



CLIENT NEWS BRIEF

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AB 1344: NEW LAW SETS LIMITS ON LOCAL AGENCY EMPLOYMENT CONTRACTS

Governor Jerry Brown recently signed into law Assembly Bill (AB) 1344, one of a series of "Bell bills" introduced during the last legislative session in response to public outrage triggered by the City of Bell corruption and compensation scandals.

AB 1344 adds and amends various sections of the Elections Code and the Government Code, placing new restrictions on executive employment contracts for "local agencies." The bill also makes certain changes to the Brown Act designed to promote greater transparency and ethics in local governance.

AB 1344 defines a local agency to include a "school district" and any "other public agency" and further defines "local agency executive" to mean a chief executive officer or department head not represented by an employee organization. Accordingly, school districts and other local educational agencies (LEAs) are subject to the following provisions of the new law, which becomes effective January 1, 2012:

Employment Contract Restrictions. AB 1344 prohibits the governing board of an LEA from executing or renewing any contract for *a superintendent or other department head not subject to collective bargaining* that includes either: an automatic renewal provision increasing the level of compensation beyond a cost-of-living adjustment set by the California Consumer Price Index, or a cash settlement that exceeds 18 months of the salary and benefits currently allowed under law.

If an LEA governing board enters into or renews a contract with a local agency executive providing for: (1) paid leave for the official pending an investigation, or (2) funds for the legal criminal defense of the official, then the contract must include a provision that such sums will be reimbursed by the official to the local public agency if the official is convicted of a crime involving abuse of office. In addition, *every contract* entered into between the local agency and an executive after January 1, 2012, must also contain a provision that any cash settlement related to the official's termination will be reimbursed by the official to the local public agency if the official is convicted of a crime involving abuse of office. If the public agency provides such payments absent a contractual obligation, the official must still reimburse the public agency if he or she is convicted of abuse of office. The terms "abuse of office or position" are defined to include, but are not limited to, waste, fraud, and violation of the law under color of authority.

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Brown Act Amendments. AB 1344 amends certain provisions of California's open meeting laws ("the Brown Act") to prohibit school districts from calling a special meeting to consider the salary, salary schedule, or "compensation paid in the form of fringe benefits" to a local agency executive. Consequently, after January 1, 2012, any action to approve or renew the contract of a local agency executive must be taken at a *regular* board meeting and cannot be approved at a special meeting of the board. However, this provision does not prohibit a local agency's governing board from calling a special meeting to discuss the agency's budget.

AB 1344 also requires a local agency to post a notice of any regular board meeting on the agency's website, if it has one, at least 72 hours prior to the meeting, and to post a notice of a special board meeting on its website at least 24 hours prior to the meeting.

As noted above, the new law takes effect on January 1, 2012. It does not apply retroactively, and it only applies to contracts that are renewed or created after January 1, 2012.

If you need assistance reviewing your standard contract language to ensure compliance with AB 1344, please contact one of our [eight offices](#) located statewide, visit our [website](#), or follow Lozano Smith on [Facebook](#).

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