

Public criticism

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**Introduced by Assembly Member Campos**

January 28, 2013

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An act to amend Section 54954.3 of the Government Code, relating to local government.

## **LEGISLATIVE COUNSEL'S DIGEST**

AB 194, Campos. Open meetings: public criticism and comment.

The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act requires an agenda for a regular meeting to provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body. The act excepts from this requirement an agenda item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed, as specified. The act requires a notice for a special meeting to provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice before or during consideration of that item. The act authorizes the legislative body to adopt reasonable regulations to ensure that the intent of these provisions is carried out. Existing law forbids the legislative body from prohibiting public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.

This bill would instead require the agenda for a regular and special meeting to provide an opportunity for the public to directly address the legislative body on any item of interest to the public before and during the legislative body's consideration of the item, except as specified. This bill would expand the existing prohibition against a legislative body limiting public criticism to include criticism of the officers and employees of the legislative body, and specify other designated prohibited activities related to limiting public comment. This bill would, if a legislative body limits the time allocated for public testimony on a particular issue or for each individual speaker, prohibit a reduction in that allocated time by reason of the questioning or interruption of the speaker by the legislative body or its officers or employees, and the speaker's response to questioning.

This bill would incorporate additional changes to Section 54954.3 of the Government Code proposed by AB 1330 that would become operative if this bill and AB 1330 are both chaptered and this bill is chaptered last.

## **Digest Key**

Vote: MAJORITY Appropriation: NO Fiscal Committee: NO Local Program: NO

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## **Bill Text**

# **THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

### **SECTION 1.**

Section 54954.3 of the Government Code is amended to read:

**54954.3.**

(a) Every agenda for regular meetings shall provide an opportunity for the public to directly address the legislative body on any item of interest to the public, before and during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall

provide an opportunity for the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before and during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker, and the procedure for public comment on agenda items.

(c) (1) Subject to reasonable regulations promulgated pursuant to subdivision (b), the legislative body of a local agency, or its presiding officer or staff, acting in their official capacity on behalf of the legislative body, shall not prohibit, limit, or otherwise prevent any of the following:

(A) Public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body or its officers or employees acting in their official capacity.

(B) Comment by a member of the public during presentation of an agenda item who has not provided notice of his or her desire to comment prior to consideration of the agenda item by the legislative body.

(C) Comment by a member of the public based on his or her viewpoint where the comment is within the subject matter jurisdiction of the legislative body.

(2) If a legislative body limits the total amount of time allocated for public testimony on a particular issue or for each individual speaker, the questioning or interrupting of the speaker by the legislative body, its officers or employees, and the speaker's response to questioning shall not reduce the total time allocated for public testimony on the particular issue or allocated for an individual speaker.

(3) This subdivision shall not be construed to confer any privilege or protection for expression beyond that otherwise provided by law.

## **SEC. 2.**

Section 54954.3 of the Government Code is amended to read:

### **54954.3.**

(a) Every agenda for regular meetings shall provide an opportunity for the public to directly address the legislative body on any item of interest to the public, before and during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall

provide an opportunity for the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before and during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker, and the procedure for public comment on agenda items.

(c) (1) Subject to reasonable regulations promulgated pursuant to subdivision (b), the legislative body of a local agency, or its presiding officer or staff, acting in their official capacity on behalf of the legislative body, shall not prohibit, limit, or otherwise prevent any of the following:

(A) Public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body or its officers or employees acting in their official capacity.

(B) Comment by a member of the public during presentation of an agenda item who has not provided notice of his or her desire to comment prior to consideration of the agenda item by the legislative body.

(C) Comment by a member of the public based on his or her viewpoint where the comment is within the subject matter jurisdiction of the legislative body.

(2) If a legislative body limits the total amount of time allocated for public testimony on a particular issue or for each individual speaker, the questioning or interrupting of the speaker by the legislative body, its officers or employees, and the speaker's response to questioning shall not reduce the total time allocated for public testimony on the particular issue or allocated for an individual speaker.

(3) This subdivision shall not be construed to confer any privilege or protection for expression beyond that otherwise provided by law.

(d) (1) To ensure that a non-English speaker who uses a translator receives the same opportunity to directly address the legislative body of a local agency as a speaker who does not use a translator, notwithstanding subdivision (b), if that body limits time for public comment, the time used by a translator to translate a non-English speaker's comments into English shall not count toward the speaker's allotted time.

(2) Paragraph (1) shall not apply if the legislative body of a local agency utilizes simultaneous translation equipment in a manner that allows that body to hear the translated public testimony simultaneously.

### **SEC. 3.**

Section 2 of this bill incorporates amendments to Section 54954.3 of the Government Code proposed by both this bill and Assembly Bill 1330. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, (2) each bill amends Section 54954.3 of the Government Code, and (3) this bill is enacted after Assembly Bill 1330, in which case Section 1 of this bill shall not become operative.

