

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE APRIL 3, 2014

**SENATE BILL**

**No. 1337**

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**Introduced by Senator DeSaulnier**

February 21, 2014

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An act to amend ~~Sections~~ *Section* 6253 and 6253.9 of, and to add Section 7550.7 to, the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1337, as amended, DeSaulnier. Public records and reports.

(1) The California Public Records Act requires every state or local agency to make public records open to inspection at all times during regular office hours and provides that every person has a right to inspect any public record, except as specified. ~~Existing law requires a state or local agency to follow certain procedures with respect to electronic copies of public records and does not require a state or local agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.~~ Existing law requires a state or local agency to determine whether a request seeks copies of disclosable public records in the possession of the agency within 10 days from the receipt of the request, except as specified.

~~This bill would require a state agency to provide an electronic copy of a public record created on or after January 1, 2016, when the public record is made available in response to a request. This bill would also require, beginning January 1, 2016, a state agency to provide a public record as soon as possible and no later than *within* 30 days of the date that the agency has determined that a request is for a disclosable public record in the possession of the agency, *except in unusual circumstances, as provided.*~~

(2) Existing law generally sets out the requirements for the submission of written reports by public agencies to the Legislature, the Governor, the Controller, and state legislative and other executive entities.

This bill would require a written report, as defined, submitted by any state agency or department to the Legislature, a Member of the Legislature, or any state legislative or executive body to include a signed statement by the head of the agency or department declaring that the factual contents of the written report are true, accurate, and complete to the best of his or her knowledge.

This bill would also make any person who declares as true any material matter pursuant to these provisions that he or she knows to be false liable for a civil penalty not to exceed \$20,000.

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

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

1 SECTION 1. Section 6253 of the Government Code is amended  
2 to read:  
3 6253. (a) Public records are open to inspection at all times  
4 during the office hours of the state or local agency and every person  
5 has a right to inspect any public record, except as hereafter  
6 provided. Any reasonably segregable portion of a record shall be  
7 available for inspection by any person requesting the record after  
8 deletion of the portions that are exempted by law.  
9 (b) Except with respect to public records exempt from disclosure  
10 by express provisions of law and as provided in subdivision (e),  
11 each state or local agency, upon a request for a copy of records  
12 that reasonably describes an identifiable record or records, shall  
13 make the records promptly available to any person upon payment  
14 of fees covering direct costs of duplication, or a statutory fee if  
15 applicable. Upon request, an exact copy shall be provided unless  
16 impracticable to do so.  
17 (c) Each agency, upon a request for a copy of records, shall,  
18 within 10 days from receipt of the request, determine whether the  
19 request, in whole or in part, seeks copies of disclosable public  
20 records in the possession of the agency and shall promptly notify  
21 the person making the request of the determination and the reasons  
22 therefor. In unusual circumstances, the time limit prescribed in

1 this section may be extended by written notice by the head of the  
2 agency or his or her designee to the person making the request,  
3 setting forth the reasons for the extension and the date on which  
4 a determination is expected to be dispatched. No notice shall  
5 specify a date that would result in an extension for more than 14  
6 days. When the agency dispatches the determination, and if the  
7 agency determines that the request seeks disclosable public records,  
8 the agency shall state the estimated date and time when the records  
9 will be made available *in accordance with subdivision (d)*. As used  
10 in this section, “unusual circumstances” means the following, but  
11 only to the extent reasonably necessary to the proper processing  
12 of the particular request:

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

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

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

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

27 *(d) Once a state agency has determined that a request is for a*  
28 *disclosable public record in the possession of the state agency,*  
29 *pursuant to subdivision (c), the state agency shall promptly provide*  
30 *the requested public record, and the state agency shall not provide*  
31 *the requested public record later than 30 days after the*  
32 *determination. In unusual circumstances, as defined in subdivision*  
33 *(c), the head of the state agency or his or her designee may extend*  
34 *the time limit prescribed in this subdivision by providing written*  
35 *notice to the person making the request that sets forth the reasons*  
36 *for the extension and the date on which the state agency expects*  
37 *to provide the disclosable public record. The notice shall not*  
38 *specify a date that would result in an extension of more than 14*  
39 *days.*

40 (d)

1 (e) This chapter shall not be construed to permit an agency to  
2 delay or obstruct the inspection or copying of public records. The  
3 notification of denial of any request for records required by Section  
4 6255 shall set forth the names and titles or positions of each person  
5 responsible for the denial.

6 ~~(e) Beginning January 1, 2016, once a state agency has~~  
7 ~~determined that a request is for a disclosable public record in the~~  
8 ~~possession of the state agency pursuant to subdivision (c), the state~~  
9 ~~agency shall provide the requested public record as soon as possible~~  
10 ~~and no later than 30 days of determining that a record is~~  
11 ~~disclosable.~~

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

16 SEC. 2. Section 6253.9 of the Government Code is amended  
17 to read:

18 ~~6253.9. (a) Unless otherwise prohibited by law, any agency~~  
19 ~~that has information that constitutes an identifiable public record~~  
20 ~~not exempt from disclosure pursuant to this chapter that is in an~~  
21 ~~electronic format shall make that information available in an~~  
22 ~~electronic format when requested by any person and, when~~  
23 ~~applicable, shall comply with the following:~~

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

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

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

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

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

3 ~~(e) Except as may be required by subdivision (h), this section~~  
4 ~~shall not be construed to require the public agency to reconstruct~~  
5 ~~a record in an electronic format if the agency no longer has the~~  
6 ~~record available in an electronic format.~~

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

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

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

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

21 ~~(h) A state agency shall provide an electronic copy of a public~~  
22 ~~record when the public record is made available in response to a~~  
23 ~~request. This subdivision shall only apply to a public record created~~  
24 ~~on or after January 1, 2016.~~

25 ~~SEC. 3.~~

26 *SEC. 2.* Section 7550.7 is added to the Government Code, to  
27 read:

28 7550.7. (a) (1) Notwithstanding any other law, a written report  
29 submitted to the Legislature, a Member of the Legislature, or any  
30 state legislative or executive body by any state agency or  
31 department shall include a signed statement by the head of that  
32 agency or department declaring that the factual contents of the  
33 report are true, accurate, and complete to the best of his or her  
34 knowledge.

35 (2) With respect to the Franchise Tax Board, the signed  
36 statement described in paragraph (1) shall be made by the executive  
37 officer of that board, and with respect to the State Board of  
38 Equalization, the statement shall be made by the executive director  
39 of that board.

1 (b) Paragraph (1) of subdivision (a) shall apply to the head of  
2 every state agency or department, including, but not limited to,  
3 elected officials of state government, and any state official whose  
4 duties are prescribed by the California Constitution.

5 (c) For purposes of this section, a “written report” is either of  
6 the following:

7 (1) A document required by statute to be prepared and submitted  
8 to the Legislature, or any state legislative or executive body.

9 (2) A document, summary, or statement requested by a Member  
10 of the Legislature.

11 (d) The declaration in the signed statement as to the truth,  
12 accuracy, and completeness of the factual contents of the written  
13 report shall not apply to any forecasts, predictions,  
14 recommendations, or opinions contained in the written report.

15 (e) Any person who declares as true any material matter pursuant  
16 to this section that he or she knows to be false shall be liable for  
17 a civil penalty not to exceed twenty thousand dollars (\$20,000).  
18 The civil penalties provided for in this section shall be exclusively  
19 assessed and recovered in a civil action brought in the name of the  
20 people of the State of California in any court of competent  
21 jurisdiction by the Attorney General.