

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1228

Introduced by Assembly Member Halderman
(Coauthors: Assembly Members Conway, Grove, and Valadao)
(Coauthors: Senators Berryhill and Fuller)

February 18, 2011

An act to ~~amend~~ *repeal and add* Section 54956.96 of the Government Code, relating to public agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1228, as amended, Halderman. Public agencies: joint power ~~agencies: meetings:~~ *authorities: meetings.*

The Joint Exercise of Powers Act authorizes two or more public agencies, if each is authorized by their respective legislative bodies, to enter into an agreement to jointly exercise any power common to those two agencies.

The Ralph M. Brown Act requires that meetings of the legislative body of a local agency, including a joint powers ~~agency~~ *authority*, be open and public, with specified exceptions authorizing closed sessions for specified purposes. Existing law permits a joint powers agency to include in its joint powers agreement provisions authorizing (1) any member of the legislative body of a member local agency to disclose information obtained during a closed session of the joint powers agency that has direct financial or liability implications for that member local agency to that agency's legal counsel or to other members of that agency's legislative body, as specified, or (2) any designated alternate member of the legislative body of the joint powers agency that is also a member of the legislative body of a member local agency, who is

attending in lieu of that agency’s regularly appointed member, to attend closed sessions of the joint powers agency, as specified.

~~This bill would additionally authorize a joint powers agency to include in its joint powers agreement provisions authorizing (1) an employee of a member local agency to disclose information obtained in a closed session of the joint powers agency that has direct financial or liability implications for that member local agency to that agency’s legal counsel or to other persons present in a closed session of the legislative body of that agency, as specified, or (2) any designated alternate member of the legislative body of the joint powers agency who is also an employee of a member local agency, and who is attending in lieu of that agency’s regularly appointed member, to attend a closed session of the joint powers agency, as specified.~~

This bill would repeal and recast those provisions to additionally authorize a joint powers agency to include in its joint powers agreement provisions authorizing (1) any designated alternate member who is attending in lieu of the appointed member to attend closed sessions of the joint powers authority, or (2) any appointed or designated alternate member of the local agency to disclose information obtained during a closed session of the joint powers authority that has direct financial or liability implications for that member local agency to that agency’s legal counsel, or to those persons who are present in a closed session of that member local agency.

This bill would also make various, nonsubstantive, conforming changes.

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 54956.96 of the Government Code is
- 2 repealed.
- 3 54956.96. (a) ~~Nothing in this chapter shall be construed to~~
- 4 prevent the legislative body of a joint powers agency formed
- 5 pursuant to Article 1 (commencing with Section 6500) of Chapter
- 6 5 of Division 7 of Title 1, from adopting a policy or a bylaw or
- 7 including in its joint powers agreement provisions that authorize
- 8 either or both of the following:
- 9 (1) ~~All information received by the legislative body of the local~~
- 10 ~~agency member in a closed session related to the information~~

1 presented to the joint powers agency in closed session shall be
2 confidential. However, a member of the legislative body of a
3 member local agency may disclose information obtained in a closed
4 session that has direct financial or liability implications for that
5 local agency to the following individuals:

6 (A) Legal counsel of that member local agency for purposes of
7 obtaining advice on whether the matter has direct financial or
8 liability implications for that member local agency.

9 (B) Other members of the legislative body of the local agency
10 present in a closed session of that member local agency.

11 (2) Any designated alternate member of the legislative body of
12 the joint powers agency who is also a member of the legislative
13 body of a local agency member and who is attending a properly
14 noticed meeting of the joint powers agency in lieu of a local agency
15 member's regularly appointed member to attend closed sessions
16 of the joint powers agency.

17 (b) If the legislative body of a joint powers agency adopts a
18 policy or a bylaw or includes provisions in its joint powers
19 agreement pursuant to subdivision (a), then the legislative body
20 of the local agency member, upon the advice of its legal counsel,
21 may conduct a closed session in order to receive, discuss, and take
22 action concerning information obtained in a closed session of the
23 joint powers agency pursuant to paragraph (1) of subdivision (a):

24 *SEC. 2. Section 54956.96 is added to the Government Code,*
25 *to read:*

26 *54956.96. (a) Nothing in this chapter shall be construed to*
27 *prevent the legislative body of a joint powers authority formed*
28 *pursuant to Article 1 (commencing with Section 6500) of Chapter*
29 *5 of Division 7 of Title 1 from adopting a policy or a bylaw or*
30 *including a provision in its joint powers agreement that does any*
31 *of the following:*

32 *(1) Authorizes any designated alternate member who is attending*
33 *in lieu of the appointed member to attend closed sessions of the*
34 *joint powers authority.*

35 *(2) Requires information received by the legislative body of the*
36 *joint powers authority in an authorized closed session to be*
37 *maintained as confidential, except any appointed and designated*
38 *alternate members of the member local agency may disclose*
39 *information that is obtained in a closed session if that information*

1 *has direct financial or liability implications for that local agency*
2 *to the following people:*

3 *(A) To the legal counsel of that member local agency for*
4 *purposes of obtaining advice on whether the matter has direct*
5 *financial or liability implications for that member local agency.*

6 *(B) To those persons who are present in a closed session of that*
7 *member local agency.*

8 *(b) If the legislative body of a joint powers authority adopts a*
9 *policy or a bylaw or includes a provision in its joint powers*
10 *agreement pursuant to paragraph (2) of subdivision (a), then the*
11 *legislative body of the member local agency, upon the advice of*
12 *its legal counsel, may conduct a closed session to receive, discuss,*
13 *and take action concerning information obtained in a closed*
14 *session of the joint powers authority.*

15 ~~SECTION 1. Section 54956.96 of the Government Code is~~
16 ~~amended to read:~~

17 ~~54956.96. (a) Nothing in this chapter shall be construed to~~
18 ~~prevent the legislative body of a joint powers agency formed~~
19 ~~pursuant to Article 1 (commencing with Section 6500) of Chapter~~
20 ~~5 of Division 7 of Title 1, from adopting a policy or a bylaw or~~
21 ~~including in its joint powers agreement provisions that authorize~~
22 ~~either or both of the following:~~

23 ~~(1) All information received by the legislative body of the~~
24 ~~member local agency in a closed session related to the information~~
25 ~~presented to the joint powers agency in closed session shall be~~
26 ~~confidential. However, a member of the legislative body of a~~
27 ~~member local agency or an employee of a member local agency~~
28 ~~may disclose information obtained in a closed session that has~~
29 ~~direct financial or liability implications for that local agency to the~~
30 ~~following individuals:~~

31 ~~(A) Legal counsel of that member local agency for purposes of~~
32 ~~obtaining advice on whether the matter has direct financial or~~
33 ~~liability implications for that member local agency.~~

34 ~~(B) Those persons present in a closed session of the legislative~~
35 ~~body of that member local agency.~~

36 ~~(2) Any designated alternate member of the legislative body of~~
37 ~~the joint powers agency who is also a member of the legislative~~
38 ~~body of a member local agency or an employee of a member local~~
39 ~~agency and who is attending a properly noticed meeting of the~~
40 ~~joint powers agency in lieu of a member local agency's regularly~~

1 ~~appointed member to attend closed sessions of the joint powers~~
2 ~~agency.~~

3 ~~(b) If the legislative body of a joint powers agency adopts a~~
4 ~~policy or a bylaw or includes provisions in its joint powers~~
5 ~~agreement pursuant to subdivision (a), then the legislative body~~
6 ~~of the member local agency, upon the advice of its legal counsel,~~
7 ~~may conduct a closed session in order to receive, discuss, and take~~
8 ~~action concerning information obtained in a closed session of the~~
9 ~~joint powers agency pursuant to paragraph (1) of subdivision (a).~~

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