

Assembly Bill No. 1393

Passed the Assembly September 12, 2007

Chief Clerk of the Assembly

Passed the Senate September 11, 2007

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 6253.3 to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1393, Leno. Public records.

The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon request of any person, to provide a copy of any public record unless the record is exempt from disclosure.

This bill would, as of July 1, 2009, require any state agency that publishes an Internet Web site to include on the homepage of that site specified information that is not exempt from disclosure under the act about how to contact the agency, how to request records under the act, and a form for submitting online requests for records. It would authorize any person to bring an action to enforce the duty of a state agency to post this information and would provide for penalties including monetary awards to be paid by the agency, with specified provisions to become operative on January 1, 2009.

This bill also would require the Department of Justice to convene an advisory task force with a specified membership, to consider specified issues with respect to a statutory standard governing the posting of certain activities under the act, and to report its findings and recommendations to the Governor and the Legislature by no later than January 1, 2009.

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

SECTION 1. Section 6253.3 is added to the Government Code, to read:

6253.3. Every state agency that publishes an Internet Web site shall include on the homepage of that site, prominently displayed and easily visible without scrolling when viewing the homepage on a desktop monitor, the words "Public Records Center," which shall be followed by, or shall link to, on another page, both of the following:

(a) Under the words “Whom to Contact,” the title, mailing address, telephone number, and e-mail address of the public information officer or other person or persons to whom requests for inspection or copying of records pursuant to the California Public Records Act, or informal requests for simple factual information, should be directed.

(b) (1) Under the words “How to Request Records,” the written guidelines authorized or required under subdivision (a) of Section 6253.4, and a form, in HTML or a comparable alternative technology, for submitting online requests under the California Public Records Act, consisting of all of the following labeled fields:

(A) Today’s date.

(B) My name (optional).

(C) My contact information, including at least one of the following:

(i) My e-mail address.

(ii) My postal address.

(iii) My telephone number.

(D) I am interested in the following records or information:

(E) Where can I inspect these records?

(F) Send me copies of the records.

(G) Send me a fee estimate before copying.

(2) The submitted form shall be designed to send a copy of the request immediately and automatically to the e-mail address listed on the form, if an e-mail address is provided by the person submitting the form.

(c) This section shall become operative on July 1, 2009.

SEC. 2. (a) The Department of Justice shall convene an advisory task force to consider and make recommendations for a statutory standard governing the posting of requests and denials, and public documents that are not exempt from disclosure, under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), on the Internet Web sites of state agencies.

(b) Members of the task force shall include all of the following:

(1) State agency or board representatives.

(2) Representatives of the Department of Information Technology.

(3) Representatives of organizations with expertise in technical policy and practices of Internet disclosure.

(4) Representatives of organizations with expertise in privacy policy relevant to disclosures made on the Internet.

(5) Representatives of organizations with expertise in fostering public integrity and accountability.

(6) Representatives of organizations with expertise in informed electoral participation.

(7) Representatives of organizations with expertise in investigative journalism.

(8) Representatives of legislative staff, at the option of the applicable legislative oversight entities, and to the extent not in conflict with their legislative duties.

(c) The task force shall consider at least all of the following issues:

(1) Whether it is of greater value to the public for state agencies to automatically post, with appropriate security and privacy controls, certain public records that are not exempt from disclosure under the act on agency Internet Web sites rather than making those records available to requesters on a request-only basis. Specific consideration shall be given to records that relate to the compensation and economic interests of key public officials and consultants, and the performance of public agencies, including, but not limited to, the settlement of litigation. Specific consideration should also be given to what specific advantages or disadvantages may be associated with an affirmative Internet posting requirement.

(2) Whether eventual cost savings or increases in efficiency, or both, are likely to offset the implementation and management costs of requiring state agencies to automatically post public records not exempt from disclosure on their Internet Web sites, and whether certain types of public records are better suited to automatic disclosure based on these cost and efficiency considerations.

(3) Whether appropriate security measures are available, and cost effective, to ensure that the personal or proprietary information contained in a public record that is posted on the Internet is protected from the possibility of identity theft or other forms of misuse.

(4) Whether appropriate security measures are available, and cost effective, to ensure that public records not exempt from disclosure that are posted on the Internet are protected from alteration by third parties or other forms of misuse.

(5) Other issues that might arise from a statutory requirement that certain public records be automatically posted on agency Internet Web sites.

(d) The task force shall report its findings and recommendations to the Governor and the Legislature by no later than January 1, 2009, at which time it shall cease to exist.

Approved _____, 2007

Governor