

Date of Hearing: June 15, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

SB 1436 (Bates) – As Amended April 6, 2016

**SENATE VOTE:** 37-0

**SUBJECT:** Local agency meetings: local agency executive compensation: oral report of final action recommendation

**SUMMARY:** Requires local agency legislative bodies to orally report in an open meeting specified information regarding salaries and compensation of local agency executives, before taking final action on these matters. Specifically, **this bill:**

- 1) Requires a legislative body, prior to taking final action, 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, as defined in existing law, during the open meeting in which the final action is to be taken.
- 2) Provides that the above provision shall not affect the public's right under the California Public Records Act (Public Records Act) to inspect or copy records created or received in the process of developing the recommendation.
- 3) Finds and declares that Section 1 of this bill furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies, and declares, pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, that the Legislature makes the following findings:

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

- 4) Provides that no reimbursement is required by this bill because the only costs that may be incurred by a local agency or school district under this bill would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

**EXISTING LAW:**

- 1) Governs, pursuant to the Meyers-Milias-Brown Act, local governments' relations with their employees, including collective bargaining and representation procedures.
- 2) Generally exempts from collective bargaining and representation procedures executive employees who are employed by, and report directly to, local elected governing boards.
- 3) Defines "local agency executive" to mean any person employed by a local agency who is not subject to the Meyers-Milias-Brown Act or similar provisions, as specified, and who meets any of the following requirements:

- a) The person is the chief executive officer, a deputy chief executive officer, or an assistant chief executive officer of the local agency;
  - b) The person is the head of a department of a local agency; or,
  - c) The person's position within the local agency is held by an employment contract between the local agency and that person.
- 4) Requires, pursuant to the Ralph M. Brown Act (Brown Act), all meetings of a legislative body of a local agency to be open and public, except that closed sessions may be held under certain circumstances.
  - 5) Allows local agency legislative bodies 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.
  - 6) Allows local agency legislative bodies 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.
  - 7) Requires local agency legislative bodies to report publicly, orally or in writing, any action taken in closed session and the vote or abstention on that action of every member present, as specified.
  - 8) Prohibits local agency legislative bodies from calling a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive.
  - 9) Requires, pursuant to the Public Records Act, public records to be open to inspection during office hours and gives every person a right to inspect public records, with specific exceptions.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:**

- 1) **Bill Summary.** This bill requires the legislative body of a local agency, before it takes final action, 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 during the open meeting in which the final action is to be taken. Local agency executive means any person employed by a local agency who is not subject to the Meyers-Milias-Brown Act or similar provisions and who meets any of the following requirements:

- a) The person is the chief executive officer, a deputy chief executive officer, or an assistant chief executive officer of the local agency;
- b) The person is the head of a department of a local agency; or,
- c) The person's position within the local agency is held by an employment contract between the local agency and that person.

This bill is sponsored by the author.

- 2) **Author's Statement.** According to the author, "There is a public interest in ensuring that decisions made by legislative bodies of local agencies regarding local agency executive compensation are open and transparent. Local agency executives, such as agency CEOs and city managers, are offered fringe benefits including health care coverage and pensions in amounts that can have a significant long-term impact on the budget and that deserve particular scrutiny by the public.

"The intent of the law for openness and transparency is not achieved if the final action on executive compensation is taken without an oral reporting of a summary of the recommendation for final action. By facilitating open and public consideration of local agency executive compensation, this measure furthers the intent of the law."

- 3) **Background.** In 2011, in response to the scandal surrounding the City of Bell, the Legislature passed AB 1344 (Feuer), Chapter 692, Statutes of 2011. The goal of AB 1344 was to target practices exploited by some local governments that inappropriately and extravagantly rewarded elected officials and top executive officers outside of public view. AB 1344 required a number of good governance measures regarding compensation practices to provide the public with the opportunity to be informed of, and comment on, local compensation-setting practices. Among its many provisions, AB 1344 prohibited a 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.

This bill is intended to further the goals of AB 1344 by ensuring that executive compensation is at least mentioned, via an oral report of the recommended action, in an open meeting before a local agency governing board takes final action on the issue.

- 4) **Proposition 42.** Proposition 42 was passed by voters on June 3, 2014, and requires all local governments to comply with the Public Records Act and the Brown Act and with any subsequent changes to those Acts. Proposition 42 also eliminated reimbursement to local agencies for costs of complying with the Public Records Act and the Brown Act.

This bill contains language that says that the Legislature finds and declares that Section 1 of the bill furthers the purpose of the California Constitution as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the Constitution, the bill also includes a finding that states, "This act ensures that more Californians can meaningfully participate in the meetings of legislative bodies of local agencies."

Section 3 of the bill specifies that no reimbursement for local agencies to implement the bill's provisions is necessary because "the only costs that may be incurred by a local agency or school district...would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution."

- 5) **Previous Legislation.** SB 407 (Hill), Chapter 213, Statutes of 2013, extended limitations on local agencies' employment contracts to cover additional employees.

AB 1344 (Feuer), Chapter 692, Statutes of 2011, restricted local government compensation practices and specified procedures for adopting city charters.

- 6) **Arguments in Support.** The California Newspaper Publishers Association, in support, states, "SB 1436 would promote and encourage the active discussion of agency executive compensation in open session, rather than the agency simply placing an item on a consent calendar where it receives little attention and there is no public participation. The bill is a modest change that furthers the intent of the Brown Act, makes it easier for the public to identify improper levels of compensation, and builds trust in government."

- 7) **Arguments in Opposition.** None on file.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Newspaper Publishers Association  
Californians Aware

##### **Opposition**

None on file

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