

ASSEMBLY BILL

No. 241

Introduced by Assembly Member Gordon

February 5, 2015

An act to add Section 53760.9 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 241, as introduced, Gordon. Bankruptcy: retired employees: disclosure of names and mailing addresses.

(1) Existing law prohibits a local public entity, as defined, from filing a petition and exercising powers pursuant to applicable federal bankruptcy law unless the local public entity has participated in a specified neutral evaluation process with interested parties, or the local public entity has declared a fiscal emergency and has adopted a resolution by a majority vote of the governing board at a noticed public hearing that includes findings that the financial state of the local public entity jeopardizes the health, safety, or well-being of the residents of the local public entity's jurisdiction or service area absent the protections of federal bankruptcy law. Existing law defines "interested party," for purposes of these provisions, to include, among others, a representative selected by an association of retired employees of the local public entity who receive income from the local public entity, as specified. Existing law exempts from public disclosure certain personal information of retirees from public employment.

This bill would require, notwithstanding any other law and under certain conditions, a local public entity to provide the name and mailing address of each retired employee or his or her beneficiary receiving the retired employee's retirement benefit to any organization that is

incorporated and qualified under specific state and federal laws for the purpose of representing retired employees or their beneficiaries as members of the organization in a neutral evaluation process, the declaration of a fiscal emergency and adoption of a resolution, or a bankruptcy proceeding, as specified. This bill would limit an organization receiving this information under these provisions to using the information for only these purposes and impose an unspecified civil penalty on the organization for a violation of that limitation under unspecified conditions.

(2) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose. This bill would make legislative findings to that effect.

(3) 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.

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 53760.9 is added to the Government
 2 Code, to read:
 3 53760.9. (a) Notwithstanding any other law, including, but
 4 not limited to, the California Public Records Act (Chapter 3.5
 5 (commencing with Section 6250) of Division 7 of Title 1), a local
 6 public entity shall provide the name and mailing address of each
 7 retired employee, or his or her beneficiary receiving the retired
 8 employee's retirement benefit, to any organization that is
 9 incorporated as a California nonprofit mutual benefit corporation
 10 pursuant to Part 3 (commencing with Section 7110) of Division 2
 11 of Title 1 of the Corporations Code and qualified pursuant to
 12 Section 501(c)(5) of Title 26 of the Internal Revenue Code for the
 13 purpose of representing retired employees of the local public entity,
 14 upon that organization's request, if any of the following occur:

1 (1) The local public entity began the process of participating in
2 a neutral evaluation process pursuant to Section 53760.3.

3 (2) The local public entity declared a fiscal emergency and
4 adopted a resolution by a majority vote of the governing board
5 pursuant to Section 53760.5.

6 (3) The local public entity filed a petition pursuant to applicable
7 federal bankruptcy law.

8 (b) (1) An organization receiving the name and mailing address
9 of a retired employee or his or her beneficiary receiving the retired
10 employee's retirement benefit pursuant to subdivision (a) shall use
11 that information only for the purpose of representing the retired
12 employee or his or her beneficiary as a member of the organization
13 as an interested party in a neutral evaluation process pursuant to
14 Section 53760.3, the declaration of a fiscal emergency and adoption
15 of a resolution pursuant to Section 53760.5, or a bankruptcy
16 proceeding.

17 (2) An organization that violates paragraph (1) shall be subject
18 to a civil penalty in the amount of _____ dollars (\$_____) under the
19 following conditions: _____.

20 SEC. 2. The Legislature finds and declares that Section 1 of
21 this act, which adds Section 53760.9 to the Government Code,
22 furthers, within the meaning of paragraph (7) of subdivision (b)
23 of Section 3 of Article I of the California Constitution, the purposes
24 of that constitutional section as it relates to the right of public
25 access to the meetings of local public bodies or the writings of
26 local public officials and local agencies. Pursuant to paragraph (7)
27 of subdivision (b) of Section 3 of Article I of the California
28 Constitution, the Legislature makes the following findings:

29 This act ensures that public retirees and their beneficiaries have
30 the opportunity to meaningfully participate in the legal processes
31 of a local public entity filing a petition and exercising powers
32 pursuant to applicable federal bankruptcy law.

33 SEC. 3. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district under this act would result from a legislative mandate that
37 is within the scope of paragraph (7) of subdivision (b) of Section
38 3 of Article I of the California Constitution.

O