

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY MARCH 16, 2011

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 or the local agency.

(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~~ *records of all elected members of the local agency* on the local

agency's Internet Web site, if any, and to submit a copy of the ~~record~~ records to the Controller within 90 days of receiving the ~~record~~ records. 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

1 Section 53232.2 shall post the written policy on the local agency's
2 Internet Web site, if any, and shall submit a copy of the written
3 policy to the Controller.

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

8 SEC. 2. Section 53234 of the Government Code is amended
9 to read:

10 53234. For the purposes of this article, the following terms
11 have the following meanings:

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

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

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

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

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

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

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

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

33 (3) Government transparency laws, including, but not limited
34 to, financial interest disclosure requirements and open government
35 laws.

36 (4) Laws relating to fair processes, including, but not limited
37 to, common law bias prohibitions, due process requirements,
38 incompatible offices, competitive bidding requirements for public
39 contracts, and disqualification from participating in decisions
40 affecting family members. Compensation setting guidelines, as

1 established by organizations including, but not limited to, the
2 California State Association of Counties, the League of California
3 Cities, the California Special Districts Association, the California
4 City Management Foundation, or the local agency.

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

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

11 (1) The dates that local officials satisfied the requirements of
12 this article.

13 (2) The entity that provided the training.

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

20 (c) A local agency shall post the ethics training records of all
21 ~~local agency officials as defined by paragraph (1) of subdivision~~
22 ~~(e) of Section 53234~~ *elected members of a local agency* on the
23 local agency's Internet Web site, if any, and shall submit a copy
24 to the Controller within 90 days of receiving the records.

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

38 SEC. 5. If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 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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