

AMENDED IN SENATE JUNE 19, 2012

SENATE BILL

No. 1403

Introduced by Senator Yee
(Principal coauthor: ~~Assembly Member Hill~~)

February 24, 2012

~~An act to amend Sections 305, 307, and 308 of, and to add Section 305.5 to, the Public Utilities Code, relating to the Public Utilities Commission.~~ *An act to amend Section 54952 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1403, as amended, Yee. ~~Public Utilities Commission.~~ *Local government meetings: legislative body: definition.*

Existing law, the Ralph M. Brown Act, requires each legislative body of a local agency to provide the time and place for holding regular meetings and requires that all meetings of a legislative body be open and public and all persons be permitted to attend unless a closed session is authorized. Existing law defines for these purposes the term "legislative body" and includes within that definition a board of a local agency.

This bill would modify the definition of the term "legislative body" to include an assessment appeals board, as specified. By extending open meeting requirements to proceedings of assessment appeals boards, the bill would impose a state-mandated local program.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

~~The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities, as defined. The California Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. Existing law requires the Governor to designate the president of the commission from among its members and requires the president to direct the executive director, the attorney, and other staff of the commission, except for the Division of Ratepayer Advocates.~~

~~This bill would instead require the commission to direct the executive director, the attorney, and other staff of the commission, except for the Division of Ratepayer Advocates. This bill would also require the commission to assign cases by majority vote of the full commission.~~

~~The Public Utilities Act authorizes the attorney for the commission, if directed to do so by the president, except as otherwise directed by vote of the commission, to intervene, if possible, in any action or proceeding involving any question arising pursuant to the Public Utilities Act. Existing law requires the attorney for the commission to commence, prosecute, and expedite the final determination of all actions and proceedings, and to generally perform all duties and services as attorney to the commission, as directed or authorized by the president, except as otherwise directed or authorized by vote of the commission.~~

~~This bill would authorize the attorney for the commission, if directed to do so by the commission, to intervene, if possible, in any action or proceeding involving any question arising pursuant to the Public Utilities Act. This bill would require the attorney for the commission to commence, prosecute, and expedite the final determination of all actions and proceedings, as directed or authorized by the commission, and to generally perform all duties and services, as specified.~~

~~Existing law requires the executive director for the commission to keep a full and true record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and perform such~~

~~other duties as the president, or vote of the commission, prescribes. Existing law provides that the president may authorize the executive director to dismiss complaints or applications when all parties are in agreement thereto, in accordance with rules that the commission may prescribe.~~

~~This bill would require the executive director to keep a full and true record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and perform the other duties the commission prescribes. The bill would provide that the commission may authorize the executive director to dismiss complaints or applications when all parties are in agreement thereto, in accordance with rules that the commission may prescribe.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~^{yes}.

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

1 SECTION 1. Section 54952 of the Government Code is
2 amended to read:
3 54952. As used in this chapter, “legislative body” means:
4 (a) The governing body of a local agency or any other local
5 body created by state or federal statute.
6 (b) (1) A commission, committee, board, or other body of a
7 local agency, whether permanent or temporary, decisionmaking
8 or advisory, created by charter, ordinance, resolution, or formal
9 action of a legislative body. However, advisory committees,
10 composed solely of the members of the legislative body that are
11 less than a quorum of the legislative body are not legislative bodies,
12 except that standing committees of a legislative body, irrespective
13 of their composition, which have a continuing subject matter
14 jurisdiction, or a meeting schedule fixed by charter, ordinance,
15 resolution, or formal action of a legislative body are legislative
16 bodies for purposes of this chapter.
17 (2) (A) For purposes of this subdivision, “board” includes an
18 assessment appeals board, including a board of supervisors when
19 sitting as the assessment appeals board, which may meet in closed
20 session, as provided by Section 1605.4 of the Revenue and Taxation
21 Code.

1 (B) *The Legislature finds and declares that assessment appeals*
2 *boards constitute quasi-judicial boards. As such, Sections 54954.3*
3 *and 54957.5 shall not apply to these boards.*

4 (c) (1) A board, commission, committee, or other multimember
5 body that governs a private corporation, limited liability company,
6 or other entity that either:

7 (A) Is created by the elected legislative body in order to exercise
8 authority that may lawfully be delegated by the elected governing
9 body to a private corporation, limited liability company, or other
10 entity.

11 (B) Receives funds from a local agency and the membership of
12 whose governing body includes a member of the legislative body
13 of the local agency appointed to that governing body as a full
14 voting member by the legislative body of the local agency.

15 (2) Notwithstanding subparagraph (B) of paragraph (1), no
16 board, commission, committee, or other multimember body that
17 governs a private corporation, limited liability company, or other
18 entity that receives funds from a local agency and, as of February
19 9, 1996, has a member of the legislative body of the local agency
20 as a full voting member of the governing body of that private
21 corporation, limited liability company, or other entity shall be
22 relieved from the public meeting requirements of this chapter by
23 virtue of a change in status of the full voting member to a
24 nonvoting member.

25 (d) The lessee of any hospital the whole or part of which is first
26 leased pursuant to subdivision (p) of Section 32121 of the Health
27 and Safety Code after January 1, 1994, where the lessee exercises
28 any material authority of a legislative body of a local agency
29 delegated to it by that legislative body whether the lessee is
30 organized and operated by the local agency or by a delegated
31 authority.

32 *SEC. 2. If the Commission on State Mandates determines that*
33 *this act contains costs mandated by the state, reimbursement to*
34 *local agencies and school districts for those costs shall be made*
35 *pursuant to Part 7 (commencing with Section 17500) of Division*
36 *4 of Title 2 of the Government Code.*

37 *SEC. 3. This act is an urgency statute necessary for the*
38 *immediate preservation of the public peace, health, or safety within*
39 *the meaning of Article IV of the Constitution and shall go into*
40 *immediate effect. The facts constituting the necessity are:*

1 *Subjecting property tax assessment appeal boards to the*
2 *requirements of the Ralph M. Brown Act will ensure that the public*
3 *is appropriately noticed regarding board meetings and increase*
4 *governmental transparency as it relates to actions of the boards;*
5 *as such, it is necessary for this act to take effect immediately.*

6 ~~SECTION 1. Section 305 of the Public Utilities Code is~~
7 ~~amended to read:~~

8 ~~305. The Governor shall designate a president of the~~
9 ~~commission from among the members of the commission. The~~
10 ~~president shall preside at all meetings and sessions of the~~
11 ~~commission.~~

12 ~~SEC. 2. Section 305.5 is added to the Public Utilities Code, to~~
13 ~~read:~~

14 ~~305.5. The commission shall direct the executive director, the~~
15 ~~attorney, and other staff of the commission, except for the staff of~~
16 ~~the division described in Section 309.5, in the performance of their~~
17 ~~duties, in accordance with commission policies and guidelines.~~
18 ~~The commission shall assign cases by majority vote of the full~~
19 ~~commission.~~

20 ~~SEC. 3. Section 307 of the Public Utilities Code is amended~~
21 ~~to read:~~

22 ~~307. (a) The commission may appoint as attorney to the~~
23 ~~commission an attorney at law of this state, who shall hold office~~
24 ~~during the pleasure of the commission.~~

25 ~~(b) The attorney shall represent and appear for the people of the~~
26 ~~State of California and the commission in all actions and~~
27 ~~proceedings involving any question under this part or under any~~
28 ~~order or act of the commission. If directed to do so by the~~
29 ~~commission, the attorney shall intervene, if possible, in any action~~
30 ~~or proceeding in which any such question is involved.~~

31 ~~(c) The attorney shall commence, prosecute, and expedite the~~
32 ~~final determination of all actions and proceedings directed or~~
33 ~~authorized by the commission, advise the commission and each~~
34 ~~commissioner, when so requested, in regard to all relevant matters,~~
35 ~~including settlements and investigations, in connection with the~~
36 ~~powers and duties of the commission and the members thereof,~~
37 ~~and generally perform all duties and services as attorney to the~~
38 ~~commission that the commission may require of him or her.~~

39 ~~SEC. 4. Section 308 of the Public Utilities Code is amended~~
40 ~~to read:~~

1 308. ~~(a) The commission shall appoint an executive director,~~
2 ~~who shall hold office during its pleasure. The executive director~~
3 ~~shall be responsible for the commission's executive and~~
4 ~~administrative duties and shall organize, coordinate, supervise,~~
5 ~~and direct the operations and affairs of the commission and~~
6 ~~expedite all matters within the commission's jurisdiction.~~

7 ~~(b) The executive director shall keep a full and true record of~~
8 ~~all proceedings of the commission, issue all necessary process,~~
9 ~~writs, warrants, and notices, and perform the other duties the~~
10 ~~commission prescribes. The commission may authorize the~~
11 ~~executive director to dismiss complaints or applications when all~~
12 ~~parties are in agreement thereto, in accordance with rules that the~~
13 ~~commission may prescribe.~~

14 ~~(c) The commission may appoint assistant executive directors~~
15 ~~who may serve warrants and other process in any county or city~~
16 ~~and county of this state.~~