

Introduced by Senator HillFebruary 20, 2013

An act to amend Sections 3511.1, 3511.2, 53243, and 53243.1 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 407, as introduced, Hill. Local government: officers and employees: contracts.

Existing law, commencing on January 1, 2012, prohibits an employment contract for a local agency executive, as defined, from providing an automatic renewal of a contract that provides for an automatic compensation increase in excess of a cost-of-living adjustment or a maximum cash settlement in excess of certain limits, as specified. Existing law defines the term "local agency executive" for these purposes, and includes within that definition any person who is either the chief executive officer of the local agency or a department head of a local agency.

This bill would additionally include within the definition of "local agency executive" any person who is a deputy or assistant chief executive officer, and any person whose position is held by an employment contract between that person and the local agency. By expanding the duties of local officials, this bill would impose a state-mandated local program. The bill would also specify that the removal of automatic increases in salary in excess of a cost-of-living adjustment or a maximum cash settlement in excess of those limits upon automatic renewal of a contract, is not intended to require renegotiation of the terms of the contract unless both parties to the contract agree to renegotiate the terms of the contract.

Existing law, commencing on January 1, 2012, requires a contract executed or renewed between a local agency and an officer or employee of the local agency to include a provision that requires an officer or employee of a local agency who is convicted of a crime involving an abuse of his or her office or position, as defined, to fully reimburse the local agency for specified payments made by that local agency to the officer or employee.

The bill would also require an officer or employee of the local agency, who is convicted of a crime involving an abuse of his or her office, to fully reimburse any such payments that are made by the local agency in the absence of a contractual obligation between the agency and the officer or employee.

This bill would specify that the addition of these provisions upon automatic renewal of a contract, is not intended to require renegotiation of the terms of the contract unless both parties to the contract agree to renegotiate the terms of the contract.

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 3511.1 of the Government Code is
2 amended to read:
3 3511.1. As used in this chapter, the following definitions apply:
4 (a) "Compensation" means annual salary, stipend, or bonus,
5 paid by a local agency employer to a local agency executive.
6 (b) "Cost-of-living" means the California Consumer Price Index
7 for Urban Wage Earners and Clerical Workers as calculated by
8 the Department of Industrial Relations.
9 (c) "Local agency" means a county, city, whether general law
10 or chartered, city and county, town, school district, municipal
11 corporation, district, political subdivision, or any board,
12 commission, or agency thereof, or other local public agency.

1 (d) “Local agency executive” means any person employed by
2 a local agency who is not subject to the Meyers-Milias-Brown Act
3 (Chapter 10 (commencing with Section 3500)), Chapter 5
4 (commencing with Section 45100) of Part 25 of Division 3 of Title
5 2 of the Education Code, or Chapter 4 (commencing with Section
6 88000) of Part 51 of Division 7 of Title 3 of the Education Code,
7 and who meets either of the following requirements:

8 (1) The person is the chief executive officer, *a deputy chief*
9 *executive officer, or an assistant chief executive officer* of the local
10 agency.

11 (2) The person is the head of a department of a local agency.

12 (3) *The person’s position within the local agency is held by an*
13 *employment contract between the local agency and that person.*

14 SEC. 2. Section 3511.2 of the Government Code is amended
15 to read:

16 3511.2. On or after January 1, 2012, any contract executed or
17 renewed between a local agency and a local agency executive shall
18 not provide for the following:

19 (a) An automatic renewal of a contract that provides for an
20 automatic increase in the level of compensation that exceeds a
21 cost-of-living adjustment.

22 (b) A maximum cash settlement that exceeds the amounts
23 determined pursuant to Article 3.5 (commencing with Section
24 53260) of Chapter 2 of Part 1 of Division 2 of Title 5.

25 (c) *This section shall not require the renegotiation of a contract*
26 *that is set to automatically renew upon the removal of any*
27 *provision prohibited by this section, but does not prohibit the*
28 *renegotiation of the terms of the contract upon automatic renewal*
29 *if all parties to the contract agree to renegotiate.*

30 SEC. 3. Section 53243 of the Government Code is amended
31 to read:

32 53243. (a) On or after January 1, 2012, any contract executed
33 or renewed between a local agency and an officer or employee of
34 a local agency that provides paid leave salary offered by the local
35 agency to the officer or employee pending an investigation shall
36 require that any salary provided for that purpose be fully
37 reimbursed if the officer or employee is convicted of a crime
38 involving an abuse of his or her office or position.

39 (b) *This section shall not require the renegotiation of a contract*
40 *that is set to automatically renew upon the addition of the provision*

1 *required by this section, but does not prohibit the renegotiation*
2 *of the terms of the contract upon automatic renewal if all parties*
3 *to the contract agree to renegotiate.*

4 SEC. 4. Section 53243.1 of the Government Code is amended
5 to read:

6 53243.1. (a) On or after January 1, 2012, any contract
7 executed or renewed between a local agency and an officer or
8 employee of a local agency that provides funds for the legal
9 criminal defense of an officer or employee shall require that any
10 funds provided for that purpose be fully reimbursed to the local
11 agency if the officer or employee is convicted of a crime involving
12 an abuse of his or her office or position.

13 (b) *This section shall not require the renegotiation of a contract*
14 *that is set to automatically renew upon the addition of the provision*
15 *required by this section, but does not prohibit the renegotiation*
16 *of the terms of the contract upon automatic renewal if all parties*
17 *to the contract agree to renegotiate.*

18 SEC. 5. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.