

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 331

Introduced by Senator Mendoza

February 23, 2015

~~An act relating to local government.~~ *An act to add Chapter 4.5 (commencing with Section 22175) to Part 3 of Division 2 of the Public Contract Code, relating to public contracts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 331, as amended, Mendoza. ~~Local government: transparency.~~ *Public contracts: cities and counties: negotiations.*

Existing law relating to public contracts requires local agencies, including cities and counties, to comply with specified procedures for public contracting for public construction.

The Meyers-Milias-Brown Act requires the governing body of a local public agency to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of a recognized employee organization.

This bill would enact the Civic Reporting Openness in Negotiations Efficiency Act to establish specific procedures for the negotiation and approval of contracts for goods or services by cities, counties, or cities and counties that have adopted a civic openness in negotiations ordinance, or COIN ordinance, defined as an ordinance imposing specified requirements as part of any collective bargaining process undertaken pursuant to the Meyers-Milias-Brown Act. The act would require the appointment of an independent auditor to review and report on the cost of any proposed private sector contract. The act would require a city, county, or city and county to disclose prescribed information relating to the contract and contract negotiations on its

Internet Web site. The act would prohibit a final determination by the governing body regarding approval of any private sector contract until the matter has been heard at a minimum of 2 public meetings of the governing body. By imposing new requirements on cities, counties, and cities and counties, 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.

~~The California Public Records Act requires that the public records of a local agency be open to inspection and provides that every person has a right to inspect any public record, except as specified. The Ralph M. Brown Act requires that all meetings of a legislative body, as defined, of a local agency be open and public and all persons permitted to attend unless a closed session is authorized.~~

~~This bill would express the intent of the Legislature to enact legislation that would increase transparency in local government.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Chapter 4.5 (commencing with Section 22175)*
- 2 *is added to Part 3 of Division 2 of the Public Contract Code, to*
- 3 *read:*

CHAPTER 4.5. CIVIC OPENNESS IN NEGOTIATIONS

22175. This chapter shall be known, and may be cited, as the Civic Reporting Openness in Negotiations Efficiency Act, or CRONE.

22176. As used in this chapter, “civic openness in negotiations ordinance” or “COIN ordinance” means an ordinance adopted by a city, county, or city and county that requires any of the following as a part of any collective bargaining process undertaken pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code):

(a) The preparation of an independent economic analysis describing the fiscal costs of benefit and pay components currently provided to members of a recognized employee organization, as defined in Section 3501 of the Government Code.

(b) The completion of the independent economic analysis prior to the presentation of an opening proposal by the public employer.

(c) Availability for review by the public of the independent economic analysis before presentation of an opening proposal by the public employer.

(d) Updating of the independent economic analysis to reflect the annual or cumulative costs of each proposal made by the public employer or recognized employee organization.

(e) Updating of the independent economic analysis to reflect any absolute amount or change from the current actuarially computed unfunded liability associated with the pension or postretirement health benefits.

(f) The report from a closed session of a meeting of the public employer’s governing body of offers, counteroffers, or supposals made by the public employer or the recognized employee organization and communicated during that closed session.

(g) The report from a closed session of a meeting of the public employer’s governing body of any list of names of persons in attendance during any negotiations session, the date of the session, the length of the session, the location of the session, or pertinent facts regarding the negotiations that occurred during a session.

22177. This chapter applies only to a city, county, or city and county that has adopted a COIN ordinance, which is effective and

1 *operative. This chapter shall not apply if the city, county, or city*
2 *and county suspends, repeals, or revokes its COIN ordinance.*

3 *22178. (a) This chapter shall apply to all private sector*
4 *contracts being negotiated between the city, county, or city and*
5 *county, and any private person or entity that seeks to provide*
6 *services or goods to the city, county, or city and county.*

7 *(b) The city, county, or city and county shall appoint an unbiased*
8 *independent auditor to review the cost of any proposed private*
9 *sector contract. The independent auditor shall prepare a report*
10 *on the cost of the contract and provide the report to all parties*
11 *and make it available to the public before the governing body takes*
12 *any action to approve or disapprove the contract. The report shall*
13 *comply with the following:*

14 *(1) The report shall include a recommendation regarding the*
15 *viability of the contract, including any supplemental data upon*
16 *which the report is based, and shall determine the fiscal impacts*
17 *attributable to each term and condition of the contract.*

18 *(2) The report shall be made available to the public at least 30*
19 *days before the issue can be heard before the governing body and*
20 *at least 60 days before any action to approve or disapprove the*
21 *contract by the governing body.*

22 *(3) Any proposed changes to the contract after it has been*
23 *approved by the governing body shall adhere to the same approval*
24 *requirements as the original contract. The changes shall not go*
25 *into effect until all of the requirements of this subdivision are met.*

26 *(c) The city, county, or city and county shall disclose all offers*
27 *and counteroffers to the public within 24 hours on its Internet Web*
28 *site.*

29 *(d) Before entering into any private sector contract, the city,*
30 *county, or city and county shall release a list of names of all*
31 *persons in attendance, whether in person or by electronic means,*
32 *during any negotiation session regarding the contract, the date of*
33 *the session, the length of the session, the location where the session*
34 *took place, and any pertinent facts regarding the negotiations that*
35 *occurred in that session.*

36 *(e) Representatives of the governing body shall advise the*
37 *governing body of all offers, counteroffers, information, or*
38 *statements of position discussed by the private entity and city,*
39 *county, or city and county representatives participating in*
40 *negotiations regarding any private sector contract.*

1 (f) *The governing body shall publish future proposals directed*
2 *by the governing body and the analytical thought process utilized*
3 *by the governing body.*

4 (g) *Each governing body member and staff members of*
5 *governing body offices shall disclose publicly all verbal, written,*
6 *electronic, or other communications regarding a subject matter*
7 *related to the negotiations or pending negotiations they have had*
8 *with any official or unofficial representative of the private entity*
9 *within 24 hours after the communication occurs.*

10 (h) *A final governing body determination regarding approval*
11 *of any private sector contract shall be undertaken only after the*
12 *matter has been heard at a minimum of two meetings of the*
13 *governing body wherein the public has had the opportunity to*
14 *review and comment on the matter. Not less than seven days before*
15 *the first governing body meeting when the matter shall be heard,*
16 *the city, county, or city and county shall post on its Internet Web*
17 *site the contract under consideration for adoption.*

18 SEC. 2. *The Legislature finds and declares that Section 1 of*
19 *this act, which adds Chapter 4.5 (commencing with Section 22175)*
20 *to Part 3 of Division 2 of the Public Contract Code, furthers, within*
21 *the meaning of paragraph (7) of subdivision (b) of Section 3 of*
22 *Article I of the California Constitution, the purposes of that*
23 *constitutional section as it relates to the right of public access to*
24 *the meetings of local public bodies or the writings of local public*
25 *officials and local agencies. Pursuant to paragraph (7) of*
26 *subdivision (b) of Section 3 of Article I of the California*
27 *Constitution, the Legislature makes the following findings:*

28 *This act ensures that members of the public have the opportunity*
29 *to be informed of, and meaningfully participate in, the negotiation*
30 *and approval of contracts for goods and services by a city, county,*
31 *or city and county that has adopted a civic openness in negotiations*
32 *(COIN) ordinance, thereby furthering the purposes of Section 3*
33 *of Article I of the California Constitution.*

34 SEC. 3. *No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *the only costs that may be incurred by a local agency or school*
37 *district under this act would result from a legislative mandate that*
38 *is within the scope of paragraph (7) of subdivision (b) of Section*
39 *3 of Article I of the California Constitution.*

1 ~~SECTION 1.—It is the intent of the Legislature to enact~~
2 ~~legislation that would increase transparency in local government.~~

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