

AMENDED IN SENATE APRIL 22, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 331

Introduced by Senator Mendoza

February 23, 2015

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. Public contracts: ~~cities and counties:~~ *local agencies:* 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 *valued at \$50,000 or more* for goods or services by cities, counties, ~~or cities and counties~~ *counties, or special districts* 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~~ *county, or special district* 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,~~ *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.

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

4
5 CHAPTER 4.5. CIVIC OPENNESS IN NEGOTIATIONS
6

7 22175. This chapter shall be known, and may be cited, as the
8 Civic Reporting Openness in Negotiations Efficiency Act, or
9 ~~CRONE~~. *CRONEY*.

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

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

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

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

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

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

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

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

26 22177. This chapter applies only to a city, county, ~~or city and~~
27 ~~county~~ county, or special district that has adopted a COIN
28 ordinance, which is effective and operative. This chapter shall not
29 apply if the city, county, ~~or city and~~ ~~county~~ county, or special
30 district suspends, repeals, or revokes its COIN ordinance.

31 22178. (a) This chapter shall apply to ~~all private sector~~ any
32 contracts with a value of at least fifty thousand dollars (\$50,000),
33 and to any contracts with a person or entity, or related person or
34 entity, with a cumulative value of at least fifty thousand dollars
35 (\$50,000) within the fiscal year of the city, county, city and county,
36 or special district, being negotiated between the city, county, ~~or~~
37 city and county, or special district, and any private person or entity
38 that seeks to provide services or goods to the city, county, ~~or~~ city
39 and ~~county~~ county, or special district.

1 (b) The city, county, ~~or city and county~~ *county, or special district*
2 shall appoint an unbiased independent auditor to review the cost
3 of any proposed ~~private sector~~ contract. The independent auditor
4 shall prepare a report on the cost of the contract and provide the
5 report to all parties and make it available to the public before the
6 governing body takes any action to approve or disapprove the
7 contract. The report shall comply with the following:

8 (1) The report shall include a recommendation regarding the
9 viability of the contract, including any supplemental data upon
10 which the report is based, and shall determine the fiscal impacts
11 attributable to each term and condition of the contract.

12 (2) The report shall be made available to the public at least 30
13 days before the issue can be heard before the governing body and
14 at least 60 days before any action to approve or disapprove the
15 contract by the governing body.

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

20 (c) The city, county, ~~or city and county~~ *county, or special district*
21 shall disclose all offers and counteroffers to the public within 24
22 hours on its Internet Web site.

23 (d) Before ~~entering into~~ *approving* any ~~private sector~~ contract,
24 the city, county, ~~or city and county~~ *county, or special district* shall
25 release a list of names of all persons in attendance, whether in
26 person or by electronic means, during any negotiation session
27 regarding the contract, the date of the session, the length of the
28 session, the location where the session took place, and any pertinent
29 facts regarding the negotiations that occurred in that session.

30 (e) Representatives of the governing body shall advise the
31 governing body of all offers, counteroffers, information, or
32 statements of position discussed by the ~~private contracting person~~
33 *or entity* and city, county, ~~or city and county~~ *county, or special*
34 *district* representatives participating in negotiations regarding any
35 ~~private sector~~ contract.

36 (f) ~~The governing body shall publish future proposals directed~~
37 ~~by the governing body and the analytical thought process utilized~~
38 ~~by the governing body.~~

39 (g)

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

7 ~~(h)~~

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

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

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

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.

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