

AMENDED IN SENATE JUNE 16, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1787

Introduced by Assembly Member Gomez

February 4, 2016

An act to amend Section ~~12812.2~~ 54594.3 of the Government Code, relating to ~~environmental protection~~: *open meetings*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1787, as amended, Gomez. ~~California Environmental Protection Agency: cross-media enforcement unit~~. *Open meetings: public comments: translation.*

The Ralph M. Brown Act requires a local legislative body to provide an opportunity for members of the public to directly address the body concerning any item described in a notice of meeting. The act authorizes the legislative body to adopt reasonable regulations limiting the total amount of time allocated for public testimony for each individual speaker.

This bill, if a local legislative body limits the time for public comment, would require the legislative body to provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body, unless simultaneous translation equipment is used to allow the body to hear the translated public testimony simultaneously.

By imposing new requirements on cities, counties, cities and counties, and special districts, this bill would impose a state-mandated local program.

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.

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.

~~Existing law establishes the California Environmental Protection Agency (CalEPA) under the supervision of the Secretary for Environmental Protection, and requires CalEPA, among other things, to identify disadvantaged communities for certain investment opportunities based on geographic, socioeconomic, public health, and environmental hazard criteria, as specified. Existing law requires the secretary's deputy secretary for law enforcement and counsel to, in consultation with the Attorney General, establish a cross-media enforcement unit to assist boards, departments, offices, or other agencies that implement a law or regulation within the jurisdiction of CalEPA, as specified.~~

~~This bill would require the cross-media enforcement unit to prioritize the state's most disadvantaged communities, as specified.~~

Vote: majority. 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 54954.3 of the Government Code is
- 2 amended to read:
- 3 54954.3. (a) Every agenda for regular meetings shall provide
- 4 an opportunity for members of the public to directly address the
- 5 legislative body on any item of interest to the public, before or
- 6 during the legislative body's consideration of the item, that is
- 7 within the subject matter jurisdiction of the legislative body,
- 8 provided that no action shall be taken on any item not appearing
- 9 on the agenda unless the action is otherwise authorized by
- 10 subdivision (b) of Section 54954.2. However, the agenda need not
- 11 provide an opportunity for members of the public to address the

1 legislative body on any item that has already been considered by
2 a committee, composed exclusively of members of the legislative
3 body, at a public meeting wherein all interested members of the
4 public were afforded the opportunity to address the committee on
5 the item, before or during the committee's consideration of the
6 item, unless the item has been substantially changed since the
7 committee heard the item, as determined by the legislative body.
8 Every notice for a special meeting shall provide an opportunity
9 for members of the public to directly address the legislative body
10 concerning any item that has been described in the notice for the
11 meeting before or during consideration of that item.

12 (b) (1) The legislative body of a local agency may adopt
13 reasonable regulations to ensure that the intent of subdivision (a)
14 is carried out, including, but not limited to, regulations limiting
15 the total amount of time allocated for public testimony on particular
16 issues and for each individual speaker.

17 (2) *Notwithstanding paragraph (1), when the legislative body
18 of a local agency limits time for public comment, the legislative
19 body of a local agency shall provide at least twice the allotted time
20 to a member of the public who utilizes a translator to ensure that
21 non-English speakers receive the same opportunity to directly
22 address the legislative body of a local agency.*

23 (3) *Paragraph (2) shall not apply if the legislative body of a
24 local agency utilizes simultaneous translation equipment in a
25 manner that allows the legislative body of a local agency to hear
26 the translated public testimony simultaneously.*

27 (c) The legislative body of a local agency shall not prohibit
28 public criticism of the policies, procedures, programs, or services
29 of the agency, or of the acts or omissions of the legislative body.
30 Nothing in this subdivision shall confer any privilege or protection
31 for expression beyond that otherwise provided by law.

32 *SEC. 2. The Legislature finds and declares that Section 1 of
33 this act, which amends Section 54594.3 of the Government Code,
34 furthers, within the meaning of paragraph (7) of subdivision (b)
35 of Section 3 of Article I of the California Constitution, the purposes
36 of that constitutional section as it relates to the right of public
37 access to the meetings of local public bodies or the writings of
38 local public officials and local agencies. Pursuant to paragraph
39 (7) of subdivision (b) of Section 3 of Article I of the California
40 Constitution, the Legislature makes the following findings:*

1 *Because this act restricts the authority of a legislative body of*
2 *a local agency under the Ralph M. Brown Act to limit time for*
3 *public comment by a speaker who uses a translator, the act furthers*
4 *the purpose of Section 3 of Article I of the California Constitution.*

5 *SEC. 3. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *the only costs that may be incurred by a local agency or school*
8 *district under this act would result from a legislative mandate that*
9 *is within the scope of paragraph (7) of subdivision (b) of Section*
10 *3 of Article I of the California Constitution.*

11 ~~SECTION 1. Section 12812.2 of the Government Code is~~
12 ~~amended to read:~~

13 ~~12812.2. (a) One of the deputies to the Secretary for~~
14 ~~Environmental Protection shall be a deputy secretary for law~~
15 ~~enforcement and counsel, who, subject to the direction and~~
16 ~~supervision of the secretary, shall have the responsibility and~~
17 ~~authority to do all of the following:~~

18 ~~(1) Develop a program to ensure that the boards, departments,~~
19 ~~offices, and other agencies that implement laws or regulations~~
20 ~~within the jurisdiction of the California Environmental Protection~~
21 ~~Agency take consistent, effective, and coordinated compliance~~
22 ~~and enforcement actions to protect public health and the~~
23 ~~environment. The program shall include training and cross-training~~
24 ~~of inspection and enforcement personnel of those boards,~~
25 ~~departments, offices, or other agencies to ensure consistent,~~
26 ~~effective, and coordinated enforcement.~~

27 ~~(2) (A) In consultation with the Attorney General, establish a~~
28 ~~cross-media enforcement unit to assist a board, department, office,~~
29 ~~or other agency that implements a law or regulation within the~~
30 ~~jurisdiction of the California Environmental Protection Agency,~~
31 ~~to investigate and prepare matters for enforcement action in order~~
32 ~~to protect public health and the environment. The unit may inspect~~
33 ~~and investigate a violation of a law or regulation within the~~
34 ~~jurisdiction of the board, department, office, or other agency,~~
35 ~~including a violation involving more than one environmental~~
36 ~~medium and a violation involving the jurisdiction of more than~~
37 ~~one board, department, office, or agency. The unit shall exercise~~
38 ~~its authority consistent with the authority granted to the head of a~~
39 ~~department pursuant to Article 2 (commencing with Section 11180)~~
40 ~~of Chapter 2 of Part 1. In exercising its authority pursuant to this~~

1 section, the unit shall prioritize the state's most disadvantaged
2 communities:

3 (B) For purposes of this paragraph, "state's most disadvantaged
4 communities" means communities identified by the California
5 Environmental Protection Agency, through the California
6 Communities Environmental Health Screening Tool, also known
7 as CalEnviroScreen, created pursuant to Section 39711 of the
8 Health and Safety Code, as the disadvantaged communities most
9 disproportionately burdened and vulnerable to multiple sources of
10 pollution:

11 (3) Refer a violation of a law or regulation within the jurisdiction
12 of a board, department, office, or other agency that implements a
13 law or regulation within the jurisdiction of the California
14 Environmental Protection Agency to the Attorney General, a
15 district attorney, or city attorney for the filing of a civil or criminal
16 action:

17 (4) Exercise the authority granted pursuant to paragraph (3)
18 only after providing notice to the board, department, office, or
19 other agency unless the secretary determines that notice would
20 compromise an investigation or enforcement action:

21 (b) Nothing in this section shall authorize the deputy secretary
22 for law enforcement and counsel to duplicate, overlap, compromise,
23 or otherwise interfere with an investigation or enforcement action
24 undertaken by a board, department, office, or other agency that
25 implements a law or regulation subject to the jurisdiction of the
26 California Environmental Protection Agency:

27 (e) The Environmental Protection Agency shall post on its Web
28 site, updated no later than December 1 of each year, the status of
29 the implementation of this section: