) If the number of remaining members of the board falls below a quorum, at the request of the district secretary, or a remaining board member, the board of supervisors or the city council may waive the 60-day period provided in subdivision (a) and appoint immediately to fill the vacancy as provided in subdivision (a), or may call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is held 130 or more days after the vacancy occurs.

The board of supervisors or the city council shall only fill enough vacancies to provide the board with a quorum.

(d) Persons appointed to fill a vacancy shall hold office until the next district general election and thereafter until the person elected at that election to fill the vacancy has been qualified, but persons elected to fill a vacancy shall hold office for the unexpired balance of the term of office.

SEC. 32. Section 6253.5 of the Government Code is amended to read:

6253.5. Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency.

(a) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature.

(b) As used in this section "proponents of the petition" means the following:

(1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure.

(2) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the elections official.

(3) For recall measures, the person or persons defined in Section 343 of the Elections Code.

(4) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(5) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(6) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

SEC. 33. Section 6254.4 of the Government Code is amended to read:

6254.4. (a) The home address, telephone number, occupation, precinct number, and prior registration information shown on the voter registration card for the following persons is confidential if the person requests confidentiality of that information at the time of registration or reregistration and shall not be disclosed to any person except pursuant to Section 2194 of the Elections Code:

(1) Any active or retired judge, magistrate, or court commissioner.

(2) Any active or retired district attorney, assistant district attorney, or deputy district attorney.

(3) Any active or retired public defender or assistant public defender or public defender investigator.

(4) Any active or retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(5) The spouse or children of any person included in paragraphs (1) to (4), inclusive, who are living with that person.

(b) Confidentiality granted under this section shall apply only to records prepared or generated on or after the date that the voter is granted confidentiality.

(c) A person who requests confidentiality of the information specified in subdivision (a) shall register or reregister to vote by means of a confidential affidavit of registration form which shall be prescribed by the Secretary of State and which shall be attested to under penalty of perjury by the affiant that he or she is a person entitled to confidential treatment pursuant to this section.

conservatee's being gravely disabled. The court shall make a specific determination regarding imposition of this disability.

(f) The disqualification of the person from possessing a firearm pursuant to subdivision (e) of Section 8103.

SEC. 269. Section 5358.3 of the Welfare and Institutions Code is amended to read:

5358.3. At any time, a conservatee or any person on his behalf with the consent of the conservatee or his counsel, may petition the court for a hearing to contest the rights denied under Section 5357 or the powers granted to the conservator under Section 5358. However, after the filing of the first petition for hearing pursuant to this section, no further petition for rehearing shall be submitted for a period of six months.

A request for hearing pursuant to this section shall not affect the right of a conservatee to petition the court for a rehearing as to his status as a conservatee pursuant to Section 5364. A hearing pursuant to this section shall not include trial by jury. If a person's right to vote is restored, the court shall so notify the county elections official pursuant to subdivision (c) of Section 2210 of the Elections Code.

SEC. 270. Section 5364 of the Welfare and Institutions Code is amended to read:

5364. At any time, the conservatee may petition the superior court for a rehearing as to his status as a conservatee. However, after the filing of the first petition for rehearing pursuant to this section, no further petition for rehearing shall be submitted for a period of six months. If the conservatorship is terminated pursuant to this section, the court shall, in accordance with subdivision (c) of Section 2210 of the Elections Code, notify the county elections official that the person's right to register to vote is restored.

SEC. 271. The Legislature declares that the changes made by this act are technical and nonsubstantive in nature, and are necessitated by the reorganization of the Elections Code by SB 1547 of the 1993-94 Regular Session.

SEC. 272. This act shall become operative only if SB 1547 of the 1993-94 Regular Session is chaptered.

SEC. 273. Any section of any act enacted by the Legislature during the 1994 calendar year that takes effect on or before January 1, 1995, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section amended by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

PUBLIC RECORDS—CALIFORNIA PUBLIC
RECORDS ACT—DEFINITIONS

CHAPTER 620

S.B. No. 143

AN ACT to amend Section 6252 of, to amend and renumber Section 6253 of, to add Sections 6252.5 and 6253 to, to add a heading as Article 1 (commencing with Section 6250) to Chapter 3.5 of, to add Article 2 (commencing with Section 6275) to Chapter 3.5 of, Division 7 of Title 1 of, and to repeal Sections 6253.1, 6256, 6256.1, 6256.2, and 6257 of, the Government Code, relating to records.

[Approved by Governor September 19, 1998.]

[Filed with Secretary of State September 21, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 143, Kopp. Records.

(1) Existing provisions of the California Public Records Act require each state and local agency, as defined, to make its records open to public inspection at all times during office hours, except as specifically exempted from disclosure by law. The act also defines the terms "writing," "person," and "member of the public."

Additions or changes indicated by underline; deletions by asterisks * * *

3367

This bill would revise the definitions of local agency and "writing" and would define "public agency." The bill would also provide for public inspection of public records and copying in all forms, as specified. The bill would further require public agencies to ensure that systems used to collect and hold public records be designed to ensure ease of public access.

This bill would expressly state that notwithstanding the definition of "member of the public," an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person and would state that it is declaratory of existing law.

This bill would incorporate changes made to the California Public Records Act by the Governor's Reorganization Plan of 1991, including adding the Department of Toxic Substances Control and the Office of Environmental Health Hazard Assessment to the list of state and local bodies that are required to establish written guidelines for accessibility of records.

(2) Existing law provides that the California Public Records Act shall not be construed to require disclosure of records, the disclosure of which is exempted or prohibited by provisions of federal or state law.

This bill would list specific provisions of law coming within that exemption.

By requiring a higher level of service of local agencies in administering the California Public Records Act, this bill would impose a state-mandated local program.

(3) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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

SECTION 1. A heading as Article 1 (commencing with Section 6250) is added to Chapter 3.5 of Division 7 of Title 1 of the Government Code, to read:

Article 1. General Provisions

SEC. 2. Section 6252 of the Government Code is amended to read:

6252. As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or nonprofit * * * entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) * * * "Public agency" means any state or local agency.

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

(f) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps,

magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(g) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

SEC. 3. Section 6252.5 is added to the Government Code, to read:

6252.5. Notwithstanding the definition of "member of the public" in Section 6252, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.

This section does not constitute a change in, but is declaratory of, existing law.

SEC. 4. Section 6253 of the Government Code is amended and renumbered to read:

6253.4. (a) * * * Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles

Department of Consumer Affairs

Department of Transportation

Department of Real Estate

Department of Corrections

Department of the Youth Authority

Department of Justice

Department of Insurance

Department of Corporations

Secretary of State

State Air Resources Board

Department of Water Resources

Department of Parks and Recreation

San Francisco Bay Conservation and Development Commission

State Board of Equalization

State Department of Health Services

Employment Development Department

State Department of Social Services

State Department of Mental Health

State Department of Developmental Services

State Department of Alcohol and Drug Abuse

Office of Statewide Health Planning and Development

Public Employees' Retirement System

Teachers' Retirement Board

Department of Industrial Relations

Department of General Services

Department of Veterans Affairs

Public Utilities Commission

California Coastal Commission

State Water Resources Control Board
 San Francisco Bay Area Rapid Transit District
 All regional water quality control boards
 Los Angeles County Air Pollution Control District
 Bay Area Air Pollution Control District
 Golden Gate Bridge, Highway and Transportation District
 Department of Toxic Substances Control
 Office of Environmental Health Hazard Assessment

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

SEC. 5. Section 6253 is added to the Government Code, to read:

6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the agency.

(c) Each agency, upon a request for a copy of records shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(d) Nothing in this chapter shall be construed to permit an agency to obstruct the inspection or copying of public records. Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

SEC. 6. Section 6253.1 of the Government Code is repealed.

SEC. 7. Section 6256 of the Government Code is repealed.

SEC. 8. Section 6256.1 of the Government Code is repealed.

SEC. 9. Section 6256.2 of the Government Code is repealed.

SEC. 10. Section 6257 of the Government Code is repealed.

SEC. 11. Article 2 (commencing with Section 6275) is added to Chapter 3.5 of Division 7 of Title 1 of the Government Code, to read:

Article 2. Other Exemptions from Disclosure

6275. It is the intent of the Legislature to assist members of the public and state and local agencies in identifying exemptions to the California Public Records Act. It is the intent of the Legislature that, after January 1, 1999, each addition or amendment to a statute that exempts any information contained in a public record from disclosure pursuant to subdivision (k) of Section 6254 shall be listed and described in this article. The statutes listed in this article may operate to exempt certain records, or portions thereof, from disclosure. The statutes listed and described may not be inclusive of all exemptions. The listing of a statute in this article does not itself create an exemption. Requesters of public records and public agencies are cautioned to review the applicable statute to determine the extent to which the statute, in light of the circumstances surrounding the request, exempts public records from disclosure.

6276. Records or information not required to be disclosed pursuant to subdivision (k) of Section 6254 may include, but shall not be limited to, records or information identified in statutes listed in this article.

6276.02. Accident Reports, Admissibility as Evidence, Section 315, Public Utilities Code.

Acquired Immune Deficiency Syndrome, blood test results, written authorization not necessary for disclosure, Section 121010, Health and Safety Code.

Acquired Immune Deficiency Syndrome, blood test subject, compelling identity of, Section 120975, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of personal data of patients in State Department of Health Services programs, Section 120820, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of research records, Sections 121090, 121095, 121115, and 121120, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of vaccine volunteers, Section 121280, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of information obtained in prevention programs at correctional facilities and law enforcement agencies, Sections 7552 and 7554, Penal Code.

Acquired Immune Deficiency Syndrome, confidentiality of test results of person convicted of prostitution, Section 1202.6, Penal Code.

Acquired Immune Deficiency Syndrome, disclosure of results of HIV test, penalties, Section 120980, Health and Safety Code.

Acquired Immune Deficiency Syndrome, personal information, insurers tests, confidentiality of, Section 799, Insurance Code.

Acquired Immune Deficiency Syndrome, public safety and testing disclosure, Sections 121065 and 121070, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, production or discovery of records for use in criminal or civil proceedings against subject prohibited, Section 121100, Health and Safety Code.

Acquired Immune Deficiency Syndrome Public Health Records Confidentiality Act, personally identifying information confidentiality, Section 121025, Health and Safety Code.

Acquired Immune Deficiency Syndrome, test of criminal defendant pursuant to search warrant requested by victim, confidentiality of, Section 1524.1, Penal Code.

Acquired Immune Deficiency Syndrome, test results, disclosure to patient's spouse and others, Section 121015, Health and Safety Code.

Acquired Immune Deficiency Syndrome, test of person under Youth Authority, disclosure of results, Section 1768.9, Welfare and Institutions Code.

Additions or changes indicated by underline; deletions by asterisks * * *

3371

Ch. 620, § 12

STATUTES OF 1998

SEC. 12. Notwithstanding Section 17610 of the Government Code, 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. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

3392

Additions or changes indicated by underline; deletions by asterisks * * *

MAINTENANCE OF CODES

CHAPTER 83

S.B. No. 966

AN ACT to amend Sections 2530.2, 2725.1, 4052, 4827, 10145, 10177, 10229, 10232, 11018.12, 17539.15, 17550.14, 17550.16, 17550.23, 17550.41, 19950.2, 21701.1, and 23104.2 of, and to amend and renumber Section 730 of, the Business and Professions Code, to amend Sections 1102.6c, 1739.7, 1793.22, 1815, and 3269 of the Civil Code, to amend Sections 631 and 1167.3 of the Code of Civil Procedure, to amend Sections 25102 and 28956 of the Corporations Code, to amend Sections 8927, 42238.95, 44259.3, 44403, 44579.4, 44731, 51201.5, 51554, 51555, 51871, 52122, 54745, 54748, 54761.3, 60603, 60640, 69621, and 89010 of the Education Code, to amend Sections 10262, 15112, and 15151 of the Elections Code, to amend Sections 4252, 4351, 4901, 6380, 7572, and 7575 of the Family Code, to amend Sections 6420 and 7151 of the Fish and Game Code, to amend Sections 221, 5852, 14651, 20797, and 31753 of the Food and Agricultural Code, to amend Sections 3517.65, 4560, 6253, 6505.5, 7073, 7260, 7262.5, 9359.01, 12652, 13965.2, 14838.5, 18523.3, 19141.3, 19175.6, 19576.5, 19582.3, 20068.2, 20677, 21028, 22200, 22209, 22754.5, and 54975 of, to amend the heading of Article 5 (commencing with Section 63043) of Chapter 2 of Division 1 of Title 6.7 of, to amend and renumber Sections 66400, 66401, 66402, and 66403 of, and to amend and renumber the heading of Chapter 6 (commencing with Section 66400) of Division 1 of Title 7 of, and to repeal Section 54953 of, the Government Code, to amend Sections 1206, 1261.5, 1261.6, 1300, 1351.2, 1357.09, 1357.50, 1357.51, 1367.24, 1442.5, 1502.6, 1522, 1746, 1771.9, 1797.191, 18020, 18025.5, 25989.1, 33392, 33492.22, 44015, 111940, 120440, 124980, and 129820 of, to amend and renumber Section 50518 of, and to repeal Section 33298 of, the Health and Safety Code, to amend Sections 1063.6, 1765.1, 10095, 10116.5, 10194.8, 10232.8, 10273.4, 10700, and 10841 of, and to amend and renumber Sections 12963.96 and 12963.97 of, the Insurance Code, to amend Sections 138.4, 201.5, 1771.5, 3716.2, 4707, and 5433 of the Labor Code, to amend Sections 136.2, 148.10, 290, 298, 299, 299.6, 350, 550, 594, 626.9, 653m, 790, 831.5, 1203.097, 1269b, 1347, 3003, 4536.5, 5066, 6051, 6065, 6126, 12071, 12085, 12086, 12370, 13515.55, and 13602 of the Penal Code, to amend Section 10218, 14575, and 33001 of the Public Resources Code, to amend Sections 64, 401.15, 995.2, 3772.5, 17275.6, 19057, 19141.6, 19271, 23038.5, 23610.5, 23701t, 23704, 24416.2, 41136, and 65004 of the Revenue and Taxation Code, to amend Section 1095 of the Unemployment Insurance Code, to amend Sections 2478, 2810, 4466, 11614, and 40000.15 of the Vehicle Code, to amend Section 1062 of the Water Code, to amend Sections 319, 366.26, 781, 1801, 5768.5, 6609.1, 10980, 11369, 11401, 12302.3, 16118, and 16501.1 of, to amend and renumber Sections 1790, 1791, 1792, 1793, and 11008.19 of, and to amend and repeal Section 17012.5 of, the Welfare and Institutions Code, and to amend Section 8.2 of Chapter 545 of the Statutes of 1943, Section 2 of Chapter 21 of the Statutes of 1998, Section 111 of Chapter 310 of the Statutes of 1998, Section 3 of Chapter 652 of the Statutes of 1998, Section 1 of Chapter 722 of the Statutes of 1998, Section 11 of Chapter 760 of the Statutes of 1998, Section 12 of Chapter 760 of the Statutes of 1998, and Section 10 of Chapter 969 of the Statutes of 1998, relating to maintenance of the codes.

[Filed with Secretary of State July 12, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 966, Committee on Judiciary. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would restate existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 1999, and would not make any substantive change in the law.

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

SECTION 1. Section 730 of the Business and Professions Code, as added by Chapter 400 of the Statutes of 1997, is amended and renumbered to read:

730.5. (a) It is unprofessional conduct * * * and a crime, as provided in Section 4935, for a physician and surgeon, osteopathic physician, dentist, or podiatrist to direct or supervise the

(d) * * * Existing state office buildings, at the discretion of the Director of General Services, may be retrofitted to accommodate a child care facility. State funds required for the retrofitting shall be subject to regular budgetary procedures and approvals.

(e) Space designed within a state-owned office building for the child care facility shall comply with the prevailing local and state safety building codes for child care facilities.

(f) The indoor area shall not exceed 2,100 square feet, nor be less than that required to accommodate 30 children, excluding space for restrooms, kitchen facilities, storage areas, and teacher offices. Outdoor play area space shall correspond with the indoor play area as * * * described in Title 22 of the California Code of Regulations.

(g) Utilization of the space shall be subject to terms and conditions * * * set forth by the Director of General Services. The terms shall include payment of rent, proof of financial responsibility, and maintenance of space. The space shall be made available to * * * employees who wish to establish child care facilities at a rate to be established by the Director of General Services based upon the actual cost to the state, the average cost of state-owned space in the area, or the statewide average cost of state-owned space, whichever is less. If, however, the director determines that a lower rent must be charged to ensure the viability of a child care facility, the director may charge a lower rate.

(h)(1) The * * * department or departments occupying the building * * * shall notify the employee-occupants in writing of the availability of space to be used for a child care facility no earlier than 180 days prior to the projected date of occupancy of a new building or space provided as the result of additions, alterations, or repairs to an existing state-owned building, and the additions, alterations, or repairs that both change and affect the use of 25 percent of the net square feet area of the building and include the addition to, alteration of, or repair of the first floor. If, within 30 days after full occupancy of a new office building or 30 days after the completion of additions, alterations, or repairs to an existing state-owned office building, the employee-occupants so desiring have not filed an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care center, deposited two months' rent in a commercial or savings account, and entered into a contract with the Department of General Services, the space may be used for any other purpose, as long as no permanent alteration of the space occurs. Other purposes may include, but are not limited to, conference rooms, storage areas, or offices. The space for child care shall be held for the employee-occupants' nonprofit corporation only as long as they pay the monthly rent and meet the terms set forth in the contract. Payment of rent shall commence 30 days after full occupancy of a new office building or 30 days after completion of additions, alterations, or repairs, as specified in this section.

(2) If, at a later date, the employee-occupants so desiring (A) file an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care facility, (B) deposit two months' rent in a commercial or savings account, and (C) notify the Director of General Services of those actions, then the space shall be reconverted for child care purposes within 180 days of the notice.

(i) Children * * * from families in which at least one parent or guardian is a state employee shall be given priority admission * * * over other children * * * to the child care facility.

(j) When a child care center within a state-owned office building has been operative for five years, the Director of General Services shall assess the child care needs of the state employees using the center and the office space needs of the building within which the center is located. If the assessment demonstrates a greater need for office space than for child care, the Director of General Services may close the child care center. Ninety days' written notice of the closure shall be given to the director or head teacher of the center * * *.

(k) This section does not apply to buildings that provide care or 24-hour residential care for patients, inmates, or wards of the state, such as state hospitals and correctional facilities.

SEC. 64. Section 6253 of the Government Code is amended to read:

6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for

inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person * * * upon payment of fees covering direct costs of duplication, or a statutory fee * * * if applicable. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the agency.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(d) Nothing in this chapter shall be construed to permit an agency to obstruct the inspection or copying of public records. Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

SEC. 65. Section 6505.5 of the Government Code is amended to read:

6505.5. If a separate agency or entity is created by the agreement, the agreement shall designate the treasurer of one of the contracting parties, or in lieu thereof, the county treasurer of a county in which one of the contracting parties is situated, or a certified public accountant to be the depository and have custody of all the money of the agency or entity, from whatever source.

The treasurer or certified public accountant so designated shall do all of the following:

(a) Receive and receipt for all money of the agency or entity and place it in the treasury of the treasurer so designated to the credit of the agency or entity.

(b) Be responsible, upon his or her official bond, for the safekeeping and disbursement of all agency or entity money so held by him * * * or her.

(c) Pay, when due, out of money of the agency or entity * * * held by him or her, all sums payable on outstanding bonds and coupons of the agency or entity.

(d) Pay any other sums due from the agency or entity from agency or entity money, or any portion thereof, only upon warrants of the public officer performing the functions of auditor or controller who has been designated by the agreement * * * :

(e) Verify and report in writing on the first day of July, October, January, and April of each year to the agency or entity and to the contracting parties to the agreement the amount of money he or she holds for the agency or entity, the amount of receipts since his or her last report, and the amount paid out since his or her last report.

The officer performing the functions of auditor or controller shall be of the same public agency as the treasurer designated as depository pursuant to this section. However, where a certified public accountant has been designated as treasurer of the entity, the auditor of one

statewide election held on June 2, 1998, in which case Section 5 of this act shall not become operative and shall not be submitted to the voters.

SEC. 217. Section 12 of Chapter 760 of the Statutes of 1998 is amended to read:

Sec. 12. Sections 5 and 6 of this act affect an initiative statute and shall become effective only when submitted to, and approved by, the voters pursuant to subdivision (c) of Section 10 of Article II of the California Constitution and in accordance with the provisions of Section 11 of this act.

SEC. 218. Section 10 of Chapter 969 of the Statutes of 1998 is amended to read:

Sec. 10. All funds appropriated and positions created for support of the office of the Inspector General in Item 0550-001-0001 of the Budget Act of 1998 shall be transferred upon approval of the Department of Finance to the office of the Inspector General as established pursuant to Section 2 of this act.

SEC. 219. Any section of any act enacted by the Legislature during the 1999 calendar year that takes effect on or before January 1, 2000, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 1999 calendar year and takes effect on or before January 1, 2000, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

PUBLIC RECORDS—INSPECTION OR COPYING—DELAYS

CHAPTER 982

A.B. No. 2799

AN ACT to amend Sections 6253 and 6255 of, and to add Section 6253.9 to, the Government Code, relating to public records.

[Filed with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2799, Shelley. Public records: disclosure.

(1) The California Public Records Act provides that any person may receive a copy of any identifiable public record from any state or local agency upon payment of fees covering direct costs of duplication or a statutory fee if applicable. The act provides that it shall not be construed to permit an agency to obstruct the inspection or copying of public records and requires any notification of denial of any request for records pursuant to the act to set forth the names and titles or positions of each person responsible for the denial. The act also requires computer data to be provided in a form determined by the agency.

This bill would provide that nothing in the act shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. This bill would delete the requirement that computer data be provided in a form determined by the agency and would require any agency that has information that constitutes an identifiable public record not otherwise exempt from disclosure that is in an electronic format to make that information available in an electronic format when requested by any person. The bill would require the agency to make the information available in any electronic format in which it holds the information, but would not require release of a record in the electronic form in which it is held if its release would jeopardize or compromise the security or integrity of the original record or any proprietary software in which it is maintained. Because these requirements would apply to local agencies as well as state agencies, this bill would impose a state-mandated local program.

Regarding payment of fees for records released in an electronic format, the bill would require that the requester bear the cost of programming and computer services necessary to produce a record not otherwise readily produced, as specified.

(2) The act requires the agency to justify withholding any record by demonstrating that the record in question is exempt under express provisions of the act or that, on the facts of the particular case, the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.

This bill would require a response to a written request for public records that includes a denial of the request in whole or in part to be in writing. By imposing this new duty on local public officials, the bill would create a state-mandated local program.

(3) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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:

SECTION 1. Section 6253 of the Government Code is amended to read:

Additions or changes indicated by underline; deletions by asterisks * * *

5411

6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.* * *

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

SEC. 2. Section 6253.9 is added to the Government Code, to read:

6253.9. (a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

SEC. 3. Section 6255 of the Government Code is amended to read:

6255. (a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record * * * clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

SEC. 4. Notwithstanding Section 17610 of the Government Code, 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. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

2001-2002 REGULAR SESSION

Ch. 355

STATE AGENCIES—PUBLIC RECORDS—DISCLOSURE

CHAPTER 355

A.B. No. 1014

AN ACT to amend Section 6253 of, and to add Section 6253.1 to, the Government Code, relating to public records.

[Filed with Secretary of State September 27, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1014, Papan. California Public Records Act: disclosure procedures.

(1) Existing law, the California Public Records Act, requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure, and upon payment of fees to cover costs.

Additions or changes indicated by underline; deletions by asterisks * * * *

2835

This bill would require, when a member of the public requests to inspect or to obtain a copy of a public record, that, in order to assist the individual to make a focused and effective request that reasonably describes an identifiable record, the agency shall assist the member of the public to identify records and information that may be responsive to a request, describe the information technology and physical location in which the records exist, and provide suggestions for overcoming any practical basis for denying access to the records or information sought. The bill would specify that these requirements to assist a member of the public do not apply if the agency makes available the requested records, determines that the request should be denied based solely on an express exemption listed in the act, or makes available an index of its records.

The act provides that, upon a request for a copy of records, an agency has 10 days to determine whether the request seeks disclosable public records and to notify the requester of this determination and the reasons therefor. The act further provides that, in unusual circumstances, as defined, the agency may extend this time limit by written notice, which shall specify the reasons for the extension and the date on which a determination is expected to be dispatched.

This bill would require that, when the agency dispatches the determination of whether the request seeks disclosable public records, it state the estimated date and time when the records will be made available.

By imposing additional duties and responsibilities upon local agencies in connection with requests for inspection of records, this bill constitutes a state-mandated local program.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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:

SECTION 1. The Legislature finds and declares that this act, which requires state and local agencies to assist in a specified manner members of the public in making requests for public records, will further the purposes of the California Public Records Act and will result in more efficient use of public resources.

SEC. 2. Section 6253 of the Government Code is amended to read:

6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the

records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

SEC. 3. Section 6253.1 is added to the Government Code, to read:

6253.1. (a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

(2) Describe the information technology and physical location in which the records exist.

(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.

(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Section 6253.

(d) This section shall not apply to a request for public records if any of the following applies:

(1) The public agency makes available the requested records pursuant to Section 6253.

(2) The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Section 6254.

(3) The public agency makes available an index of its records.

SEC. 4. Notwithstanding Section 17610 of the Government Code, 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. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

EXHIBIT 3
COPIES OF CODE SECTIONS CITED

§ 6253. Public records open to inspection; agency duties; time limits

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
- (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

(Added by Stats.1998, c. 620 (S.B.143), § 5. Amended by Stats.1999, c. 83 (S.B.966), § 64; Stats.2000, c. 982 (A.B.2799), § 1; Stats.2001, c. 355 (A.B.1014), § 2.)

GOVERNMENT CODE

§ 6253.1. Assistance to members of the public regarding requests to inspect a public record or obtain a copy; duties of the public agency

(a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

(2) Describe the information technology and physical location in which the records exist.

(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.

(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Section 6253.

(d) This section shall not apply to a request for public records if any of the following applies:

(1) The public agency makes available the requested records pursuant to Section 6253.

(2) The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Section 6254.

(3) The public agency makes available an index of its records.

(Added by Stats.2001, c. 355 (A.B.1014), § 3.)

§ 6253.5. Initiative, referendum, recall petitions, and petitions for reorganization of school districts or community college districts deemed not public records; examination by proponents

Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency.

(a) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature.

(b) As used in this section "proponents of the petition" means the following:

(1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure.

(2) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the elections official.

(3) For recall measures, the person or persons defined in Section 343 of the Elections Code.

(4) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(5) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(6) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

(Added by Stats.1974, c. 1410, p. 3106, § 10; Stats.1974, c. 1445, p. 3155, § 10. Amended by Stats.1975, c. 678, p. 1483, § 26; Stats.1977, c. 556, p. 1782, § 4; Stats.1980, c. 535, § 1; Stats.1982, c. 163, p. 529, § 2; Stats.1985, c. 1053, § 1; Stats.1992, c. 970 (S.B.1260), § 22; Stats.1994, c. 923 (S.B.1546), § 32.)

§ 6253.9. Information in an electronic format; costs; application; availability

(a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

(Added by Stats.2000, c. 982 (A.B.2799), § 2.)

§ 6254.3. State, school district and county office of education employees; home address and phone number as public records; disclosure

(a) The home addresses and home telephone numbers of state employees and employees of a school district or county office of education shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another state agency, school district, or county office of education when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of employees performing law enforcement-related functions shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state, school districts, and county office of education employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) Upon written request of any employee, a state agency, school district, or county office of education shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and an agency shall remove the employee's home address and home telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

(Added by Stats.1984, c. 1657, § 1. Amended by Stats.1992, c. 463 (A.B.1040), § 1, eff. Aug. 10, 1992.)

§ 6255. Justification for withholding of records

(a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record * * * clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes determination that the request is denied, in whole or in part, shall be in writing.

(Amended by Stats.2000, c. 982 (A.B.2799), § 3.)

§ 6259. Order of court; review; contempt; court costs and attorney fees

(a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

(Added by Stats.1968, c. 1473, p. 2948, § 39. Amended by Stats.1975, c. 1246, p. 3212, § 9; Stats.1984, c. 802, § 1; Stats.1990, c. 908 (S.B.2272), § 2; Stats.1993, c. 926 (A.B.2205), § 10.)