

AMENDED IN ASSEMBLY JULY 13, 2015

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~~ \$250,000 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

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. *The act would exempt from its provisions contracts required to respond to, recover from, or mitigate the effects of a temporary public safety emergency declared by the chief law enforcement officer of a city, county, city and county, or special district, or a state of war emergency, state of emergency, or local emergency, as those terms are defined in the California Emergency Services Act.* 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:

1 CHAPTER 4.5. CIVIC OPENNESS IN NEGOTIATIONS

2
3 22175. This chapter shall be known, and may be cited, as the
4 Civic Reporting Openness in Negotiations Efficiency Act, or
5 CRONEY.

6 22176. As used in this chapter, “civic openness in negotiations
7 ordinance” or “COIN ordinance” means an ordinance adopted by
8 a city, county, city and county, or special district that requires any
9 of the following as a part of any collective bargaining process
10 undertaken pursuant to the Meyers-Milias-Brown Act (Chapter
11 10 (commencing with Section 3500) of Division 4 of Title 1 of
12 the Government Code):

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

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

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

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

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

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

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

38 22177. (a) This chapter applies only to a city, county, city and
39 county, or special district that has adopted a COIN ordinance,
40 which is effective and operative. This chapter shall not apply if

1 the city, county, city and county, or special district suspends,
2 repeals, or revokes its COIN ordinance.

3 *(b) This chapter shall not apply to a contract if the contract is*
4 *required to respond to, recover from, or mitigate the effects of any*
5 *of the following:*

6 *(1) A temporary public safety emergency declared by the chief*
7 *law enforcement officer of a city, county, city and county, or special*
8 *district.*

9 *(2) A state of war emergency, state of emergency, or local*
10 *emergency, as those terms are defined in Section 8558 of the*
11 *Government Code.*

12 22178. (a) This chapter shall apply to any contracts with a
13 value of at least ~~fifty thousand dollars (\$50,000);~~ *two hundred fifty*
14 *thousand dollars (\$250,000)*, and to any contracts with a person
15 or entity, or related person or entity, with a cumulative value of at
16 least ~~fifty thousand dollars (\$50,000)~~ *two hundred fifty thousand*
17 *dollars (\$250,000)* within the fiscal year of the city, county, city
18 and county, or special district, being negotiated between the city,
19 county, city and county, or special district, and any person or entity
20 that seeks to provide services or goods to the city, county, city and
21 county, or special district, in the following areas: accounting,
22 financing, hardware and software maintenance, ~~healthcare,~~ *health*
23 *care*, human resources, human services, information technology,
24 telecommunications, janitorial maintenance, legal services,
25 lobbying, marketing, office equipment maintenance, passenger
26 vehicle maintenance, property leasing, public relations, public
27 safety, social services, transportation, or waste removal.

28 (b) The city, county, city and county, or special district shall
29 designate an unbiased independent auditor to review the cost of
30 any proposed contract. The independent auditor shall prepare a
31 report on the cost of the contract and provide the report to all
32 parties and make it available to the public before the governing
33 body takes any action to approve or disapprove the contract. The
34 report shall comply with the following:

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

39 (2) The report shall be made available to the public at least 30
40 days before the issue can be heard before the governing body and

1 at least 60 days before any action to approve or disapprove the
2 contract by the governing body.

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

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

10 (d) Before approving any contract, the city, county, city and
11 county, or special district shall release a list of names of all persons
12 in attendance, whether in person or by electronic means, during
13 any negotiation session regarding the contract, the date of the
14 session, the length of the session, the location where the session
15 took place, and any pertinent facts regarding the negotiations that
16 occurred in that session.

17 (e) Representatives of the governing body shall advise the
18 governing body of all offers, counteroffers, information, or
19 statements of position discussed by the contracting person or entity
20 and city, county, city and county, or special district representatives
21 participating in negotiations regarding any contract.

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

28 (g) A final governing body determination regarding approval
29 of any contract shall be undertaken only after the matter has been
30 heard at a minimum of two meetings of the governing body
31 wherein the public has had the opportunity to review and comment
32 on the matter.

33 SEC. 2. The Legislature finds and declares that Section 1 of
34 this act, which adds Chapter 4.5 (commencing with Section 22175)
35 to Part 3 of Division 2 of the Public Contract Code, furthers, within
36 the meaning of paragraph (7) of subdivision (b) of Section 3 of
37 Article I of the California Constitution, the purposes of that
38 constitutional section as it relates to the right of public access to
39 the meetings of local public bodies or the writings of local public
40 officials and local agencies. Pursuant to paragraph (7) of

1 subdivision (b) of Section 3 of Article I of the California
2 Constitution, the Legislature makes the following findings:

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

9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district under this act would result from a legislative mandate that
13 is within the scope of paragraph (7) of subdivision (b) of Section
14 3 of Article I of the California Constitution.