

AMENDED IN ASSEMBLY AUGUST 31, 2010

AMENDED IN ASSEMBLY AUGUST 18, 2010

AMENDED IN SENATE APRIL 30, 2009

AMENDED IN SENATE MARCH 31, 2009

**SENATE BILL**

**No. 632**

---

---

**Introduced by Senator ~~Lowenthal~~ Correa**

*(Principal coauthors: Assembly Members De La Torre, Feuer, and Ma)  
(Coauthors: Assembly Members Block, Eng, Gatto, Norby, Portantino,  
and Solorio)*

February 27, 2009

---

---

~~An act to add Sections 40541 and 41083 to the Health and Safety Code, relating to air pollution. An act to amend Section 54957.6 of, and to add Sections 34096 and 54957.05 to, the Government Code, and to add Section 33138 to the Health and Safety Code, relating to public officers.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 632, as amended, ~~Lowenthal Correa. South Coast Air Quality Management District: Sacramento Metropolitan Air Quality Management District: motor vehicle fee. Government compensation: disclosure.~~

*(1) Existing law charges the Controller with various duties, including, among others, superintending the fiscal concerns of the state.*

*Existing law authorizes a city council to enact an ordinance providing each member of the city council a salary based on the population of the city, and to provide for other forms of compensation, as specified.*

*This bill would require the Controller to determine, based on a review of public records or reported salary information, whether a city is an*

*excess compensation city, as defined. The bill would authorize a city to request a hearing, as specified, to contest the Controller's determination. The bill would require the Controller, if the city does not request a hearing or if the Attorney General concurs with the Controller's determination after a hearing, to notify the city and the redevelopment agency in the city of the city's status as an excess compensation city, as prescribed.*

*(2) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in blighted areas in those communities known as project areas, and authorizes the agency to issue bonds.*

*This bill would prohibit the agency, once the agency has received written notice from the Controller that the city is an excess compensation city, from adopting a redevelopment plan for a new project area or amending an existing redevelopment plan for existing project areas; from issuing new bonds, notes, interim certificates, debentures, or other obligations, as specified; and from encumbering any funds or expending any moneys derived from any source except as specified.*

*(3) Existing law, the Ralph M. Brown Act, requires that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend unless a closed session is authorized. The act authorizes a legislative body to hold a closed session with the local agency's designated representatives regarding various issues, including compensation, regarding its represented and unrepresented employees, but the legislative body is prohibited from taking final action on the proposed compensation of one or more unrepresented employees.*

*Existing law also requires that all contracts of employment with a local agency, as defined, for certain positions be ratified in an open session of the governing body and be reflected in the governing body's minutes.*

*This bill would require that any individual contract of employment or amendment to a contract of employment with an employee who is or will be employed by, and report directly to, the legislative body of the local agency be ratified in an open session of the legislative body after prescribed information regarding the contract or amendment to the contract is made available in a conspicuous location on the local agency's Internet Web site, if it maintains one, and in a location that is freely accessible to the public, no later than 5 days prior to the meeting to ratify the contract or amend the contract. By expanding the*

*duties of local officials, these provisions would impose a state-mandated local program.*

*This bill would also specify that final action on the proposed compensation of one or more unrepresented employees who are to be employed by, and report directly to, the legislative body of the local agency only be taken in open session, consistent with the prescribed disclosure requirements. By expanding the duties of local officials, these provisions would impose a state-mandated local program.*

*(4) 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.*

*(5) 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 creates the South Coast Air Quality Management District with jurisdiction over air quality within the South Coast Air Basin, including in the Counties of Los Angeles, Orange, Riverside, and San Bernardino. Existing law creates the Sacramento Metropolitan Air Quality Management District within the County of Sacramento. Existing law authorizes air pollution control and air quality management districts, including the south coast and Sacramento districts, to impose various fees to reduce air pollution from motor vehicles.~~

~~This bill would authorize the south coast district and Sacramento district, until January 1, 2020, to levy an additional fee of up to \$3 upon motor vehicles registered within the districts, and would authorize the districts to use the revenues created by the fee for projects to reduce emissions of nitrogen oxides and volatile organic compounds, as provided. The fee would be collected by the Department of Motor Vehicles upon renewal of vehicle registration.~~

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

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

1     *SECTION 1. Section 34096 is added to the Government Code,*  
2 *to read:*

3     34096. (a) *If, based on a review of public records or salary*  
4 *information reported to the Controller, the Controller reasonably*  
5 *determines that a city meets the definition of an “excess*  
6 *compensation city,” as defined in subdivision (e), the Controller*  
7 *shall notify the city and the Attorney General of that determination*  
8 *in writing.*

9     (b) (1) *Within 10 days of receiving the written notice from the*  
10 *Controller, the city may request a hearing before the Controller*  
11 *to determine if the city is in compliance with Section 36516. Upon*  
12 *receipt of the written notice, the Controller shall conduct a hearing*  
13 *with at least 10 days’ notice for the purpose of determining if the*  
14 *city is an excess compensation city. At the hearing, the city may*  
15 *demonstrate that the city is not an excess compensation city by*  
16 *showing any of the following:*

17     (A) *Evidence of the approval by the city council of an ordinance*  
18 *or an amendment to an ordinance that increases the council*  
19 *members’ salaries, pursuant to subdivision (a) of Section 36516.*

20     (B) *Evidence of the approval by the city’s electors of a question*  
21 *that increases the council members’ salaries, pursuant to*  
22 *subdivision (b) of Section 36516.*

23     (C) *Any other evidence of compliance with Section 36516.*

24     (2) *If the Controller determines that a city is an excess*  
25 *compensation city after a hearing pursuant to this subdivision, the*  
26 *Controller shall notify the Attorney General of that determination*  
27 *and provide the Attorney General with any evidence submitted at*  
28 *the hearing. The Attorney General shall be responsible for*  
29 *reviewing the record of the hearing and shall concur or not concur*  
30 *with the Controller’s determination in writing within 60 days of*  
31 *receiving the Controller’s determination. If the Attorney General*  
32 *concurs with the Controller’s determination that a city is an excess*  
33 *compensation city, the Controller shall proceed with the*  
34 *notifications, as provided pursuant to subdivision (c).*

35     (c) *If the city does not request a hearing or if the Controller*  
36 *determines, at the hearing, with the concurrence of the Attorney*  
37 *General that the city is an “excess compensation city,” the*  
38 *Controller shall notify, in writing, the city and the community*

1 *redevelopment agency in that city of the city's status as an excess*  
2 *compensation city.*

3 *(d) An excess compensation city may bring itself into compliance*  
4 *with Section 36516. Once the city is in compliance with Section*  
5 *36516, the city may submit a written request to the Controller to*  
6 *be relieved of the status as an excess compensation city. If the*  
7 *Controller determines that the city is in compliance with Section*  
8 *36516, the Controller shall immediately notify, in writing, the city*  
9 *and the community redevelopment agency in that city of the change*  
10 *in status.*

11 *(e) (1) For purposes of this section, "excess compensation city"*  
12 *means any city, including a charter city, that compensates any*  
13 *member of that city council in excess of the amounts specified in*  
14 *Section 36516. An "excess compensation city" does not include*  
15 *a charter city that has a population of over 285,000 persons.*

16 *(2) Notwithstanding paragraph (1), if the office of mayor is*  
17 *independently elected, the city may demonstrate that additional*  
18 *compensation paid to the mayor other than compensation for the*  
19 *mayor's position as a council member, has been provided by*  
20 *ordinance or in the city's charter.*

21 *SEC. 2. Section 54957.05 is added to the Government Code,*  
22 *to read:*

23 *54957.05. Notwithstanding any other law, any individual*  
24 *contract of employment or amendment to a contract of employment*  
25 *with an employee who is or will be employed by, and report directly*  
26 *to, the legislative body of the local agency shall be ratified in an*  
27 *open session of the legislative body. Prior to ratifying the contract*  
28 *or amending the contract, the legislative body shall disclose*  
29 *information regarding the contract or amendment to the contract,*  
30 *including, but not limited to, the employee's name, the position*  
31 *title, and the total amount of salary, benefits, retirement, and any*  
32 *other forms of compensation, in a conspicuous location on the*  
33 *local agency's Internet Web site, if it maintains one, and in a*  
34 *location that is freely accessible to members of the public, no later*  
35 *than five days prior to the meeting to ratify the contract or amend*  
36 *the contract.*

37 *SEC. 3. Section 54957.6 of the Government Code is amended*  
38 *to read:*

39 *54957.6. (a) Notwithstanding any other provision of law, a*  
40 *legislative body of a local agency may hold closed sessions with*

1 the local agency’s designated representatives regarding the salaries,  
2 salary schedules, or compensation paid in the form of fringe  
3 benefits of its represented and unrepresented employees, and, for  
4 represented employees, any other matter within the statutorily  
5 provided scope of representation.

6 However, prior to the closed session, the legislative body of the  
7 local agency shall hold an open and public session in which it  
8 identifies its designated representatives.

9 Closed sessions of a legislative body of a local agency, as  
10 permitted in this section, shall be for the purpose of reviewing its  
11 position and instructing the local agency’s designated  
12 representatives.

13 Closed sessions, as permitted in this section, may take place  
14 prior to and during consultations and discussions with  
15 representatives of employee organizations and unrepresented  
16 employees.

17 Closed sessions with the local agency’s designated representative  
18 regarding the salaries, salary schedules, or compensation paid in  
19 the form of fringe benefits may include discussion of an agency’s  
20 available funds and funding priorities, but only insofar as these  
21 discussions relate to providing instructions to the local agency’s  
22 designated representative.

23 Closed sessions held pursuant to this section shall not include  
24 final action on the proposed compensation of one or more  
25 unrepresented employees. *Final action on the proposed*  
26 *compensation of one or more unrepresented employees who are*  
27 *or will be employed by, and report directly to, the legislative body*  
28 *of the local agency shall occur in open session, and consistent*  
29 *with the disclosure requirements of Section 54957.05.*

30 For the purposes enumerated in this section, a legislative body  
31 of a local agency may also meet with a state conciliator who has  
32 intervened in the proceedings.

33 (b) For the purposes of this section, the term “employee” shall  
34 include an officer or an independent contractor who functions as  
35 an officer or an employee, but shall not include any elected official,  
36 member of a legislative body, or other independent contractors.

37 *SEC. 4. Section 33138 is added to the Health and Safety Code,*  
38 *to read:*

39 *33138. (a) Upon written notification by the Controller that*  
40 *the city in which the agency is established is an excess*

1 *compensation city, pursuant to Section 34096 of the Government*  
2 *Code, all of the following shall apply:*

3 *(1) The agency shall not adopt redevelopment plans for a new*  
4 *project area or amend an existing redevelopment plan for existing*  
5 *project areas.*

6 *(2) The agency shall not issue new bonds, notes, interim*  
7 *certificates, debentures, or other obligations, whether funded,*  
8 *refunded, assumed, or otherwise, pursuant to Article 5*  
9 *(commencing with Section 33360) of Chapter 4.*

10 *(3) The agency shall not encumber any funds or expend any*  
11 *moneys derived from any source, except that the agency may*  
12 *encumber funds and expend funds to pay, if any, all of the*  
13 *following:*

14 *(A) Bonds, notes, interim certificates, debentures, or other*  
15 *obligations issued by an agency before the imposition of the*  
16 *prohibition in paragraph (2), whether funded, refunded, assumed,*  
17 *or otherwise, pursuant to Article 5 (commencing with Section*  
18 *33360) of Chapter 4.*

19 *(B) Loans or moneys previously advanced to the agency,*  
20 *including, but not limited to, loans from federal, state, or local*  
21 *agencies, or a private entity.*

22 *(C) Contractual obligations that, if breached, could subject the*  
23 *agency to damages or other liabilities or remedies.*

24 *(D) Obligations incurred pursuant to Section 33445.*

25 *(E) Indebtedness incurred pursuant to Section 33334.2 or*  
26 *33334.6.*

27 *(F) Obligations incurred pursuant to Section 33401.*

28 *(G) Payments required under subdivision (a) of Section 33690*  
29 *or subdivision (a) of Section 33690.5.*

30 *(b) The prohibitions identified in subdivision (a) shall be lifted*  
31 *after the Controller determines that the city is no longer an excess*  
32 *compensation city pursuant to subdivision (d) of Section 34096 of*  
33 *the Government Code.*

34 *SEC. 5. The Legislature finds and declares that the fiscal*  
35 *integrity and stability of local governmental agencies in this state,*  
36 *including charter cities, has a direct impact on the long-term*  
37 *well-being of all the residents of this state. The likelihood of*  
38 *businesses locating to or staying in the state is affected by the*  
39 *perception of a functioning, transparent, and practical*  
40 *governmental structure in the local governmental bodies in*

1 California. Therefore, the Legislature finds and declares that to  
2 ensure the statewide integrity of local government, the disclosure  
3 of compensation paid to officers and designated employees is an  
4 issue of statewide concern and not a municipal affair, as that term  
5 is used in Section 5 of Article XI of the California Constitution.  
6 Therefore, this act shall apply to all cities, including charter cities.

7 SEC. 6. If the Commission on State Mandates determines that  
8 this act contains costs mandated by the state, reimbursement to  
9 local agencies and school districts for those costs shall be made  
10 pursuant to Part 7 (commencing with Section 17500) of Division  
11 4 of Title 2 of the Government Code.

12 SECTION 1. ~~Section 40541 is added to the Health and Safety~~  
13 ~~Code, to read:~~

14 ~~40541. (a) In addition to any other fees authorized by law, the~~  
15 ~~south coast district, until January 1, 2020, may levy a fee of up to~~  
16 ~~three dollars (\$3) upon a motor vehicle registered within the~~  
17 ~~district. The fee shall be paid to, and collected by, the Department~~  
18 ~~of Motor Vehicles, upon renewal of registration of a motor vehicle~~  
19 ~~registered within the south coast district. This subdivision shall~~  
20 ~~not apply to a vehicle that is expressly exempted under the Vehicle~~  
21 ~~Code from the payment of registration fees or a vehicle that meets~~  
22 ~~the standards adopted by the state board for a zero-emission~~  
23 ~~vehicle.~~

24 ~~(b) After deducting all costs incurred pursuant to this section~~  
25 ~~by the Department of Motor Vehicles, the Department of Motor~~  
26 ~~Vehicles shall distribute the remaining revenues collected pursuant~~  
27 ~~to this section to the south coast district.~~

28 ~~(c) The south coast district shall use the revenues created~~  
29 ~~pursuant to this section for projects to reduce emissions of nitrogen~~  
30 ~~oxides or volatile organic compounds, or both, from motor vehicles.~~  
31 ~~The south coast district shall not use more than 5 percent of the~~  
32 ~~revenues received by the south coast district pursuant to this section~~  
33 ~~to pay for the south coast district's administrative costs in~~  
34 ~~implementing this section.~~

35 ~~(d) (1) The south coast district shall not use revenues created~~  
36 ~~pursuant to this section to fund an emission reduction required by~~  
37 ~~a local, state, or federal statute, rule, regulation, memorandum of~~  
38 ~~agreement or understanding, or other legally binding document,~~  
39 ~~unless the date on which funding is awarded for a project is on or~~  
40 ~~before the compliance date for that emission reduction requirement.~~

1 ~~(2) The south coast district may use revenues created pursuant~~  
2 ~~to this section to fund a project even if the state implementation~~  
3 ~~plan assumes that the emission reductions that would be created~~  
4 ~~by that project will occur, if the south coast district complies with~~  
5 ~~paragraph (1).~~

6 ~~SEC. 2.— Section 41083 is added to the Health and Safety Code,~~  
7 ~~to read:~~

8 ~~41083. (a) In addition to any other fees authorized by law, the~~  
9 ~~Sacramento district, until January 1, 2020, may levy a fee of up~~  
10 ~~to three dollars (\$3) upon a motor vehicle registered within the~~  
11 ~~district. The fee shall be paid to, and collected by, the Department~~  
12 ~~of Motor Vehicles, upon renewal of registration of a motor vehicle~~  
13 ~~registered within the Sacramento district. This subdivision shall~~  
14 ~~not apply to a vehicle that is expressly exempted under the Vehicle~~  
15 ~~Code from the payment of registration fees or a vehicle that meets~~  
16 ~~the standards adopted by the state board for a zero-emission~~  
17 ~~vehicle.~~

18 ~~(b) After deducting all costs incurred pursuant to this section~~  
19 ~~by the Department of Motor Vehicles, the Department of Motor~~  
20 ~~Vehicles shall distribute the remaining revenues collected pursuant~~  
21 ~~to this section to the Sacramento district.~~

22 ~~(c) The Sacramento district shall use the revenues created~~  
23 ~~pursuant to this section for projects to reduce emissions of nitrogen~~  
24 ~~oxides or volatile organic compounds, or both, from motor vehicles.~~  
25 ~~The Sacramento district shall not use more than 5 percent of the~~  
26 ~~revenues received by the Sacramento district pursuant to this~~  
27 ~~section to pay for the Sacramento district's administrative costs~~  
28 ~~in implementing this section.~~

29 ~~(d) (1) The Sacramento district shall not use revenues created~~  
30 ~~pursuant to this section to fund an emission reduction required by~~  
31 ~~a local, state, or federal statute, rule, regulation, memorandum of~~  
32 ~~agreement or understanding, or other legally binding document,~~  
33 ~~unless the date on which funding is awarded for a project is on or~~  
34 ~~before the compliance date for that emission reduction requirement.~~

35 ~~(2) The Sacramento district may use revenues created pursuant~~  
36 ~~to this section to fund a project even if the state implementation~~  
37 ~~plan assumes that the emission reductions that would be created~~

1 by that project will occur, if the Sacramento district complies with  
2 paragraph (1):

O