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AB-241 Bankruptcy: retired employees: disclosure of names and mailing addresses. (2015-2016)

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Assembly Bill No. 241

CHAPTER 252

An act to add Section 53760.9 to the Government Code, relating to local government.

[Approved by Governor September 09, 2016. Filed with Secretary of State September 09, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 241, Gordon. Bankruptcy: retired employees: disclosure of names and mailing addresses.

(1) Existing law prohibits a local public entity, as defined, from filing a petition and exercising powers pursuant to applicable federal bankruptcy law unless the local public entity has participated in a specified neutral evaluation process with interested parties, or the local public entity has declared a fiscal emergency and has adopted a resolution by a majority vote of the governing board at a noticed public hearing that includes findings that the financial state of the local public entity jeopardizes the health, safety, or well-being of the residents of the local public entity's jurisdiction or service area absent the protections of federal bankruptcy law. Existing law defines "interested party," for purposes of these provisions, to include, among others, a representative selected by an association of retired employees of the local public entity who receive income from the local public entity, as specified. Existing law exempts from public disclosure certain personal information of retirees from public employment.

This bill would require, notwithstanding any other law and under certain conditions, a local public entity to provide the name and mailing address of each retired employee or his or her beneficiary receiving the retired employee's retirement benefit, in list form, to any organization that is incorporated and qualified under specific state and federal laws for the purpose of representing retired employees or their beneficiaries as members of the organization in a neutral evaluation process, the declaration of a fiscal emergency and adoption of a resolution, or a bankruptcy proceeding, as specified. By imposing these duties, this bill would impose a state-mandated local program. This bill would limit an organization receiving this information under these provisions to using the information for only these purposes and impose a civil penalty of \$25,000 on the organization for a violation of that limitation.

(2) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose. This bill would make legislative findings to that effect.

(3) 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 no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 53760.9 is added to the Government Code, to read:

53760.9. (a) Notwithstanding any other law, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), except as provided in subdivision (c), a local public entity shall provide the name and mailing address of each retired employee, or his or her beneficiary receiving the retired employee's retirement benefit, in list form, to any organization that is incorporated as a California nonprofit mutual benefit corporation pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code and qualified pursuant to Section 501(c)(3), 501(c)(4), or 501(c)(5) of Title 26 of the Internal Revenue Code for the purpose of representing retired employees of the local public entity, upon that organization's request, if any of the following occur:

- (1) The local public entity began the process of participating in a neutral evaluation process pursuant to Section 53760.3.
- (2) The local public entity declared a fiscal emergency and adopted a resolution by a majority vote of the governing board pursuant to Section 53760.5.
- (3) The local public entity filed a petition pursuant to applicable federal bankruptcy law on or before December 31, 2011.

(b) (1) An organization receiving a list with the name and mailing address of a retired employee or his or her beneficiary receiving the retired employee's retirement benefit pursuant to subdivision (a) shall use that information only for the purpose of representing the retired employee or his or her beneficiary as a member of the organization as an interested party in a neutral evaluation process pursuant to Section 53760.3, the declaration of a fiscal emergency and adoption of a resolution pursuant to Section 53760.5, or a bankruptcy proceeding.

(2) An organization that violates paragraph (1) by misusing the information in the list provided shall be subject to a civil penalty in the amount of twenty-five thousand dollars (\$25,000).

(c) Upon written request of any retired employee, or his or her beneficiary receiving the retired employee's retirement benefit, a local public entity shall not disclose the name and home address of the retired employee, or his or her beneficiary receiving the retired employee's retirement benefit, and shall remove the retired employee, or his or her beneficiary receiving the retired employee's retirement benefit, from any mailing list created by that local public entity for compliance with subdivision (a).

(d) This section shall not affect or limit the disclosure or nondisclosure of public records pursuant to any other statute or decisional law.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Section 53760.9 to the Government Code, 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. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act ensures that public retirees and their beneficiaries have the opportunity to meaningfully participate in the legal processes of a local public entity filing a petition and exercising powers pursuant to applicable federal bankruptcy law. This act is not intended to limit the public's right of access to public records.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act 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.