

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1945

Introduced by Assembly Member Simitian

February 14, 2002

An act to add Section 54963 to the Government Code, relating to open meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1945, as amended, Simitian. Open meetings: closed sessions: confidential information.

~~(1) The~~

The Ralph M. Brown Act generally requires that the meetings of the legislative body of a local agency be conducted openly and publicly, but also provides that the legislative body of a local agency may hold closed sessions for specified purposes. The act provides that a member of a legislative body who attends a meeting of that body where action is taken in violation of the act, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under the act, is guilty of a misdemeanor.

This bill would provide that no person may ~~publicly~~ disclose *to a person not entitled to receive it* confidential information, *as defined* that is the basis for a legislative body of a local agency to meet in a closed session authorized under the act unless the legislative body authorizes disclosure of that information. ~~It would provide that a person who violates this prohibition is guilty of a misdemeanor~~

It would authorize a local agency to seek injunctive relief to prevent the disclosure of confidential information under these provisions, to

take disciplinary action against an employee who has willfully disclosed confidential information, and to refer a member of a legislative body who has willfully disclosed confidential information to the grand jury for investigation and possible accusation under specified procedures.

It also would provide that these provisions do not authorize any adverse action against a person for having made a confidential inquiry or complaint to the district attorney or the grand jury concerning a perceived violation of law, or for the expression of opinion concerning the propriety or legality of actions taken by a legislative body in closed session.

~~(2) 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~~-no. State-mandated local program: ~~yes~~-no.

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

1 SECTION 1. Section 54963 is added to the Government
2 Code, to read:

3 54963. (a) No person may ~~publicly disclose~~ *disclose to a*
4 *person not entitled to receive it* confidential information that is the
5 basis for a legislative body of a local agency to meet in a closed
6 session authorized by this chapter unless the legislative body
7 authorizes disclosure of that information.

8 ~~(b) A person who violates this section is guilty of a~~
9 ~~misdemeanor.~~

10 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
11 ~~Section 6 of Article XIII B of the California Constitution because~~
12 ~~the only costs that may be incurred by a local agency or school~~
13 ~~district will be incurred because this act creates a new crime or~~
14 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
15 ~~for a crime or infraction, within the meaning of Section 17556 of~~
16 ~~the Government Code, or changes the definition of a crime within~~
17 ~~the meaning of Section 6 of Article XIII B of the California~~
18 ~~Constitution.~~



1 (b) For purposes of this section, “confidential information”
2 means information that has been acquired by being present in the
3 closed session and that consists of any of the following:

4 (1) A communication concerning pending litigation in a
5 session closed pursuant to Section 54956.9 within the
6 attorney-client privilege, or is otherwise exempt from disclosure
7 under the California Public Records Act (Chapter 3.5
8 (commencing with Section 6250) of Division 7 of Title 1), whether
9 or not discussed in a closed session.

10 (2) A communication concerning matters posing a threat to the
11 security of public buildings, access to public services, or personnel
12 matters considered in a closed session meeting pursuant to Section
13 54957.

14 (3) Strategies or instructions discussed between the legislative
15 body and its negotiator in a session closed pursuant to Section
16 54956.8, or its designated representatives in a session closed
17 pursuant to Section 54957.6.

18 (c) A local agency may seek injunctive relief to prevent the
19 disclosure of confidential information in violation of subdivision
20 (a).

21 (d) A local agency may take disciplinary action against an
22 employee who has willfully disclosed confidential information in
23 violation of subdivision (a).

24 (e) A local agency may refer a member of a legislative body who
25 has willfully disclosed confidential information in violation of
26 subdivision (a) to the grand jury for investigation and possible
27 accusation pursuant to Section 3060.

28 (f) Nothing in this section authorizes any adverse action
29 against a person for having made a confidential inquiry or
30 complaint to the district attorney or the grand jury concerning a
31 perceived violation of law, or for the expression of opinion
32 concerning the propriety or legality of actions taken by a
33 legislative body in closed session.

