

AMENDED IN ASSEMBLY APRIL 13, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2853

Introduced by Assembly Member Gatto

February 19, 2016

An act to amend Section 6253 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2853, as amended, Gatto. Public records.

The California Public Records Act requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee unless the records are exempt from disclosure. The act prohibits limitations on access to a public record based upon the purpose for which the record is being requested if the record is otherwise subject to disclosure, authorizes public agencies to adopt requirements for themselves that allow for faster, more efficient, or greater access to records, and requires local agencies that voluntarily post public records on an open data Internet Resource, as defined, to post those public records in an open format that meets specified criteria.

This bill would authorize a public agency that posts a public record on its Internet Web site to *first* refer a person that requests to inspect or obtain a copy of the public record to the public agency's Internet Web site where the public record is posted.

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.

To the extent that this bill would authorize additional local agency expenditures in complying with the California Public Records Act, this bill would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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, each state or local agency, upon a
11 request for a copy of records that reasonably describes an
12 identifiable record or records, shall make the records promptly
13 available to any person upon payment of fees covering direct costs
14 of duplication, or a statutory fee if applicable. Upon request, an
15 exact copy shall be provided unless impracticable to do so.

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

1 setting forth the reasons for the extension and the date on which
2 a determination is expected to be dispatched. No notice shall
3 specify a date that would result in an extension for more than 14
4 days. When the agency dispatches the determination, and if the
5 agency determines that the request seeks disclosable public records,
6 the agency shall state the estimated date and time when the records
7 will be made available. As used in this section, “unusual
8 circumstances” means the following, but only to the extent
9 reasonably necessary to the proper processing of the particular
10 request:

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

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

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

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

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

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

34 ~~(f) Notwithstanding subdivisions (a) through (e), inclusive, if~~
35 ~~a person requests a public record under this act that the public~~
36 ~~agency has posted on the public agency’s Internet Web site, the~~
37 ~~public agency may comply with the requirements of this act by~~
38 ~~referring that person to public agency’s Internet Web site where~~
39 ~~the information is posted.~~

1 (f) A public agency may comply with subdivision (a) by posting
2 any public record on its Internet Web site and, in response to a
3 request for a public record listed on the Internet Web site, referring
4 the person to that Internet Web site where the public record is
5 posted. However, if after the agency refers the person to the
6 Internet Web site, the person requesting the record requests a copy
7 of the record due to an inability to access or reproduce the public
8 record from the Internet Web site, the agency shall, within 10 days,
9 prepare a copy of the public record pursuant to subdivision (b),
10 and promptly notify the person of the availability of the public
11 record.

12 SEC. 2. The Legislature finds and declares that Section 1 of
13 this act, which amends Section 6253 of the Government Code,
14 imposes a limitation on the public's right of access to the meetings
15 of public bodies or the writings of public officials and agencies
16 within the meaning of Section 3 of Article I of the California
17 Constitution. Pursuant to that constitutional provision, the
18 Legislature makes the following findings to demonstrate the interest
19 protected by this limitation and the need for protecting that interest:

20 The state has a very strong interest in ensuring both the
21 transparency of, and efficient use of limited resources by, public
22 agencies. In order to protect this interest, it is necessary to allow
23 public agencies that have already increased the public's access to
24 public records by posting public records on the public agencies'
25 Internet Web sites to refer requests for posted public records to
26 these Internet Web sites.

27 SEC. 3. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district under this act would result from a legislative mandate that
31 is within the scope of paragraph (7) of subdivision (b) of Section
32 3 of Article I of the California Constitution.