

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1436

Introduced by Senator Bates

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1436, as amended, Bates. Local agency meetings: local agency executive compensation: ~~discussion~~ *oral report* of final action ~~taken~~. *recommendation*.

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~~, *benefits* of a local agency executive, as defined.

This bill would require the *legislative body to orally report a summary of a recommendation for a 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. *during the open meeting in which the final action is to be taken.*

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.~~

1 ~~(e) As used in this chapter, “consent calendar” means a list of~~
2 ~~two or more items that the legislative body has agreed to vote on~~
3 ~~as a group at once without a separate debate for each item.~~

4 ~~SEC. 2.~~

5 *SECTION 1.* Section 54953 of the Government Code is
6 amended to read:

7 54953. (a) All meetings of the legislative body of a local
8 agency shall be open and public, and all persons shall be permitted
9 to attend any meeting of the legislative body of a local agency,
10 except as otherwise provided in this chapter.

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

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

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

37 (4) For the purposes of this section, “teleconference” means a
38 meeting of a legislative body, the members of which are in different
39 locations, connected by electronic means, through either audio or

1 video, or both. Nothing in this section shall prohibit a local agency
2 from providing the public with additional teleconference locations.

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

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

8 (3) The *legislative body shall orally report a summary of a*
9 *recommendation for a final action on the salaries, salary schedules,*
10 *or compensation paid in the form of fringe benefits of a local*
11 *agency executive, as defined in subdivision (d) of Section 3511.1,*
12 ~~shall be made as a separate discussion item and shall not be placed~~
13 ~~on a consent calendar.~~ *during the open meeting in which the final*
14 *action is to be taken.*

15 (d) (1) Notwithstanding the provisions relating to a quorum in
16 paragraph (3) of subdivision (b), when a health authority conducts
17 a teleconference meeting, members who are outside the jurisdiction
18 of the authority may be counted toward the establishment of a
19 quorum when participating in the teleconference if at least 50
20 percent of the number of members that would establish a quorum
21 are present within the boundaries of the territory over which the
22 authority exercises jurisdiction, and the health authority provides
23 a teleconference number, and associated access codes, if any, that
24 allows any person to call in to participate in the meeting and that
25 number and access codes are identified in the notice and agenda
26 of the meeting.

27 (2) Nothing in this subdivision shall be construed as
28 discouraging health authority members from regularly meeting at
29 a common physical site within the jurisdiction of the authority or
30 from using teleconference locations within or near the jurisdiction
31 of the authority. A teleconference meeting for which a quorum is
32 established pursuant to this subdivision shall be subject to all other
33 requirements of this section.

34 (3) For purposes of this subdivision, a health authority means
35 any entity created pursuant to Sections 14018.7, 14087.31,
36 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
37 and Institutions Code, any joint powers authority created pursuant
38 to Article 1 (commencing with Section 6500) of Chapter 5 of
39 Division 7 for the purpose of contracting pursuant to Section
40 14087.3 of the Welfare and Institutions Code, and any advisory

1 committee to a county sponsored health plan licensed pursuant to
2 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
3 Health and Safety Code if the advisory committee has 12 or more
4 members.

5 (4) This subdivision shall remain in effect only until January 1,
6 2018.

7 ~~SEC. 3.~~

8 *SEC. 2.* The Legislature finds and declares that ~~Sections 1 and~~
9 ~~2 Section 1~~ of this act, which ~~amend Sections 54952.7 and~~ *amends*
10 *Section 54953* of the Government Code, ~~respectively,~~ furthers,
11 within the meaning of paragraph (7) of subdivision (b) of Section
12 3 of Article I of the California Constitution, the purposes of that
13 constitutional section as it relates to the right of public access to
14 the meetings of local public bodies or the writings of local public
15 officials and local agencies. Pursuant to paragraph (7) of
16 subdivision (b) of Section 3 of Article I of the California
17 Constitution, the Legislature makes the following findings:

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

20 ~~SEC. 4.~~

21 *SEC. 3.* No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district under this act would result from a legislative mandate that
25 is within the scope of paragraph (7) of subdivision (b) of Section
26 3 of Article I of the California Constitution.