

Senate Bill No. 484

Passed the Senate August 30, 2011

Secretary of the Senate

Passed the Assembly August 29, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 6254.14 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 484, Rubio. Public records: health care services contract records.

The Public Records Act provides that records of the Department of Corrections and Rehabilitation that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions, communications, or other portion of the negotiations, are not subject to disclosure until one year after the contract is fully executed, except that the portion of a contract that contains the rates of payment is not open to inspection until 3 years after a contract or amendment is fully executed. The entire contract or amendment is immediately open to inspection by the Joint Legislative Audit Committee and the Bureau of State Audits, subject to specified conditions.

The act also exempts from disclosure under its provisions records, the disclosure of which is exempted or prohibited under provisions of the Evidence Code, relating to privilege.

This bill would include the Legislative Analyst's Office among those entities authorized to inspect the entire contract or amendment, subject to those specified conditions. It would specify that this authorization applies notwithstanding a provision of the Evidence Code permitting an owner of a trade secret to invoke a privilege against disclosure of that secret.

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

SECTION 1. Section 6254.14 of the Government Code is amended to read:

6254.14. (a) (1) Except as provided in Sections 6254 and 6254.7, nothing in this chapter shall be construed to require disclosure of records of the Department of Corrections and Rehabilitation that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions,

communications, or any other portion of the negotiations, including, but not limited to, records related to those negotiations such as meeting minutes, research, work product, theories, or strategy of the department, or its staff, or members of the California Medical Assistance Commission, or its staff, who act in consultation with, or on behalf of, the department.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health services entered into by the Department of Corrections and Rehabilitation or the California Medical Assistance Commission on or after July 1, 1993, shall be open to inspection one year after they are fully executed. In the event that a contract for health services that is entered into prior to July 1, 1993, is amended on or after July 1, 1993, the amendment, except for any portion containing rates of payment, shall be open to inspection one year after it is fully executed.

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

(4) Notwithstanding any other provision of law, including, but not limited to, Section 1060 of the Evidence Code, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee, the Bureau of State Audits, and the Legislative Analyst's Office. The Joint Legislative Audit Committee, the Bureau of State Audits, and the Legislative Analyst's Office shall maintain the confidentiality of the contracts and amendments until the contract or amendment is fully open to inspection by the public.

(5) It is the intent of the Legislature that confidentiality of health care provider contracts, and of the contracting process as provided in this subdivision, is intended to protect the competitive nature of the negotiation process, and shall not affect public access to other information relating to the delivery of health care services.

(b) The inspection authority and confidentiality requirements established in subdivisions (q), (v), and (y) of Section 6254 for the Legislative Audit Committee shall also apply to the Bureau of State Audits and the Legislative Analyst's Office.

Approved _____, 2011

Governor