

Introduced by Senator CorreaDecember 9, 2010

An act to add Section 53060.2 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 46, as introduced, Correa. Local government: compensation disclosure.

Existing law provides for the compensation of local government officers and employees, as specified.

This bill would require filers, as defined, to annually file a compensation disclosure form, as specified. This bill would require the Secretary of State to develop the form, which would provide for the disclosure of, among other things, salaries and stipends, automobile and equipment allowances, and incentive and bonus payments. This bill would also require a county, city, city and county, school district, special district, or joint powers agency that maintains an Internet Web site to post the information contained on the filed form on that Internet Web site, as specified. The bill would authorize a district attorney or any interested person to commence an action by mandamus to enforce the provisions of the bill, as specified. The duties imposed on local departmental agencies by the bill would create a state-mandated local program.

The bill would express a legislative finding and declaration that, to ensure the statewide integrity of local government, disclosure of compensation paid filers is an issue of statewide concern and not a municipal affair and that, therefore, all cities, including charter cities, would be subject to the provisions of the bill.

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 53060.2 is added to the Government
2 Code, to read:
3 53060.2. (a) For purposes of this section, the following terms
4 have the following meanings:
5 (1) “City” means a general law city or a charter city.
6 (2) “Filer” means both of the following:
7 (A) An elected or appointed officer of a county, city, city and
8 county, school district, special district, or joint powers agency
9 formed pursuant to the Joint Exercise of Powers Act (Chapter 5
10 commencing with Section 6500) of Division 7 of Title 1), who is
11 required to file a statement of economic interests pursuant to
12 Section 87200.
13 (B) Any person who is a superintendent, deputy superintendent,
14 assistant superintendent, associate superintendent, community
15 college president, community college vice president, community
16 college deputy vice president, general manager, city manager,
17 county administrator, other similar chief administrative officer, or
18 chief executive officer of a local agency who is required to file a
19 statement of economic interests pursuant to Chapter 7 (commencing
20 with Section 87100) of Title 9.
21 (3) “School district” means a school district, community college
22 district, county board of education, and county superintendent of
23 schools.
24 (b) Each filer shall annually file a compensation disclosure form
25 that provides compensation information for the preceding year,
26 pursuant to this section. The annual filing deadline for a
27 compensation disclosure form shall be the same as the filing

1 deadline established for annual statements of economic interest,
2 pursuant to Sections 87203 and 87302.

3 (c) (1) A filer shall file his or her compensation disclosure form
4 with the same office of the local agency that receives that filer's
5 statement of economic interest pursuant to Section 87500.

6 (2) As an alternative to paragraph (1), if a county, city, city and
7 county, school district, special district, or joint powers agency
8 maintains an Internet Web site, it may compile the information
9 required by subdivision (d) for each filer and post that information
10 on the Internet Web site. The information for each filer shall be
11 available upon request pursuant to subdivision (f).

12 (3) If the county, city, city and county, school district, special
13 district, or joint powers agency maintains an Internet Web site, it
14 shall post the following information on that Internet Web site:

15 (A) The information contained on the filed compensation
16 disclosure form.

17 (B) The written policy for the reimbursement of actual and
18 necessary expenses adopted pursuant to Section 53232.2, if
19 applicable.

20 (d) The Secretary of State shall develop the compensation
21 disclosure form. When developing the compensation disclosure
22 form, the Secretary of State shall review and consider whether the
23 amounts listed in the Internal Revenue Service Form W-2 for the
24 purposes of calculating Medicare taxes are sufficient or, in the
25 case of a contractor, the amounts listed in the Internal Revenue
26 Services Form 1099. If the filer is a contractor, the compensation
27 disclosure form shall require disclosure of the contract's
28 compensation provisions. The compensation disclosure form shall
29 provide for the disclosure of each of the following:

30 (1) Annual salary or stipend.

31 (2) Local agency payments to the filer's deferred compensation
32 or defined benefit plans.

33 (3) Automobile and equipment allowances.

34 (4) Supplemental incentive and bonus payments.

35 (5) Local agency payments to the filer that are in excess of the
36 standard benefits that the local agency offers for all other
37 employees.

38 (e) The information disclosed pursuant to subdivision (d) shall
39 also include any amounts received by a filer as a result of
40 membership with, or employment by, any local agency, municipal

1 corporation, public benefit corporation, or community
2 redevelopment agency, if the membership of the filer’s governing
3 body is sufficient in number to constitute a quorum or a majority
4 of the governing body membership of the local agency, municipal
5 corporation, public benefit corporation, or community
6 redevelopment agency.

7 (f) Every compensation disclosure form filed pursuant to this
8 section shall be open for public inspection and reproduction during
9 regular business hours, commencing as soon as practicable, but
10 not later than the second business day following the day on which
11 it was received. No conditions shall be imposed upon a person
12 desiring to inspect or reproduce a compensation disclosure form
13 filed pursuant to this section, nor shall any information or
14 identification be required from the person. Copies shall be provided
15 at a charge not to exceed ten cents (\$0.10) per page. In addition,
16 a retrieval fee not to exceed five dollars (\$5) per request may be
17 charged for copies of reports and statements that are more than
18 five years old. A request for more than one compensation
19 disclosure form at the same time shall be considered a single
20 request.

21 (g) (1) The district attorney or any interested person may
22 commence an action by mandamus or injunction to compel a filer,
23 county, city, city and county, school district, special district, or
24 joint powers agency to comply with the requirements of this
25 section. Nothing in this section shall be construed to prevent a
26 filer, county, city, city and county, school district, special district,
27 or joint powers agency from curing or correcting an action
28 challenged pursuant to this section.

29 (2) Prior to any action being commenced pursuant to this
30 subdivision, the district attorney or interested person shall make
31 a demand of the filer, county, city, city and county, school district,
32 special district, or joint powers agency to cure or correct the action
33 alleged to have been taken in violation of this section. The demand
34 shall be in writing and clearly describe the nature of the alleged
35 violation.

36 (3) Within 30 days of receipt of the demand, the filer, county,
37 city, city and county, school district, special district, or joint powers
38 agency shall cure or correct the alleged violation and notify the
39 demanding party in writing of the decision to cure or correct the

1 alleged violation or inform the demanding party in writing of its
2 decision not to cure or correct the alleged violation.

3 (4) Within 15 days of receipt of the written notice of the decision
4 to cure or correct an alleged violation, or not to cure or correct, or
5 within 15 days of the expiration of the 30-day period to cure or
6 correct, whichever is earlier, the demanding party shall be required
7 to commence the action pursuant to this subdivision or thereafter
8 be barred from commencing the action.

9 (5) If the filer, county, city, city and county, school district,
10 special district, or joint powers agency takes no action within the
11 30-day period, the inaction shall be deemed a decision not to cure
12 or correct the alleged violation, and the 15-day period to commence
13 the action described in paragraph (1) shall commence to run the
14 day after the 30-day period to cure or correct expires.

15 (6) During any action seeking a judicial determination pursuant
16 to this subdivision if the court determines, pursuant to a showing
17 that an alleged violation has been cured or corrected by a
18 subsequent action, the action filed pursuant to this subdivision
19 shall be dismissed with prejudice.

20 SEC. 2. In enacting this act, the Legislature finds and declares
21 that the disclosure of compensation paid to filers furthers the intent
22 and purposes of Section 3 of Article I of the California Constitution
23 which declares that the people have the right of access to
24 information concerning the conduct of the people's business.

25 SEC. 3. The Legislature finds and declares that the fiscal
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 compensation paid
34 to filers is an issue of statewide concern and not a municipal affair,
35 as that term is used in Section 5 of Article XI of the California
36 Constitution. Therefore, this act shall apply to all cities, including
37 charter cities.

38 SEC. 4. 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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