

Date of Hearing: June 21, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 769 (Gonzalez) – As Amended June 12, 2023

SENATE VOTE: 37-2

SUBJECT: Local government: fiscal and financial training.

SUMMARY: Requires specified local officials to receive two hours of fiscal and financial training at least once every two years. Specifically, **this bill:**

1) Defines the following terms:

a) “Fiscal and financial training” to include:

- i) Laws and principles relating to financial administration and short-and long-term fiscal management, including, but not limited to, the role and responsibilities of financial administration, financial policies, municipal budget and budget processes, and financial reporting and auditing.
- ii) Laws and principles relating to, but not limited to, capital financing and debt management, mechanisms for local agency revenues, pensions and other postemployment benefits, and cash management and investments.
- iii) General fiscal and financial planning principles and any pertinent law relevant to the local agency official’s public service and role in overseeing the local agency’s operations and relevant to the local agency’s procurement practices and responsibilities.

b) “Legislative body” as specified in the Ralph M. Brown Act.

c) “Local agency” as a city, county, city and county, charter city, charter county, charter city and county, or special district, which meets one of the following:

- i) The local agency has been designated as high risk pursuant to an audit conducted by the California State Auditor.
- ii) The local agency has received a written notice from the State Controller’s Office (SCO) of the agency’s failure to timely submit the annual financial transaction report as required by existing law.
- iii) The local agency has a local agency official that has been found to have willfully and knowingly submitted a false annual financial transaction report to the SCO.

d) “Local agency official” as either of the following:

- i) Any member of a local agency’s legislative body or any elected local agency official who receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties.

- ii) Any employee designated by a local agency's legislative body to receive the training specified under this bill.
- 2) Provides that if a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials shall receive at least two hours of fiscal and financial training, pursuant to this bill.
 - 3) Specifies that a local agency or an association of local agencies may contract with or otherwise collaborate with a provider of a training course to offer one or more training courses, or sets of self-study materials with tests, to its local agency officials to meet the requirements of this bill.
 - 4) Provides that training courses, or the sets of self-study materials with tests, may be taken at home, in person, or online. These courses and materials shall be developed in consultation with widely recognized experts in local government finance.
 - 5) Requires all providers of training courses to provide participants with proof of participation, as specified.
 - 6) Provides that a local agency shall provide information on training available to meet the requirements of this bill to its local agency officials at least once annually.
 - 7) Requires every local agency official who is in a local agency's service as of January 1, 2024, and commenced that service prior to January 1, 2024, shall receive the fiscal and financial planning training required by this bill before January 1, 2026, unless that official's term of office ends before January 9, 2026. Thereafter, the local agency official shall receive the training at least once every two years.
 - 8) Specifies that every local agency official who commences service with a local agency on or after January 1, 2024, shall receive the fiscal and financial training required by this bill no later than two years from the first day of service with the local agency. Thereafter, the local agency official shall receive the training at least once every two years,
 - 9) Provides that a local agency official who serves more than one local agency is only required to comply with the training requirements of this article once every two years, regardless of the number of local agencies the official serves. However, the official shall provide a copy of proof of participation to all local agencies that they serve.
 - 10) Requires a local agency that requires its local agency officials to complete the fiscal and financial planning training required by this bill to maintain records indicating both of the following:
 - a) The dates that local officials satisfied the requirements of this bill.
 - b) The entity that provided the training.

- 11) Provides that, notwithstanding any other provision of law, a local agency shall maintain the above records for at least five years after local agency officials receive the training. These records are public records subject to disclosure under the California Public records Act.
- 12) Exempts certain local fiscal officers that are in compliance with specified requirements.
- 13) Finds and declares that the fiscal management of local governments is a matter of statewide concern and is not a municipal affair. Therefore, this bill applies to all cities, including charter cities.
- 14) Provides that if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made.

FISCAL EFFECT: According to the Senate Appropriations Committee, “Unknown reimbursable state-mandated costs, potentially exceeding \$50,000, related to certain administrative requirements specified in the bill (General Fund). The mandate is not expected to apply to the provision of the training, but certain other eligible expenses incurred by local entities are likely to be subject to state-reimbursement. Reimbursement would be available for affected general law counties and certain special districts that are subject to the tax and spend provisions of the California Constitution and are required by state law to provide reimbursement of expenses to members of their legislative bodies.”

COMMENTS:

- 1) **Local Government Finances.** Local elected and appointed officials are charged with a fiduciary duty to the public. They are responsible for guiding multi-million dollar county and municipal agencies that depend on numerous sources of revenues and have multiple layers of policy and management responsibilities. Understanding their financial fiduciary responsibilities is one of their most important duties.

Many factors dictate how a local agency manages its funds, including: the amount of revenue the agency receives annually; the source of the revenue, whether it be property taxes, sales taxes, fee-based revenue, utility taxes, grants, loans, bond funding, etc.; restrictions on how these funds can be used; and, many other dynamics in which each local agency is accountable. No two local agencies manage their finances in the same way. In order to balance the individual agency needs, the state, both constitutionally and statutorily, has provided local agencies with decision-making flexibility in how finances can be managed.

- 2) **Current Training Requirements.** The California Constitution, and state law, including the Ralph M. Brown Act and the Political Reform Act, establish standards for the operations of the legislative bodies of local agencies. The Ralph M. Brown Act requires that legislative bodies of local agencies meet, deliberate, and vote in open session, with specified exceptions. The Political Reform Act prohibits local officials from participating in decisions which affect their material interests and establishes disclosure requirements.

In 2005, the Legislature enacted AB 1234 (Salinas), Chapter 700, Statutes of 2005, to require members of local agencies’ legislative bodies to participate in ethics training, if those agencies offer compensation or expense reimbursement to their board members. AB 1234

required local agency officials to receive at least two hours of training and general ethics principles and ethics laws relevant to the official's public service every two years. Such training is required to include, but is not limited to, the following information:

- a) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
- b) Laws relating to claiming prerequisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
- c) Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
- d) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contract, and disqualification from participating in decisions affecting family members.

AB 1661 (McCarty & Gonzalez), Chapter 816, Statutes of 2016, additionally required local agency officials to receive two hours of sexual harassment prevention training and education within the first six months of taking office or commencing employment, and every two years thereafter. The requirements of the bill apply only if a local agency provides any type of compensation, salary, or stipend to its local agency officials. AB 1661's requirements apply to any member of a legislative body and any elected official of cities and counties (including charter cities and charter counties), and special districts.

- 3) **High-Risk Local Government Agency Audit Program.** In response to local government malfeasance, AB 187 (Lara), Chapter 451, Statutes of 2011, authorized the State Auditor to establish a high-risk local government agency audit program to identify, audit, and issue reports on any local government agency or any publicly-created entity that the State Auditor identifies as being at high-risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.

Current law requires the State Auditor to notify the Joint Legislative Audit Committee (JLAC) whenever the local government is identified as at high-risk, requires the Auditor to provide annual updates of all audits in progress, and remove the agency from the high-risk local government agency audit program if the agency has taken significant corrective measures for identified deficiencies. If the State Auditor determines that a local government agency is at high-risk, the audit reports must be issued at least once every three years with recommendations for improvement in the local government so identified.

- 4) **State Controller Reports.** Each city, county, and special district is currently required to provide to the SCO a report of all the financial transactions during the preceding year. The report must contain data from financial statements prepared in accordance with Generally Accepted Accounting Principles, if the data is available. The report must be provided seven

months after the close of each fiscal year or within the time prescribed by the SCO, whichever is later, and shall be in the form required by the SCO.

Once submitted, the SCO must compile, publish, and make publicly available on its website, in a format that can be printed and downloaded, reports on the financial transactions and information on annual compensation of each county, city, and special district. The SCO must publish the reports of the financial transactions on or before November 1 of each year following the end of the annual reporting period. This data is available upon request of the Legislature on or before April 1 of each year.

- 5) **Bill Summary.** This bill requires specified local agency officials to receive at least two hours of fiscal and financial training if the local agency has been designated as high-risk pursuant to an audit by the State Auditor, the local agency has received a written notice from the SCO of the agency's failure to timely submit the annual financial transaction report, or the local agency has a local agency official that has been found to have willingly and knowingly submitted a false annual financial transaction report. This bill also dictates when the specified local agency officials must receive the training, the information that must be provided in the training, and record maintenance requirements. This bill is sponsored by the author.
- 6) **Author's Statement.** According to the author, "While local elected officials hold expansive fiscal, budgetary, and financial responsibilities, there is no existing requirement that they receive any training on these critical duties and obligations. SB 769 will address this lack of preparation and education, by implementing recommendations by the California State Auditor (CSA), that will require local agency officials, such as city councilmembers and other members of local agency legislative bodies, to complete fiscal and financial training on their duties and responsibilities in budgeting, contracting, procurement, and other critical fiscal obligations. The CSA's high-risk local program has found repeated instances of local officials financially mismanaging local agencies, and recommended additional training as a remedy. SB 769 will encourage responsible governing by applying training requirements for local officials if the local agency is designated as high risk pursuant to an audit conducted by the California State Auditor, fails to timely submit their annual financial transaction report, or has been found to have submitted a false annual financial transaction report."
- 7) **Previous Legislation.** AB 1235 (Gordon) of 2013 was similar to this bill and would have required specified local agency officials to receive training in financial management, if the local agency provides any type of compensation or reimbursement to a member of its legislative body, as specified. The Governor vetoed AB 1235 saying, "This bill imposes financial management training requirements on elected city, county and special district officials at potentially significant costs to the state. I believe local governments can impose appropriate financial management training without the aid of the State General Fund."
- 8) **Technical Amendments.** To ensure consistency throughout the bill, the Committee may wish to consider amending the bill as follows:

53238.2. (a) Every local agency official who is in a local agency's service as of January 1, 2024, and commenced that service prior to January 1, 2024, shall receive the fiscal and financial planning training required by this article before January 1, 2026, unless that **local agency** official's term of office ends before January 9, 2026. Thereafter, the local agency official shall receive the training at least once every two years.

(b) Every local agency official who commences service with a local agency on or after January 1, 2024, shall receive the fiscal and financial planning training required by this article no later than two years from the first day of service with the local agency. Thereafter, the local agency official shall receive the training at least once every two years.

(c) A local agency official who serves more than one local agency is only required to comply with the training requirements of this article once every two years, regardless of the number of local agencies the **local agency** official serves. However, the **local agency** official shall provide a copy of proof of participation to all local agencies that they serve.

53238.3. (a) A local agency that requires its local agency officials to complete the fiscal and financial planning training required by this article shall maintain records indicating both of the following:

(1) The dates that local **agency** officials satisfied the requirements of this article.

(2) The entity that provided the training.

(b) Notwithstanding any other provision of law, a local agency shall maintain these records for at least five years after local agency officials receive the training. These records are public records subject to disclosure under the California Public Records Act (Division 10 commencing with Section 7920.000) of Title 1).

- 9) **Arguments in Support.** According to the League of Women Voters of California, “This bill would seek to provide training to local agency officials on their responsibilities and duties in crucial fiscal obligations. Governmental systems that are based on economic efficiency and administrative effectiveness will be more accountable to their constituents because of this uniform requirement.

“SB 769 proposes a two-hour fiscal and financial training at least every two years, including education in financial administration, fiscal management, capital financing, local agency revenues, pensions and other benefits, and local laws relevant to the officials’ public service and role in overseeing operations. It would target those local agencies most likely to benefit: those designated as high-risk by the State Auditor, or those that did not have a timely annual financial report or had an agency official who willingly submitted a false annual financial report.

“This bill recognizes the need for local agency officials to be educated on fiscal and financial matters, so vital to decisions that these officials make or to management of these matters on the local level. The training should help the agencies become more effective administratively and economically, and also have a greater likelihood of being politically accountable.”

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

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of County Treasurers and Tax Collectors
 League of Women Voters of California
 Open Contracting Partnership
 State Association of County Auditors

Opposition

None on file

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