

AMENDED IN ASSEMBLY MARCH 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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~~ *would authorize the use of* the franchise fees for that purpose. The bill would ~~require that these~~ *additionally authorize the use of* 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,

1 for the operation of public access television. Not televising open
2 meetings or providing public access television is a threat to
3 accessing public information in a readily available medium.

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

9 SEC. 2. Section 54953.5 of the Government Code is amended
10 to read:

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

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

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

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

1 (3) If there are franchise fee moneys available in excess of the
2 amount necessary to televise open and public meetings as required
3 under paragraph (1), the local agency may use that money to fund
4 live streaming of its open and public meetings on the Internet.

5 (4) As used in this subdivision, “necessary expenses” includes,
6 but is not limited to, the hiring of personnel, the purchase and
7 maintenance of equipment, or the rental or leasing of production
8 facilities.

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

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