

ASSEMBLY BILL

No. 185

Introduced by Assembly Member Roger Hernández

January 28, 2013

An act to amend Section 54953.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 185, as introduced, Roger Hernández. Open and public meetings: televised meetings.

(1) The Ralph M. Brown Act requires that an audio or video recording of an open and public meeting made at the direction of a local agency is subject to inspection pursuant to the California Public Records Act and may be erased or destroyed 30 days after the recording. Existing law requires that any inspection of an audio or video recording shall be provided without charge on equipment made available by the local agency.

The Digital Infrastructure and Video Competition Act of 2006 provides that cities, counties, cities and counties, or joint powers authorities receive state franchise fees in exchange for the use of public rights-of-way for the delivery of cable and video services provided within their jurisdictions, based on gross revenues, pursuant to a specified formula, from state franchise holders that provide public, educational, and governmental access (PEG) channels.

The bill would provide that an audio or video recording of an open and public meeting made at the direction of a local agency may be erased or destroyed 2 years after the recording.

The bill would require a local agency that collects a franchise fee from the holder of a state franchise that provides PEG channels to

televise the open and public meetings of its legislative body and any of its advisory committees, if financially feasible, and to only use the franchise fees for that purpose. The bill would require that these franchise fees be used to cover the necessary expenses, as defined, for implementing the televising of the local agency’s open and public meetings. The bill would authorize, if franchise fee moneys in excess of that necessary to televise these meetings are available, the use of such fees to provide live streaming of these meetings on the Internet.

By imposing new duties on local public officials to televise open and public meetings, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

(2) 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 no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) There have been over 50 public access channel closures in
- 4 California municipalities. Seven of those municipalities are found
- 5 within the boundaries of the 48th Assembly District.
- 6 (b) Unfortunately, many local governments are not utilizing
- 7 General Fund moneys or franchise fees for support, in addition to
- 8 public, educational, and governmental access (PEG) channel funds,
- 9 for the operation of public access television. Not televising open
- 10 meetings or providing public access television is a threat to
- 11 accessing public information in a readily available medium.

1 (c) PEG channels permit schools, governments, individuals,
2 and groups to provide and receive information about local events,
3 emergencies, and issues. PEG channels encourage the creation of
4 local programming not only by local municipalities but by civic
5 groups and nonprofits to promote localism and civic engagement.

6 SEC. 2. Section 54953.5 of the Government Code is amended
7 to read:

8 54953.5. (a) ~~Any~~ A person attending an open and public
9 meeting of a legislative body of a local agency shall have the right
10 to record the proceedings with an audio or video recorder or a still
11 or motion picture camera in the absence of a reasonable finding
12 by the legislative body of the local agency that the recording cannot
13 continue without noise, illumination, or obstruction of view that
14 constitutes, or would constitute, a persistent disruption of the
15 proceedings.

16 (b) ~~Any~~ An audio or video recording of an open and public
17 meeting made ~~for whatever purpose by or~~ at the direction of the
18 local agency shall be subject to inspection pursuant to the
19 California Public Records Act (Chapter 3.5 (commencing with
20 Section 6250) of Division 7 of Title 1), but, notwithstanding
21 Section 34090, may be erased or destroyed ~~30 days~~ *two years* after
22 the recording. ~~Any~~ An inspection of an audio or video recording
23 shall be provided without charge on equipment made available by
24 the local agency.

25 (c) (1) *A local agency that collects a franchise fee adopted*
26 *pursuant to paragraph (1) of subdivision (q) of Section 5840 of*
27 *the Public Utilities Code from the holder of a state franchise that*
28 *provides public, educational, and governmental access (PEG)*
29 *channels shall televise the open and public meetings of its*
30 *legislative body and its advisory committees that are governed by*
31 *this chapter, if it is financially feasible.*

32 (2) *Franchise fees collected from the holder of a state franchise*
33 *pursuant to subdivision (q) of Section 5840 of the Public Utilities*
34 *Code shall only be used to televise the open and public meetings*
35 *of the local agency, including, but not limited to, any necessary*
36 *expenses for implementing the televising of the local agency's open*
37 *and public meetings.*

38 (3) *If there are franchise fee moneys available in excess of the*
39 *amount necessary to televise open and public meetings as required*

1 *under paragraph (1), the local agency may use that money to fund*
2 *live streaming of its open and public meetings on the Internet.*
3 *(4) As used in this subdivision, “necessary expenses” includes,*
4 *but is not limited to, the hiring of personnel, the purchase and*
5 *maintenance of equipment, or the rental or leasing of production*
6 *facilities.*

7 SEC. 3. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 a local agency or school district has the authority to levy service
10 charges, fees, or assessments to pay for the program or level of
11 service mandated by this act, within the meaning of Section 17556
12 of the Government Code.

13 However, if the Commission on State Mandates determines that
14 this act contains other costs mandated by the state for which the
15 authority to levy service charges, fees, or assessments is insufficient
16 to pay for the program or level of service mandated by this act,
17 reimbursement to local agencies and school districts for those costs
18 shall be made pursuant to Part 7 (commencing with Section 17500)
19 of Division 4 of Title 2 of the Government Code.