

AMENDED IN ASSEMBLY JUNE 23, 2015

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: 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 *certain* contracts valued at \$50,000 or more for goods or services by cities, counties, cities and 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~~ *designation* of an independent auditor to review and report on the cost

of any proposed contract. The act would require a city, county, city and 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 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, 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 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, city and county, or special district that requires any
13 of the following as a part of any collective bargaining process
14 undertaken pursuant to the Meyers-Milias-Brown Act (Chapter

1 10 (commencing with Section 3500) of Division 4 of Title 1 of
2 the Government Code):

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

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

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

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

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

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

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

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

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

1 ~~special district.~~ *district, in the following areas: accounting,*
2 *financing, hardware and software maintenance, healthcare, human*
3 *resources, human services, information technology,*
4 *telecommunications, janitorial maintenance, legal services,*
5 *lobbying, marketing, office equipment maintenance, passenger*
6 *vehicle maintenance, property leasing, public relations, public*
7 *safety, social services, transportation, or waste removal.*

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

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

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

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

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

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

37 (e) Representatives of the governing body shall advise the
38 governing body of all offers, counteroffers, information, or
39 statements of position discussed by the contracting person or entity

1 and city, county, city and county, or special district representatives
2 participating in negotiations regarding any contract.

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

9 (g) A final governing body determination regarding approval
10 of any contract shall be undertaken only after the matter has been
11 heard at a minimum of two meetings of the governing body
12 wherein the public has had the opportunity to review and comment
13 on the matter.

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

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

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

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