AMENDED IN ASSEMBLY AUGUST 12, 2010

AMENDED IN SENATE APRIL 20, 2009

SENATE BILL No. 501

Introduced by Senator Correa
(Principal coauthor: Assembly Member De La Torre)
(Coauthors: Assembly Members Caballero, Gatto, Norby, Portantino, Smyth, and Torres)

February 26, 2009

~~An act to amend Section 8869.85 of the Government Code, relating to government bonds.~~ *An act to add Section 53060.2 to the Government Code, relating to local government.*

LEGISLATIVE COUNSEL'S DIGEST

SB 501, as amended, Correa. ~~California Debt Limit Allocation Committee.~~ *Local government: compensation disclosure.*

Existing law provides for the compensation of local government officers and employees, as specified.

This bill would require officers and designated employees, as defined, to annually file a compensation disclosure form, as specified. This bill would require the Secretary of State to develop the form, which would provide for the disclosure of, among other things, salaries and stipends and reimbursements received by the officer or designated employee, and the employer's cost of providing benefits. This bill would also require a county, city, city and county, school district, special district, or joint powers agency that maintains an Internet Web site to post the information contained on the filed form on that Internet Web site, as specified. The bill would authorize a district attorney or any interested person to commence an action by mandamus to enforce the provisions of the bill, as specified.

The bill would express a legislative finding and declaration that, to ensure the statewide integrity of local government, disclosure of compensation paid to officers and designated employees is an issue of statewide concern and not a municipal affair and that, therefore, all cities, including charter cities, would be subject to the provisions of the bill.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law requires the California Debt Limit Allocation Committee to allocate to authorized state and local agency applicants the volume ceiling for private activity bonds, as defined, that can be issued in California in accordance with federal law.~~

~~This bill would authorize the committee to allow a local agency located within a county that has not applied to the committee for all or a portion of its unapplied for, or otherwise unassigned, allocation during any calendar year, to apply for all or a portion of the allocation for which that county would have been eligible had it applied. The bill would require the committee to award the allocation on a per capita proportionate basis, if there is more than one applicant.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ *yes*.

The people of the State of California do enact as follows:

SECTION 1. Section 53060.2 is added to the Government Code, to read:

53060.2. (a) For purposes of this section, the following terms have the following meanings:

(1) "City" means a general law city or a charter city.

(2) "Designated employee" means a designated employee of a county, city, city and county, school district, special district, or joint powers agency formed pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) who is required to file a statement of economic

interests pursuant to Chapter 7 (commencing with Section 87100) of Title 9.

(3) "Officer" means an elected or appointed officer of a county, city, city and county, school district, special district, or joint powers agency formed pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) who is required to file a statement of economic interests pursuant to Chapter 7 (commencing with Section 87100) of Title 9.

(b) Each officer or designated employee shall annually file a compensation disclosure form that provides compensation information for the preceding year, pursuant to this section. The annual filing deadline for a compensation disclosure form shall be the same as the filing deadline established for annual statements of economic interest, pursuant to Sections 87203 and 87302.

(c) (1) An officer or designated employee shall file his or her compensation disclosure form with the same office that receives that officer's or designated employee's statement of economic interest pursuant to Section 87500. The office receiving the compensation disclosure form shall make and retain a copy and return the original to the officer or designated employee.

(2) If the county, city, city and county, school district, special district, or joint powers agency maintains an Internet Web site, it shall post the information contained on the filed compensation disclosure form on that Internet Web site.

(d) The compensation disclosure form, which shall be developed by the Secretary of State, shall, at a minimum, provide for the disclosure of each of the following by an officer and a designated employee:

(1) Salaries and stipends paid.

(2) Reimbursements received for expenses.

(3) The employer's cost of providing benefits.

(4) Any other monetary or nonmonetary perquisites provided.

(e) The items disclosed pursuant to subdivision (d) shall also include any items received by an officer or designated employee as a result of membership with, or employment by, any local agency, municipal corporation, public benefit corporation, or community redevelopment agency, if the membership of the officer's or designated employee's governing body is sufficient in number to constitute a quorum or a majority of the governing body

membership of the local agency, municipal corporation, public benefit corporation, or community redevelopment agency.

(f) The compensation disclosure form filed pursuant to this section is a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be provided to a person, upon request, pursuant to Section 6253.

(g) (1) The district attorney or any interested person may commence an action by mandamus or injunction to compel an officer, designated employee, county, city, city and county, school district, special district, or joint powers agency to comply with the requirements of this section. Nothing in this section shall be construed to prevent an officer, designated employee, county, city, city and county, school district, special district, or joint powers agency from curing or correcting an action challenged pursuant to this section.

(2) Prior to any action being commenced pursuant to this subdivision, the district attorney or interested person shall make a demand of the officer, designated employee, county, city, city and county, school district, special district, or joint powers agency to cure or correct the action alleged to have been taken in violation of this section. The demand shall be in writing and clearly describe the nature of the alleged violation.

(3) Within 30 days of receipt of the demand, the officer, designated employee, county, city, city and county, school district, special district, or joint powers agency shall cure or correct the alleged violation or inform the demanding party in writing of its decision not to cure or correct the alleged violation.

(4) Within 15 days of receipt of the written notice of the decision to cure or correct an alleged violation, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to this subdivision or thereafter be barred from commencing the action.

(5) If the officer, designated employee, county, city, city and county, school district, special district, or joint powers agency takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the alleged violation, and the 15-day period to commence the action described in paragraph

(1) shall commence to run the day after the 30-day period to cure or correct expires.

(6) During any action seeking a judicial determination pursuant to this subdivision if the court determines, pursuant to a showing that an alleged violation has been cured or corrected by a subsequent action, the action filed pursuant to this subdivision shall be dismissed with prejudice.

SEC. 2. In enacting this act, the Legislature finds and declares that the disclosure of compensation paid to officers and designated employees furthers the intent and purposes of Section 3 of Article I of the California Constitution which declares that the people have the right of access to information concerning the conduct of the people's business.

SEC. 3. The Legislature finds and declares that the fiscal integrity and stability of local governmental agencies in this state, including charter cities, has a direct impact on the long-term well-being of all the residents of this state. The likelihood of businesses locating to or staying in the state is affected by the perception of a functioning, transparent, and practical governmental structure in the local governmental bodies in California. Therefore, the Legislature finds and declares that to ensure the statewide integrity of local government, the disclosure of compensation paid to officers and designated employees is an issue of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to all cities, including charter cities.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. Section 8869.85 of the Government Code is amended to read:~~

~~8869.85. (a) Each state agency shall apply to the committee for allocation of a portion of the state ceiling, supplying any information which the committee may require. The application may be for a specific project, or it may be for a designated dollar amount, to be utilized for projects or programs at the discretion of the state agency. No private activity bonds issued by any state agency shall be deemed to receive the benefit of any portion of~~

~~the state ceiling unless the committee has allocated or permitted the transfer of a portion of the state ceiling to the state agency. The allocation may be on any terms and conditions as the committee may determine.~~

~~(b) (1) Any local agency may apply to the committee for an allocation of a portion of the state ceiling, supplying any information which the committee may require. Applications from local agencies may only be for specific projects or programs. No private activity bond issued by a local agency shall be deemed to receive the benefit of any portion of the state ceiling unless the committee has allocated or permitted the transfer of a portion of the state ceiling to the local agency. The allocation may be upon any terms and conditions as the committee may determine.~~

~~(2) (A) The committee may allow a local agency located within a county that has not applied to the committee for all, or a portion, of its unapplied for or otherwise unassigned allocation during any calendar year, to apply, on or after October 1 of that calendar year, for all or a portion of the allocation for which that county would have been eligible had it applied.~~

~~(B) If there is more than one local agency applicant for an allocation pursuant to subparagraph (A), the committee shall award the allocation on a per capita proportionate basis among the applicants.~~

~~(C) The committee shall consider and act upon an application for previously unapplied for or otherwise unassigned allocations pursuant to this paragraph at the committee's next scheduled meeting before the end of the calendar year in which the application is made.~~

~~(D) A local agency is not required to obtain consent from the county, or obtain a written transfer of an allocation from the county, as a condition of applying for an allocation pursuant to this paragraph.~~

~~(c) Any allocation made pursuant to this section shall be irrevocable upon issuance of bonds pursuant thereto at least to the extent of the amount of the bonds so issued. No allocation shall permit the state agency or local agency which receives it to use all or any portion of the allocation for a carryforward pursuant to Section 146(f) of the Internal Revenue Code, unless the committee expressly allows use of the allocation for a carryforward.~~

~~(d) No allocation made to a state agency or a local agency pursuant to this section may be transferred by the initial recipient thereof to any other state agency or local agency unless the committee expressly permits the transfer. With the committee's permission, any state or local agency may, by resolution, transfer to any other local agency or to any state agency or back to the committee all or any portion of the agency's private activity bond limit. Any such transfer shall be made in writing and may be general or limited and subject to any terms and conditions as may be set forth in the resolution or under the committee's permission, as long as the transfer is irrevocable upon issuance of bonds pursuant to the transfer, at least to the extent of the amount of the bonds so issued. Each transferee shall maintain a written record of the transfer in its records for at least the term of all private activity bonds issued pursuant to the transfer. No transfer may be made pursuant to this section in return for any payment of cash, property, or other marketable thing of value.~~

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