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SB-355 Joint powers agencies: Clean Power Alliance of Southern California: meetings. (2019-2020)

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Date Published: 09/07/2019 04:00 AM

Senate Bill No. 355

CHAPTER 248

An act to amend, repeal, and add Section 54956.96 of the Government Code, relating to joint powers.

[Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 355, Portantino. Joint powers agencies: Clean Power Alliance of Southern California: meetings.

The Joint Exercise of Powers Act authorizes 2 or more public agencies, if each is authorized by their respective legislative bodies, to enter into an agreement to jointly exercise any power common to those 2 agencies.

The Ralph M. Brown Act requires that meetings of the legislative body of a local agency, including a joint powers agency, be open and public, with specified exceptions authorizing closed sessions for specified purposes. Existing law authorizes a joint powers agency to authorize, as specified, a designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member, and who is attending a properly noticed meeting of the joint powers agency in lieu of that agency's regularly appointed member, to attend closed sessions of the joint powers agency. Existing law also authorizes a joint powers agency to authorize, as specified, a member of the legislative body of a member local agency to disclose information obtained in a closed session that has direct financial or liability implications for that local agency to legal counsel of that member local agency for specified purposes or to other members of the legislative body of the local agency present in a closed session, as specified. Existing law requires all information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session to be confidential.

This bill would authorize the Clean Power Alliance of Southern California, or its successor entity, to adopt a policy or bylaw or include in its joint power agreement a provision that authorizes both (1) a designated alternate member of its legislative body who is not a member of the legislative body of a local agency member, and who is attending a properly noticed meeting of the Clean Power Alliance of Southern California, or its successor entity, in lieu of a local agency member's regularly appointed member to attend closed sessions of the Clean Power Alliance of Southern California, or its successor entity, and (2) a designated alternate member of its legislative body, who is not a member of the legislative body of the local agency member, to disclose information obtained in a closed session that has direct financial or liability implications for the local agency member for which the designated alternate member attended the closed session, to legal counsel of the local agency member for specified purposes or to members of the legislative body of the local agency present in a closed session, as specified. The bill would otherwise require all information that is received by a designated alternate member of the legislative body of the Clean Power Alliance of Southern California, or its successor entity, who is not a member of the legislative body of a local agency member, and that is presented to the Clean Power Alliance of Southern California, or its successor entity, in closed session, to be confidential. The bill would require the Clean Power Alliance of Southern California, or its successor entity, to establish policies to prevent conflicts of interest and to address breaches of confidentiality that apply to a designated alternate member who is not a member of the legislative body of a local agency member who attends a closed session of the Clean Power Alliance of Southern California, or its successor

entity, if the Clean Power Alliance of Southern California, or its successor entity, exercises the above-described authority provided by this bill. The bill would repeal these provisions on January 1, 2025.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Clean Power Alliance of Southern California.

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

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

SECTION 1. Section 54956.96 of the Government Code is amended to read:

54956.96. (a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a local agency member may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that local agency member for purposes of obtaining advice on whether the matter has direct financial or liability implications for that local agency member.

(B) Other members of the legislative body of the local agency present in a closed session of that local agency member.

(2) Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) (1) In addition to the authority described in subdivision (a), the Clean Power Alliance of Southern California, or its successor entity, may adopt a policy or a bylaw or include in its joint powers agreement a provision that authorizes both of the following:

(A) A designated alternate member of the legislative body of the Clean Power Alliance of Southern California, or its successor entity, who is not a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the Clean Power Alliance of Southern California, or its successor entity, in lieu of a local agency member's regularly appointed member, to attend closed sessions of the Clean Power Alliance of Southern California, or its successor entity.

(B) All information that is received by a designated alternate member of the legislative body of the Clean Power Alliance of Southern California, or its successor entity, who is not a member of the legislative body of a local agency member, and that is presented to the Clean Power Alliance of Southern California, or its successor entity, in closed session, shall be confidential. However, the designated alternate member may disclose information obtained in a closed session that has direct financial or liability implications for the local agency member for which the designated alternate member attended the closed session, to the following individuals:

(i) Legal counsel of that local agency member for purposes of obtaining advice on whether the matter has direct financial or liability implications for that local agency member.

(ii) Members of the legislative body of the local agency present in a closed session of that local agency member.

(2) If the Clean Power Alliance of Southern California, or its successor entity, adopts a policy or bylaw or includes in its joint powers agreement a provision authorized pursuant to paragraph (1), the Clean Power Alliance of Southern California, or its successor entity, shall establish policies to prevent conflicts of interest and to address breaches of confidentiality that apply to a designated alternate member who is not a member of the legislative body of a local agency member who attends a closed session of the Clean Power Alliance of Southern California, or its successor entity.

(c) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a) or (b), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 2. Section 54956.96 is added to the Government Code, to read:

54956.96. (a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a local agency member may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that local agency member for purposes of obtaining advice on whether the matter has direct financial or liability implications for that local agency member.

(B) Other members of the legislative body of the local agency present in a closed session of that local agency member.

(2) A designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a).

(c) This section shall become operative on January 1, 2025.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique needs facing the Clean Power Alliance of Southern California, in having sufficient members present to hold meetings.