

AMENDED IN ASSEMBLY MARCH 2, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 148

Introduced by Assembly Member Smyth
(Coauthors: Assembly Members Jeffries, Norby, and Portantino)
(Coauthor: Senator Correa)

January 14, 2011

An act to amend Sections 53234 and 53235.2 of, and to add Section 53232.5 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 148, as amended, Smyth. Local government: ethics training: disclosure.

(1) Existing law, for purposes of ethics training for officers and employees of a local government, defines the term ethics laws to include, among others, laws relating to government transparency.

This bill would additionally define the term ethics laws to include compensation setting guidelines as established by specified organizations.

(2) Existing law requires local agency officials, as defined, to receive ethics training, if the local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties.

This bill would require the local agency to post the ethics training record on the local agency's Internet Web site, if any, and to submit a copy of the record to the ~~Attorney General~~ *Controller* within 15 days of receiving the record. By increasing the duties of local officials, this bill would impose a state-mandated local program.

(3) Existing law authorizes a local agency, as defined, to pay compensation to members of a legislative body for attendance at specified occurrences. Existing law authorizes a local agency to pay compensation for attendance at other occurrences if the governing body has adopted, in a public meeting, a written policy specifying other types of occasions that constitute the performance of official duties.

Existing law authorizes a local agency to reimburse members of a legislative body for actual and necessary expenses incurred in the performance of official duties, if the governing body has adopted a written policy, in a public meeting, specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of specified actual and necessary expenses.

This bill would require a local agency that has adopted a written attendance compensation policy or written reimbursement policy to post the policy on the local agency's Internet Web site, if any, and to submit a copy of the policy to the Controller. The bill would, if a local agency does not comply with these requirements, require the Controller to withhold any funds to which the local agency is otherwise entitled, as specified.

(4) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 53232.5 is added to the Government
- 2 Code, to read:
- 3 53232.5. (a) A local agency that adopts a written attendance
- 4 compensation policy pursuant to subdivision (b) of Section 53232.1
- 5 or a written reimbursement policy pursuant to subdivision (b) of
- 6 Section 53232.2 shall post the written policy on the local agency's
- 7 Internet Web site, if any, and shall submit a copy of the written
- 8 policy to the Controller.

1 (b) If a local agency fails to comply with the disclosure
2 requirements imposed by this section, the Controller shall withhold
3 any funds to which the local agency is otherwise entitled until the
4 local agency complies with the disclosure requirements.

5 SEC. 2. Section 53234 of the Government Code is amended
6 to read:

7 53234. For the purposes of this article, the following terms
8 have the following meanings:

9 (a) "Legislative body" has the same meaning as specified in
10 Section 54952.

11 (b) "Local agency" means a city, county, city and county, charter
12 city, charter county, charter city and county, or special district.

13 (c) "Local agency official" means the following:

14 (1) Any member of a local agency legislative body or any
15 elected local agency official who receives any type of
16 compensation, salary, or stipend or reimbursement for actual and
17 necessary expenses incurred in the performance of official duties.

18 (2) Any employee designated by a local agency governing body
19 to receive the training specified under this article.

20 (d) "Ethics laws" include, but are not limited to, the following:

21 (1) Laws relating to personal financial gain by public servants,
22 including, but not limited to, laws prohibiting bribery and
23 conflict-of-interest laws.

24 (2) Laws relating to claiming perquisites of office, including,
25 but not limited to, gift and travel restrictions, prohibitions against
26 the use of public resources for personal or political purposes,
27 prohibitions against gifts of public funds, mass mailing restrictions,
28 and prohibitions against acceptance of free or discounted
29 transportation by transportation companies.

30 (3) Government transparency laws, including, but not limited
31 to, financial interest disclosure requirements and open government
32 laws.

33 (4) Laws relating to fair processes, including, but not limited
34 to, common law bias prohibitions, due process requirements,
35 incompatible offices, competitive bidding requirements for public
36 contracts, and disqualification from participating in decisions
37 affecting family members.

38 (5) Compensation setting guidelines, as established by
39 organizations including, but not limited to, the California State
40 Association of Counties, the League of California Cities, the

1 California Special Districts Association, and the California City
2 Management Foundation.

3 SEC. 3. Section 53235.2 of the Government Code is amended
4 to read:

5 53235.2. (a) A local agency that requires its local agency
6 officials to complete the ethical training prescribed by this article
7 shall maintain records, in the manner prescribed by this section,
8 indicating both of the following:

9 (1) The dates that local officials satisfied the requirements of
10 this article.

11 (2) The entity that provided the training.

12 (b) Notwithstanding any other provision of law, a local agency
13 shall maintain these records for at least five years after local
14 officials receive the training. These records are public records
15 subject to disclosure under the California Public Records Act
16 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
17 Title 1).

18 (c) A local agency shall post the ethics training records on the
19 local agency's Internet Web site, if any, and shall submit a copy
20 to the ~~Attorney General~~ *Controller* within 15 days of receiving the
21 records.

22 SEC. 4. The Legislature finds and declares that the ethical
23 integrity and stability of local governmental agencies in this state,
24 including charter cities, has a direct impact on the long-term
25 well-being of all the residents of this state. The likelihood of
26 businesses locating to or staying in the state is affected by the
27 perception of a functioning, transparent, and practical governmental
28 structure in the local governmental bodies in California. Therefore,
29 the Legislature finds and declares that to ensure the statewide
30 integrity of local government, the disclosure of ethics training
31 records for local agency officials is an issue of statewide concern
32 and not a municipal affair, as that term is used in Section 5 of
33 Article XI of the California Constitution. Therefore, this act shall
34 apply to all cities, including charter cities.

35 SEC. 5. If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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