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AB-331 County recorders: veterans: recorded documents. (2017-2018)

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Date Published: 10/02/2017 09:00 PM

Assembly Bill No. 331

CHAPTER 399

An act to amend Section 27337 of the Government Code, relating to local government.

[Approved by Governor October 02, 2017. Filed with Secretary of State October 02, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 331, Eggman. County recorders: veterans: recorded documents.

Existing law directs the county recorder, if any military veteran or a family member or legal representative of the veteran authorized by law to receive a certified copy of specified documents requests the recordation of any military discharge document, including a veteran's service form DD214, to sign a form that acknowledges that the document becomes part of the official record of the county.

This bill would remove the directive to require the veteran or authorized person sign a form acknowledging that the document becomes part of the official record of the county. The bill would instead require a county recorder, upon request by a military veteran or authorized person for recordation of a military discharge document, including the DD214, to record the document and maintain the document in a nonpublic index. The bill also would require the index of a recorded veteran's service form DD214, if recorded after a certain date, to be moved to a nonpublic index at the request of the military veteran or a person authorized to receive a certified copy. The bill would permit only the military veteran or the person authorized to receive a certified copy of a record under existing law to receive a copy of the recorded document contained in the nonpublic index. By increasing the duties of local officials, this bill would impose a state-mandated local program.

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

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) The recording and preservation of documents is an inherent public good, and county clerks and recorders have a vital role in providing that service.

(b) The interest of personal privacy must always be weighed carefully against those of transparency, accountability, history, and the availability and preservation of information.

(c) The federal DD Form 214 (DD214), which is issued to each veteran upon release from United States military service, is unique among documents recorded and stored by county clerks and recorders in that it is recorded only upon request, is reliably stored and preserved at the National Personnel Records Center or National Archives, and is recorded locally only to provide redundancy, security, and convenience to veterans. Additionally, the DD214 does not require public notice as part of the recording function, and copies may only be purchased by the veteran, his or her family member, or legal representative.

(d) The privacy protections for DD214s and their owners in this act is accorded only in consideration of these unique factors.

SEC. 2. Section 27337 of the Government Code is amended to read:

27337. (a) If any military veteran or any person authorized to receive a certified copy of a record pursuant to paragraph (2) of subdivision (b) of Section 6107 requests the recordation in any county in this state of any military discharge document, including a veteran's service form DD214, the county recorder shall record the document and maintain the document information in a nonpublic index.

(b) No copy of a recorded military discharge document may be issued except as provided by Section 6107.

(c) The index of a recorded veteran's service form DD214, provided that it was recorded on or after January 1, 1980, shall be moved to a nonpublic index at the request of the military veteran or the person authorized to receive a certified copy of a record pursuant to paragraph (2) of subdivision (b) of Section 6107.

(d) (1) Only the military veteran, or the person authorized to receive a certified copy of a record pursuant to paragraph (2) of subdivision (b) of Section 6107, may receive a copy of the recorded document contained in the nonpublic index created pursuant to subdivisions (a) and (c).

(2) Provided that the nonpublic index meets the minimum standards for protecting the confidentiality of veterans' records specified in paragraph (1), the implementation and design of the nonpublic index shall otherwise be up to the discretion of the individual county recorder.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which amends Section 27337 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act strikes an appropriate balance between the public's right to access information and the need to protect the personal information of former members of the United States military.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which amends Section 27337 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act strikes an appropriate balance between the public's right to access information and the need to protect the personal information of former members of the United States military.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.