

Introduced by Senator BatesFebruary 19, 2016

An act to amend Sections 54952.6 and 54953 of the Government Code, relating to open meetings.

LEGISLATIVE COUNSEL'S DIGEST

SB 1436, as introduced, Bates. Local agency meetings: local agency executive compensation: discussion of final action taken.

The Ralph M. Brown Act requires that all meetings of a legislative body of a local agency be open and public, except that closed sessions may be held under prescribed circumstances. Existing law authorizes the legislative body to hold a closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee, but generally prohibits the closed session from including discussion or action on proposed compensation. Existing law authorizes the legislative body to hold a closed session with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, but prohibits the closed session from including final action on the proposed compensation of one or more unrepresented employees. Existing law prohibits the legislative body from calling a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined.

This bill would require the final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive to be made a separate discussion item and not placed on a consent calendar. The bill would define, for these purposes, "discussion item" as an item that is given time in a meeting for

discussion separate from any other item and “consent calendar” as a list of 2 or more items that the legislative body has agreed to vote on as a group at once without a separate debate for each item.

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. Section 54952.6 of the Government Code is
- 2 amended to read:
- 3 54952.6. (a) As used in this chapter, “action taken” means a
- 4 collective decision made by a majority of the members of a
- 5 legislative body, a collective commitment or promise by a majority
- 6 of the members of a legislative body to make a positive or a
- 7 negative decision, or an actual vote by a majority of the members
- 8 of a legislative body when sitting as a body or entity, upon a
- 9 motion, proposal, resolution, order or ordinance.
- 10 (b) As used in this chapter, “discussion item” means an item
- 11 that is given time in a meeting for discussion separate from any
- 12 other item.
- 13 (c) As used in this chapter, “consent calendar” means a list of
- 14 two or more items that the legislative body has agreed to vote on
- 15 as a group at once without a separate debate for each item.
- 16 SEC. 2. Section 54953 of the Government Code is amended
- 17 to read:

1 54953. (a) All meetings of the legislative body of a local
2 agency shall be open and public, and all persons shall be permitted
3 to attend any meeting of the legislative body of a local agency,
4 except as otherwise provided in this chapter.

5 (b) (1) Notwithstanding any other provision of law, the
6 legislative body of a local agency may use teleconferencing for
7 the benefit of the public and the legislative body of a local agency
8 in connection with any meeting or proceeding authorized by law.
9 The teleconferenced meeting or proceeding shall comply with all
10 requirements of this chapter and all otherwise applicable provisions
11 of law relating to a specific type of meeting or proceeding.

12 (2) Teleconferencing, as authorized by this section, may be used
13 for all purposes in connection with any meeting within the subject
14 matter jurisdiction of the legislative body. All votes taken during
15 a teleconferenced meeting shall be by rollcall.

16 (3) If the legislative body of a local agency elects to use
17 teleconferencing, it shall post agendas at all teleconference
18 locations and conduct teleconference meetings in a manner that
19 protects the statutory and constitutional rights of the parties or the
20 public appearing before the legislative body of a local agency.
21 Each teleconference location shall be identified in the notice and
22 agenda of the meeting or proceeding, and each teleconference
23 location shall be accessible to the public. During the teleconference,
24 at least a quorum of the members of the legislative body shall
25 participate from locations within the boundaries of the territory
26 over which the local agency exercises jurisdiction, except as
27 provided in subdivision (d). The agenda shall provide an
28 opportunity for members of the public to address the legislative
29 body directly pursuant to Section 54954.3 at each teleconference
30 location.

31 (4) For the purposes of this section, “teleconference” means a
32 meeting of a legislative body, the members of which are in different
33 locations, connected by electronic means, through either audio or
34 video, or both. Nothing in this section shall prohibit a local agency
35 from providing the public with additional teleconference locations.

36 (c) (1) No legislative body shall take action by secret ballot,
37 whether preliminary or final.

38 (2) The legislative body of a local agency shall publicly report
39 any action taken and the vote or abstention on that action of each
40 member present for the action.

1 (3) *The final action on the salaries, salary schedules, or*
2 *compensation paid in the form of fringe benefits of a local agency*
3 *executive, as defined in subdivision (d) of Section 3511.1, shall be*
4 *made as a separate discussion item and shall not be placed on a*
5 *consent calendar.*

6 (d) (1) Notwithstanding the provisions relating to a quorum in
7 paragraph (3) of subdivision (b), when a health authority conducts
8 a teleconference meeting, members who are outside the jurisdiction
9 of the authority may be counted toward the establishment of a
10 quorum when participating in the teleconference if at least 50
11 percent of the number of members that would establish a quorum
12 are present within the boundaries of the territory over which the
13 authority exercises jurisdiction, and the health authority provides
14 a teleconference number, and associated access codes, if any, that
15 allows any person to call in to participate in the meeting and that
16 number and access codes are identified in the notice and agenda
17 of the meeting.

18 (2) Nothing in this subdivision shall be construed as
19 discouraging health authority members from regularly meeting at
20 a common physical site within the jurisdiction of the authority or
21 from using teleconference locations within or near the jurisdiction
22 of the authority. A teleconference meeting for which a quorum is
23 established pursuant to this subdivision shall be subject to all other
24 requirements of this section.

25 (3) For purposes of this subdivision, a health authority means
26 any entity created pursuant to Sections 14018.7, 14087.31,
27 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
28 and Institutions Code, any joint powers authority created pursuant
29 to Article 1 (commencing with Section 6500) of Chapter 5 of
30 Division 7 for the purpose of contracting pursuant to Section
31 14087.3 of the Welfare and Institutions Code, and any advisory
32 committee to a county sponsored health plan licensed pursuant to
33 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
34 Health and Safety Code if the advisory committee has 12 or more
35 members.

36 (4) This subdivision shall remain in effect only until January 1,
37 2018.

38 SEC. 3. The Legislature finds and declares that Sections 1 and
39 2 of this act, which amend Sections 54952.7 and 54953 of the
40 Government Code, respectively, furthers, within the meaning of

1 paragraph (7) of subdivision (b) of Section 3 of Article I of the
2 California Constitution, the purposes of that constitutional section
3 as it relates to the right of public access to the meetings of local
4 public bodies or the writings of local public officials and local
5 agencies. Pursuant to paragraph (7) of subdivision (b) of Section
6 3 of Article I of the California Constitution, the Legislature makes
7 the following findings:

8 This act ensures that more Californians can meaningfully
9 participate in the meetings of legislative bodies of local agencies.

10 SEC. 4. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district under this act would result from a legislative mandate that
14 is within the scope of paragraph (7) of subdivision (b) of Section
15 3 of Article I of the California Constitution.