

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2257 (Maienschein) – As Amended April 11, 2016

**SUBJECT:** Local agency meetings: agenda: online posting.

**SUMMARY:** Imposes additional requirements for online postings of agendas for the public meetings of local agency governing bodies. Specifically, **this bill:**

- 1) Requires an online posting of an agenda to be posted on the local agency's homepage accessible through a prominent, direct link to the current agenda.
- 2) Prohibits the direct link to the agenda from being in a contextual menu.
- 3) Requires the agenda to be posted in an open format that meets all of the following requirements:
  - a) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications;
  - b) Platform independent and machine readable; and,
  - c) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the public record.
- 4) Provides that the requirements of 1) through 3), above, shall be deemed satisfied if the legislative body of a board, commission, or agency of a county, city, whether general or chartered, city and county, town, school district, municipal corporation, district, or political subdivision posts an agenda, in compliance with 1) through 3), above, on the homepage of the board, commission, or agency. The provisions of 1) through 3), above, shall not be construed to require the agenda for a meeting of a board, commission, or agency to be posted on the homepage of the local agency that created the board, commission, or agency.
- 5) Finds and declares that Section 1 of the 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:

*It is in the public interest to ensure that members of the public can easily and quickly find and access meeting agendas on the Internet homepage of local agencies.*
- 6) 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) Requires, pursuant to the Ralph M. Brown Act (Brown Act), 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.
- 2) Requires, at least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, to post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.
- 3) Requires the legislative body of a local agency to post the agenda for a regular meeting at least 72 hours in advance on the local agency's Internet Web site (website), if the local agency has one and if the legislative body is one of the following:
  - a) The governing body of a local agency or any other local body created by state or federal statute; or,
  - b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body if the members are compensated for their appearance and if one or more of the members also are members of a legislative body of a local agency or any other local body created by state or federal statute, as specified.
- 4) Requires local agencies that maintain an Internet Resource described as "open data" and that choose to post public records on that Internet Resource to use a format that:
  - a) Is retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications;
  - b) Is platform independent and machine readable;
  - c) Is available to the public free of charge and without any restriction that would impede the reuse or redistribution of the public record; and,
  - d) Retains the data definitions and structure present when the data was compiled, if applicable.

**FISCAL EFFECT:** This bill is keyed fiscal.

**COMMENTS:**

- 1) **Bill Summary.** This bill requires an online posting of an agenda for a local agency's regular meetings to be posted on the local agency's homepage accessible through a prominent, direct link to the current agenda. The direct link to the agenda cannot be in a contextual menu. The agenda must be posted in an open format that is: retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications; platform independent and machine readable; and, available to the public free of charge and without any restriction that would impede the reuse or redistribution of the public record.

These requirements will be deemed satisfied, if the legislative body of a board, commission, or agency of a county, city, whether general or chartered, city and county, town, school district, municipal corporation, district, or political subdivision posts an agenda on the homepage of the board, commission, or agency. The online agenda posting requirements are not to be construed to require the agenda for a meeting of a board, commission, or agency to be posted on the homepage of the local agency that created the board, commission, or agency.

This bill is sponsored by GrassrootsLab.

- 2) **Author's Statement.** According to the author, "Under the Ralph M. Brown Act, the legislative body of a local agency is required to post an agenda no less than 72 hours prior to a meeting. The agenda must be freely accessible to members of the public, in addition to being posted on the local agency's website, if they have one. The Ralph M. Brown Act was passed by the legislature in 1953 to ensure transparency and openness in local governing meetings. Since its original passage over 60 years ago, technology has changed significantly. These advances have thus lead to many needed updates to allow for continued and reasonable access to information by the public.

"This legislation addresses two key deficiencies in current law; format and accessibility of online postings. Posting an agenda can mean many different things with respect to visibility and accessibility of the document. Many agendas are buried in agency websites or otherwise not intuitively navigable by a site visitor. Formatting may restrict the capacity for citizens to search for or access agenda information...AB 2257 will update the Ralph M. Brown Act by ensuring that meeting agendas are posted in a consistent, visible location on the homepage of the local agency's internet website. It specifies that it must be a prominent, direct link to the agenda and prevents the link being buried. Importantly, this bill also specifies that agendas be posted in a machine-readable format, meaning the documents can be indexed and searched by commonly used search engines and other tools."

- 3) **Background.** The Brown Act requires the meetings of local governments' legislative bodies to be "open and public," thereby ensuring people's access to information so they may retain control over the public agencies that serve them. The Brown Act requires a local agency to post an agenda for a regular meeting of its legislative body at least 72 hours before the meeting in a location that is freely accessible to members of the public.

AB 1344 (Feuer and Alejo), Chapter 692, Statutes of 2011, required (among other things) the legislative body of a local agency to post the agenda for a regular meeting at least 72 hours in advance on the local agency's website, if the local agency has one. This requirement applies to any legislative body that is one of the following:

- a) The governing body of a local agency or any other local body created by state or federal statute; or,
- b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body if the members are compensated for their appearance and if one or more of the members also are members of a legislative body of a local agency or any other local body created by state or federal statute, as specified.

- 4) **Open Data.** The Open Data movement is rapidly growing in popularity and recognition, both nationally and in California. Computer technology has advanced to provide open format software, which allows electronic documents created and maintained by public agencies to be searched, indexed, and redacted electronically.

In 2009, in order to increase government agency accountability, promote informed public participation, and create economic opportunity through expanding access to information online in open formats, the United States Director of the Office of Management and Budget issued an Open Government Directive to federal government agencies. This Directive provided guidelines to public agencies responding to public requests under the Freedom of Information Act and instructed federal government agencies to “publish information online in an open format that can be retrieved, downloaded, indexed, and searched by commonly used web search applications.”

The California Legislature began reviewing open data legislation last year. Among numerous bills considered was AB 169 (Maienschein), Chapter 737, Statutes of 2015. AB 169 required local agencies that maintain an Internet Resource described as "open data" and that choose to post public records on that Internet Resource to use a format that:

- a) Is retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications;
- b) Is platform independent and machine readable;
- c) Is available to the public free of charge and without any restriction that would impede the reuse or redistribution of the public record; and,
- d) Retains the data definitions and structure present when the data was compiled, if applicable.

AB 2257 is modeled after AB 169 and applies most of the open data requirements of AB 169 to the agendas that local agencies post on their websites for their regular meetings.

- 5) **Proposition 42.** Proposition 42 was passed by voters on June 3, 2014, and requires all local governments to comply with the California Public Records Act and the Ralph M. Brown Act and with any subsequent changes to those Acts. Proposition 42 also eliminated reimbursement to local agencies for costs of complying with the California Public Records Act and the Ralph M. 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 says that "It is in the public interest to ensure that members of the public can easily and quickly find and access meeting agendas on the Internet homepage 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."

- 6) **Previous Legislation.** AB 169 (Maienschein), Chapter 737, Statutes of 2015, required local agencies to use specified open data standards if they maintain an Internet Resource that is described or titled as "open data" and if they choose to post public records on that Internet Resource.

SB 272 (Hertzberg), Chapter 795, Statutes of 2015, required cities, counties, special districts, and joint powers authorities, by July 2016, to create a catalogue of their enterprise systems and make the catalog available to the public, including on the agency's website.

AB 1344 (Feuer and Alejo), Chapter 692, Statutes of 2011, required (among other things) the legislative body of a local agency to post the agenda for a regular meeting at least 72 hours in advance on the local agency's Internet Web site, as specified.

- 7) **Committee Amendments.** Given concerns raised by the opposition, the Committee may wish to consider one of the following approaches:
- a) Remove provisions of the bill requiring open formatting (on page 3, strike lines 12-19, and make conforming changes in lines 20-29); or,
  - b) Add an effective date of January 1, 2020, and allow smaller agencies to opt out of the bill's requirements if they make a finding in an open meeting that the requirements of the bill pose a fiscal burden for the agency.
- 8) **Arguments in Support.** GrassrootsLab, sponsor of this measure, writes, "Agendas in cities, counties and special districts are frequently buried on agency websites and in formats that preempt indexing and common search techniques. While many jurisdictions offer subscription services to residents, the aggregate practice of online agenda posting is uneven and undermines resident access to the business of government.

"The agencies subject to the proposed legislation provide critical services to California residents, from public safety to transportation, water management and many others. Their decisions impact both the finances of their agency and the quality of life of their constituents, who deserve ready access to their scheduled meetings and matters at hand...

"Placing the agendas on an (agency's) homepage requires no additional records be created and is a logical, intuitive place for residents to find the document. Requiring machine readability of the document is even more vital, as it will ensure the agendas are indexed by search engines and readable through a wide array of tools used in modern communication."

- 9) **Arguments in Opposition.** The California Special Districts Association, in opposition, writes, "The requirements of AB 2257 micro-manage local agencies' website development and strip their local control by dictating specifically where each local agency posts its board and committee agendas. Many of our districts have made significant investments in developing the best design, layout, and functionality of their websites to best serve the needs of their constituents...The primary role of special districts is to provide services to the public. As such, our websites are typically designed to ensure the ease of access to those services.

"AB 2257 (also) includes a mandate that an agenda be posted in a particular format that is retrievable, downloadable, indexable, electronically searchable and machine readable. Many local agencies are already moving to this type of formatting as they periodically upgrade their systems. However, the mandate in AB 2257 will require all local agencies...to upgrade their system software by January 1, 2017. This is an unnecessary mandate that places undue burdens on local agencies...This measure mandates significant changes to the current process without identifying a current lack of transparency by local agencies."

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

GrassrootsLab [SPONSOR]  
California Asian Pacific Chamber of Commerce  
California Association of Licensed Investigators, Inc.  
California Independent Oil Marketers Association  
California League of Food Processors  
California Manufacturers and Technology Association  
California Newspaper Publishers Association  
California Professional Firefighters  
California Retailers Association  
El Dorado Local Agency Formation Commission  
Industrial Environmental Association  
National Federation of Independent Business  
Service Employees International Union, California State Council

### **Opposition**

California Special Districts Association  
California State Association of Counties  
County of Sacramento  
County of Santa Cruz  
League of California Cities  
Rural County Representatives of California  
Urban Counties of California

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