

Assembly Bill No. 1945

Passed the Assembly August 29, 2002

Chief Clerk of the Assembly

Passed the Senate August 27, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1945, 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 a person may not disclose confidential information, as defined, that 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.

The bill would provide that a violation of these provisions may be addressed by the use of remedies that are currently available by law, including, but not limited to, injunctive relief to prevent the disclosure of confidential information under these provisions, disciplinary action against an employee who has willfully disclosed confidential information, and the referral of a member of a legislative body who has willfully disclosed confidential information to the grand jury for investigation and possible accusation under specified procedures. The bill would provide that a local agency may not take any of these actions against a person for making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, expressing an opinion concerning the propriety or legality of actions taken by a legislative body in closed session, including disclosing specified facts to a district attorney or grand jury to establish the illegality of action taken or potential illegality of action deliberated upon that would be illegal if the action is taken, or disclosing



information acquired by being present in a closed session that is not confidential information.

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

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

54963. (a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, “confidential information” means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grandjury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session



if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in Section 1102.5 of the Labor Code or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.



Approved _____, 2002

Governor

