

AMENDED IN SENATE JUNE 27, 2002

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1945**

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**Introduced by Assembly Member Simitian**

February 14, 2002

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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.

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~~ a person may *not* 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~~ *has been acquired by being present* in a closed session authorized under the act, *as specified*, unless the legislative body authorizes disclosure of that *confidential* information.

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The bill 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 procedures. The bill would provide that these provisions do not authorize any adverse action a local agency may not take any of these actions against a person for having made making a confidential inquiry or complaint to the a district attorney or the grand jury concerning a perceived violation of law, or for the expression of expressing an opinion concerning the propriety or legality of actions taken by a legislative body in closed session, or disclosing information acquired by being present in a closed session that is not confidential information.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: 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 disclose to a person not entitled to  
4 receive it confidential information that is the basis for a legislative  
5 body of a local agency to meet in a closed session authorized by  
6 this chapter unless the legislative body authorizes disclosure of  
7 that information.~~

8 *54963. (a) A person may not disclose confidential  
9 information that has been acquired by being present in a closed  
10 session authorized by Section 54956.7, 54956.8, 54956.9, 54957,  
11 54957.6, 54957.8, or 54957.10 to a person not entitled to receive  
12 it, unless the legislative body authorizes disclosure of that  
13 confidential information.*

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

17 ~~(1) A communication concerning pending litigation in a  
18 session closed pursuant to Section 54956.9 within the  
19 attorney-client privilege, or is otherwise exempt from disclosure  
20 under the California Public Records Act (Chapter 3.5~~



1 ~~(commencing with Section 6250) of Division 7 of Title 1), whether~~  
2 ~~or not discussed in a closed session.~~

3 ~~(2) A communication concerning matters posing a threat to the~~  
4 ~~security of public buildings, access to public services, or personnel~~  
5 ~~matters considered in a closed session meeting pursuant to Section~~  
6 ~~54957.~~

7 ~~(3) Strategies or instructions discussed between the legislative~~  
8 ~~body and its negotiator in a session closed pursuant to Section~~  
9 ~~54956.8, or its designated representatives in a session closed~~  
10 ~~pursuant to Section 54957.6: means a communication made in a~~  
11 ~~closed session that is specifically related to the basis for the~~  
12 ~~legislative body of a local agency to meet lawfully in closed session~~  
13 ~~under this chapter.~~

14 (c) A local agency may seek injunctive relief to prevent the  
15 disclosure of confidential information ~~in violation of subdivision~~  
16 ~~(a): prohibited by this section.~~

17 (d) A local agency may take disciplinary action against an  
18 employee who has willfully disclosed confidential information in  
19 violation of ~~subdivision (a) this section.~~

20 (e) A local agency may refer a member of a legislative body  
21 who has willfully disclosed confidential information in violation  
22 of ~~subdivision (a) this section~~ to the grand jury for investigation  
23 and possible accusation pursuant to Section 3060.

24 ~~(f) Nothing in this section authorizes any adverse action against~~  
25 ~~a person for having made a confidential inquiry or complaint to the~~  
26 ~~district attorney or the grand jury concerning a perceived violation~~  
27 ~~of law, or for the expression of opinion concerning the propriety~~  
28 ~~or legality of actions taken by a legislative body in closed session.~~  
29 ~~If a grand jury presents an accusation based on an alleged~~  
30 ~~violation of this section, and a trial is conducted pursuant to~~  
31 ~~Section 3070, the burden of proof shall be the reasonable doubt~~  
32 ~~standard described in Section 1096 of the Penal Code, and the~~  
33 ~~district attorney shall establish as an element of the violation that~~  
34 ~~a closed session was lawfully held.~~

35 (f) A local agency may not take any action authorized by  
36 subdivision (c), (d), or (e) against a person for doing any of the  
37 following:

38 (1) Making a confidential inquiry or complaint to a district  
39 attorney or grand jury concerning a perceived violation of law.



- 1     (2) *Expressing an opinion concerning the propriety or legality*
- 2     *of actions taken by a legislative body of a local agency in closed*
- 3     *session.*
- 4     (3) *Disclosing information acquired by being present in a*
- 5     *closed session under this chapter that is not confidential*
- 6     *information.*

