

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1345

Introduced by Assembly Member Lara

February 18, 2011

~~An act to add Section 36514 to the Government Code, relating to local government. An act to amend Section 12410.5 of, and to add Section 12410.6 to, the Government Code, relating to audits.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1345, as amended, Lara. ~~Local government: boards and councils.~~
Local government: audits.

(1) The federal Single Audit Act of 1984 requires any nonfederal entity, defined as a state, local government, or nonprofit organization, that accepts \$300,000 or more in federal money to prepare an annual audit that meets certain specifications and transmit that audit to specified federal agencies. Existing law requires the Controller to receive every audit report prepared by any local public agency, pursuant to the federal Single Audit Act of 1984, review those reports for compliance with federal law before forwarding them to the designated state agency.

This bill would require the annual audit reports made pursuant to the federal Single Audit Act of 1984 to be submitted to the Controller within 9 months after the end of the period audited or pursuant to applicable federal or state law. This bill would authorize the Controller to appoint a qualified certified public accountant or public accountant to complete an audit report if a local agency, as defined, fails to submit

the audit report to the Controller by the specified date. The bill would require the Controller to report certain misconduct and nondisclosures to the California Board of Accountancy.

(2) Existing law requires certain audits to be performed by specified accountants and accounting firms.

This bill would require any audit for any local agency to be performed by a certified public accountant or public accountant, as specified. The bill would prohibit a local agency from employing certain public accounting firms to perform an audit, as specified, unless the Controller finds that another eligible public accounting firm is not available to perform the audit.

~~Existing law provides that if a city council member is absent without permission from the regular city council meetings for 60 consecutive days, that city council member's office becomes vacant and must be filled by special election, as specified. Existing law also specifies that a majority of the council constitutes a quorum for transaction of business.~~

~~This bill would, in the event of the loss of a quorum of city council members due to vacant seats on the city council, voluntarily, by removal, or for some other legal reason, establish a city council appointment committee consisting of any remaining city council members, the city's chief administrative officer, a representative from the county board of supervisors, and as many public members as are required to meet the same number of city council members. The city council appointment committee would be authorized to appoint members to fill vacant seats on the city council, and those members would serve the remainder of the term.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

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

- 1 *SECTION 1. Section 12410.5 of the Government Code is*
- 2 *amended to read:*
- 3 *12410.5. (a) The Controller shall receive every audit report*
- 4 *prepared for any local public agency, as defined in Section 53890,*
- 5 *in compliance with the federal Single Audit Act of 1984 (P.L.*
- 6 *98-502; 31 (31 U.S.C. Sec. 7501 et seq.) and required under any*
- 7 *law to be submitted to any state agency, and shall, after ascertaining*

1 its compliance with that federal act, transmit the report to the
2 designated state agency.

3 *(b) The audit report shall be submitted to the Controller within*
4 *nine months after the end of the period audited or pursuant to*
5 *applicable federal or state law.*

6 *(c) An audit report for any local agency submitted to the*
7 *Controller pursuant to this section shall comply with the*
8 *Government Auditing Standards issued by the Comptroller General*
9 *of the United States.*

10 *(d) If a local agency does not submit the audit report required*
11 *by this section to the Controller by the due date established in*
12 *subdivision (b) of this section, the Controller may appoint a*
13 *qualified certified public accountant or public accountant to*
14 *complete the report and to obtain the information required. Any*
15 *cost incurred by the Controller pursuant to this subdivision,*
16 *including a contract with, or the employment of, the certified public*
17 *accountant or public accountant, in completing the audit shall be*
18 *borne by the local agency and shall be a charge against any*
19 *unencumbered funds of the local agency.*

20 *(e) If the Controller finds through a quality control review of*
21 *the audit working papers of the audit report made pursuant to this*
22 *section that the audit was conducted in a manner that constitutes*
23 *unprofessional conduct, as defined pursuant to Section 5100 of*
24 *the Business and Professions Code, or that there were multiple*
25 *and repeated failures to disclose noncompliant acts, the Controller*
26 *shall refer the case to the California Board of Accountancy.*

27 *SEC. 2. Section 12410.6 is added to the Government Code, to*
28 *read:*

29 *12410.6. (a) An audit for any local agency, including those*
30 *submitted to the Controller pursuant to subdivision (a) of Section*
31 *12410.5, shall be made by a certified public accountant or public*
32 *accountant, licensed by, and in good standing with, the California*
33 *Board of Accountancy.*

34 *(b) Commencing with the 2012–13 fiscal year, a local agency*
35 *shall not employ a public accounting firm to provide audit services*
36 *to a local agency if the lead audit partner or coordinating audit*
37 *partner having primary responsibility for the audit, or the audit*
38 *partner responsible for reviewing the audit, has preformed audit*
39 *services for that local agency for each of the six previous fiscal*
40 *years. The Controller may waive this requirement if he or she finds*

1 *that another eligible public accounting firm is not available to*
2 *perform the audit.*

3 SECTION 1. ~~Section 36514 is added to the Government Code,~~
4 ~~to read:~~

5 36514. ~~(a) The Legislature finds and declares that due to the~~
6 ~~challenges facing a city when the city council is unable to establish~~
7 ~~a quorum because members of the city council have been removed,~~
8 ~~stepped down from office, or are unable to serve for another legal~~
9 ~~reason and the city council is therefore unable to convene to~~
10 ~~conduct the business of the city, a city council appointment~~
11 ~~committee is necessary to appoint persons to serve the remainder~~
12 ~~of the terms for those city council offices that are no longer~~
13 ~~represented.~~

14 ~~(b) The city council appointment committee shall be created~~
15 ~~upon the loss of an available quorum because seats on the city~~
16 ~~council are vacated by voluntarily action, by removal, or because~~
17 ~~the members are legally barred from serving. The committee shall~~
18 ~~consist of the following persons:~~

19 ~~(1) Any remaining city council members.~~

20 ~~(2) The city's chief administrative officer or equivalent executive~~
21 ~~officer.~~

22 ~~(3) A county representative appointed by the member of the~~
23 ~~county board of supervisors representing the city.~~

24 ~~(4) The number of members of the public required to fillout the~~
25 ~~remaining number of city council members. These members of~~
26 ~~the public shall be selected by the persons listed in paragraphs (1)~~
27 ~~to (3), inclusive. Any member of the public selected to serve on~~
28 ~~the committee shall be a resident of the city.~~

29 ~~(e) The city council appointment committee listed in paragraphs~~
30 ~~(1) to (3), inclusive, of subdivisions (b) shall, within 90 days of~~
31 ~~the date that a quorum of council members may not be met because~~
32 ~~of the reasons in subdivision (b), appoint persons to serve as~~
33 ~~council members as follows:~~

34 ~~(1) Any appointee shall be a resident otherwise qualified to~~
35 ~~serve on the city council.~~

36 ~~(2) If the members of the city council are elected by districts or~~
37 ~~from districts, any appointee shall be selected from the respective~~
38 ~~city council district that is no longer represented by a council~~
39 ~~member.~~

1 ~~(3) Any appointee shall serve for the remainder of the term they~~
2 ~~are appointed to serve.~~

3 ~~(d) The city council appointment committee shall cease to exist~~
4 ~~upon the swearing in of all of the newly appointed city council~~
5 ~~members.~~

6 ~~(e) The members of the city council appointment committee~~
7 ~~shall not receive any salary or compensation for their service. This~~
8 ~~section shall not prohibit the members of the city council~~
9 ~~appointment committee from receiving salary or compensation for~~
10 ~~any other position that a member holds in the city or the county.~~

11 ~~(f) This section shall not apply to a charter city in the event that~~
12 ~~the charter city has adopted a method for filling vacant city council~~
13 ~~seats in the absence of a quorum.~~