



San Bernardino County Employees'  
Retirement Association

## MEMORANDUM

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**TO** **BOARD OF TRUSTEES**  
San Bernardino County Employees'  
Retirement Association

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**SUBJECT** REVIEW CALIFORNIA LEGISLATION 2021 - 2022

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### 2021 – 2022 Legislative Term Update

#### Potential Termination of the Governor Newsom's State of Emergency:

The California Senate introduced Senate Concurrent Resolution (SCR) 5, coauthored by Republican members of both the Senate and Assembly, seeking to terminate the state of emergency proclaimed by Governor Newsom on March 4, 2020. The Resolution cites a May 17, 2020, Legislative Analyst's Office report whereby the LAO was "very troubled by the authority the Governor seeks to take away from the Legislature in an Executive Order issued in May." The concern is likely due to Executive Orders N-64-20 issued on May 8, 2020 and N-67-20 issued June 3, 2020 which allowed for each County's election officials to send vote-by-mail ballot for the November 3, 2020 General Election to all registered voters. Nonetheless, the co-authors cite the following as a justification to terminate the state of emergency: "an open ended state of emergency, with boundless powers vested in a chief executive, is incompatible with democratic government, and is critical that a proper balance be restored between the legislative and executive branches."

Since a Resolution does not require the Governor to sign in order to take effect, the termination of the state of emergency could potentially affect SBCERA retirees who returned to work under Executive Order N-25-20 suspending the 960 work hour limitations. In addition, the ability for the SBCERA Board to meet via teleconferencing may also be affected since out of the Governor's proclaimed state of emergency several requirements under the Brown Act were suspended allowing a legislative body to hold its meetings via teleconference. Nothing in the Resolution prevents a local jurisdiction from

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proclaiming a local emergency to mitigate the spread of COVID-19. SCR 5 is currently in the Senate Committee on Governmental Organization.

### **A Board's Continued Use of Teleconferencing to Hold a Meeting.**

Although SCR 5 could potentially mean the end of California's proclaimed state of emergency, the California Assembly on February 1, 2021 introduced Assembly Bill 361 (pg. 20), which would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Brown Act when a legislative body of a local agency holds a meeting under any of the following circumstances:

1. The legislative body holds a meeting for the purpose of proclaiming or ratifying a local emergency.
2. The legislative body holds a meeting during a proclaimed state of emergency or declared local emergency, and state or local officials have imposed or recommended measures to promote social distancing.
3. The legislative body holds a meeting during a declared local emergency and the legislative body determines by majority vote that, as a result of the emergency, the attendance of one or more members of the legislative body in person is hindered, or meeting in person would present risks to the health or safety.

Essentially, if signed into law, SBCERA could continue to meet via teleconferencing during the current pandemic or in the event of any other declared state of emergency.

In addition, the Assembly introduced AB 339 (pg. 18), which would allow all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in-option or internet-based service option that provides closed captioning services and requires options to be provided to the public. The Bill also would require translation services to be provided for the 10 most spoken languages other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English. If signed into law, the Bill would require SBCERA, if using teleconference technology, to ensure the services used when holding a meeting via teleconference provides closed captioning services.

### **County Employees' Retirement Law**

On February 17, 2021, the Assembly introduced AB 845 (pg. 7) allowing for a COVID 19 presumption to apply to public retirement systems that administer disability retirement benefits. Under this Bill, a member would be eligible for a disability retirement if the

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disability is due to, in whole or in part, of a COVID-19 related illness. Although introduced by Assembly Member Freddie Rodriguez of District 52, at this time, there is no indication who is supporting this Bill.

Senate Bill 634 (pg. 8) is another CERL Clean-up bill supported by State Association of County Retirement System (SACRS). Although there are other provisions applicable to PERS and STRS contained in this bill, the following provisions apply to CERL systems:

1. Correcting an obsolete cross reference to the Education Code.
2. Repealing the ability of a member to complete a service purchase by lump sum.
3. Authorizing the Board to contract with a physician in private practice for the medical advice necessary to carry out the purpose of provisions relating to disability retirement.

Below, on page 7, begins detailed information on bills relevant to SBCERA, as well as other bills of interest. Updated information is in red.

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### **2021 Legislative Calendar**

#### **FEBRUARY 2021**

Feb. 19      Last day for bills to be introduced.

#### **MARCH 2021**

Mar. 25      Spring Recess begins adjournment.

#### **APRIL 2021**

Apr. 5      Legislature reconvenes from Spring Recess.

Apr. 30      Last day for policy committees to meet and report to fiscal  
committees fiscal bills introduced in their house.

#### **MAY 2021**

May 7      Last day for policy committees to meet and report to the floor  
non-fiscal bills introduced in their house

May 14      Last day for policy committees to meet prior to June 7

May 21      Last day for fiscal committees to meet and report to the floor  
bills introduced in their house. Last day for fiscal committees to  
meet and report to the floor bills introduced in their house

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### ASSEMBLY AND SENATE BILLS

#### I. County Employees' Retirement Law

#### **AB 845 Disability Retirement: COVID 19 Presumption**

**Subject:** An act to add and repeal Article 5 (commencing with Section 7523) to Chapter 21 of Division 7 of Title 1 of the Government Code, relating to retirement.

**Status:** Introduced February 17, 2021. Read for first time.

Existing law, until 2023, defines "injury" for purposes of workers' compensation insurance to include illness or death resulting from the 2019 novel coronavirus disease (COVID-19) under specified circumstances, and creates a disputable presumption, as specified, that the injury arose out of the course of employment and is compensable. This presumption is applicable to specified public safety, firefighter, and medical occupation, among others, as specified.

Existing law prescribes various requirements for the organization and administration of public retirement systems, which typically provide pension, disability, and death benefits to their members. These systems are governed by their boards of administration, to which the California Constitution grants the sole and exclusive responsibility to administer the system in a manner that will ensure prompt delivery of benefits and related services.

Existing law provides that participants in certain membership categories may be entitled to special benefits if death or disability arises in the course of employment. The California Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system, as defined, to modify its plan or plans to comply with that act and establishes, among other things, limits on defined benefit formulas and caps on pensionable compensation.

This bill, until January 1, 2023, would create a presumption, applicable to the retirement systems that PEPRA regulates and to specified members in those systems, that would be applied to disability retirements on the basis, in whole or in part, of a COVID-19-related illness. In this circumstance, the bill would require that it be presumed the disability arose out of, or in the course of, the member's employment. The bill would authorize the presumption to be rebutted by evidence to the contrary, but unless controverted, the board of administration of the applicable retirement system would be required to find in accordance with the presumption. The bill would apply this presumption to members employed in specified firefighter, public safety officer, and health care job classifications,

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or their functional equivalents, and to members in other job classifications who test positive for COVID-19 during an outbreak of the disease at their places of employment, as defined.

### **AB 1354      Public Employees Retirement: Returning Retiree**

**Subject:** An act to amend Section 7522.56 of the Government Code, relating to public employees' retirement.

**Status:** Introduced February 19, 2021.

Existing law, the California Public Employees' Pension Reform Act of 2013, prescribes various limits on public employee retirement systems and public employers, as specified. The act generally prohibits a retired person from being employed by a public employer in the same public retirement system from which the retiree receives pension benefits without reinstatement from retirement into that system, subject to certain exceptions.

This bill would make nonsubstantive changes to that provision.

### **SB 634      Public Employment and Retirement**

**Subject:** An act to amend Sections 22011, 22802, 24204, and 26804 of the Education Code, and to amend Sections 20320, 20322, 20324, 31530, 31565.5, 31680.2, 31680.3, 31732, and 31781.2 of, to add Section 21499.1 to, and to repeal Section 31641.8 of, the Government Code, relating to retirement.

**Status:** February 19, 2021, introduced to Com. on RLS for assignment.

The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions for the purpose of providing pension, disability, and death benefits to county and district employees. CERL vests management of the retirement systems created pursuant to its provisions in a board of retirement. CERL requires the county health officer to advise the board on medical matters and, if requested, attend its meetings.

This bill would authorize a county health officer's duly authorized representative to also advise the board of retirement with advice on medical matters.



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CERL authorizes a member of a system established under its provision who ceases to be an employee of the county under certain provisions of the Education Code to elect to remain a member of the CERL system.

This bill would correct an obsolete cross-reference in this regard.

CERL provides benefits based upon service credit, defines service for this purpose, and authorizes a member to elect to receive service credit for other forms of public service, as defined, by making contributions. CERL authorizes a member who has elected to make contributions to receive service credit to complete payment, at any time prior to the effective date of the member's retirement, by a lump sum.

This bill would repeal the above-described authority of a member to complete a payment by lump sum.

CERL requires a board of retirement to secure medical, investigatory, and other service and advice as is necessary for the purpose of administering provisions relating to disability retirement.

This bill would authorize the board to contract with a physician in private practice for the medical advice necessary to carry out the purpose of provisions relating to disability retirement.

This bill would make various technical and stylistic changes.

## **II. Employment**

**AB 55            Employment: Telecommuting.**

**Subject:**        Declaration of Intent

**Status:**        Introduced December 7, 2020. May be heard in committee January 7.

Existing law promotes and develops the welfare of workers in California to improve working conditions and advance opportunities for profitable employment. Existing law regulates the wages, hours, and working conditions of any worker employed in any occupation, trade, or industry.

This bill would declare the intent of the Legislature to enact future legislation to ensure certain rights and benefits for telecommuting employees.

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### AB 95      Employees: Bereavement Leave.

**Subject:**      An act to add Part 5.7 (commencing with Section 1515) to Division 2 of the Labor Code, relating to employment.

**Status:**      January 11, 2021 – Referred to Com. on L. & E.

Existing law provides employees with the right to take time off work without discharge or discrimination for a variety of reasons, including taking time off to appear in school on behalf of a child or to assist a family member who is the victim of a violent or serious felony.

This bill would enact the Bereavement Leave Act of 2021. The bill would require an employer with 25 or more employees to grant an employee up to 10 business days of unpaid bereavement leave upon the death of a spouse, child, parent, sibling, grandparent, grandchild, or domestic partner, in accordance with certain procedures, and subject to certain exclusions.

The bill would require an employer with fewer than 25 employees to grant up to 3 business days of leave, in accordance with these provisions. The bill would prohibit an employer from interfering with or restraining the exercise or attempt to exercise the employee's right to take this leave. This bill would authorize an employee who has been discharged, disciplined, or discriminated or retaliated against for exercising their right to bereavement leave to file a complaint with the Division of Labor Standards Enforcement or bring a civil action against their employer for reinstatement, specified damages, and attorney's fees. The provisions of the bill would not apply to an employee who is covered by a valid collective bargaining agreement that provides for bereavement leave and other specified working conditions.

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### **AB 230      Employment: Flexible Work Schedule**

**Subject:** An act to amend Section 510 of, and to add Section 511.5 to, the Labor Code, relating to employment.

**Status:** May be heard in committee February 12

Existing law, with certain exceptions, establishes 8 hours as a day's work and a 40-hour workweek, and requires payment of prescribed overtime compensation for additional hours worked. Existing law authorizes the adoption by  $\frac{2}{3}$  of employees in a work unit of alternative workweek schedules providing for workdays no longer than 10 hours within a 40-hour workweek.

This bill would enact the Workplace Flexibility Act of 2021. The bill would permit an individual nonexempt employee to request an employee-selected flexible work schedule providing for workdays up to 10 hours per day within a 40-hour workweek, and would allow an employer to implement this schedule without the obligation to pay overtime compensation for those additional hours in a workday, except as specified. The bill would require that the flexible work schedule contain specified information and the employer's and the employee's original signature. The bill would also require the Division of Labor Standards Enforcement in the Department of Industrial Relations to enforce this provision and adopt regulations.

### **AB 237      Public Employment: Unfair Practices Health Protection**

**Subject:** An act to add Chapter 9.4 (commencing with Section 3140) to Division 4 of Title 1 of the Government Code, relating to public employment.

**Status:** Referred to Com on P.E.&R. May be heard in committee February 13.

Existing law establishes the Public Employment Relations Board (PERB) in state government for the purpose of resolving disputes and enforcing the statutory duties and rights of specified public employers and employees under various acts regulating collective bargaining, including the Meyers-Milias-Brown Act. Under existing law, PERB has the power and duty to investigate an unfair practice charge and to determine whether the charge is justified and the appropriate remedy for the unfair practice.

This bill, the Public Employee Health Protection Act, would make it an unfair practice for a covered employer, as defined, to fail or refuse to maintain or pay for continued health care or other medical coverage for an enrolled employee or their enrolled dependents, for

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the duration of the enrolled employee's participation in the authorized strike, at the level and under the conditions that coverage would have been provided if the employee had continued to work in their position for the duration of the strike. The bill would also make it an unfair practice for a covered employer to fail to collect and remit the employee's contributions, if any, to this coverage, or to maintain any policy purporting to authorize an action prohibited by this provision or otherwise threaten an employee or their dependents' continued access to health or medical care during or as a result of the employee's participation in a strike. The bill would require the restoration of health or other medical care premiums, contributions, or out-of-pocket expenses actually paid by the employee or their dependents as a result of the employer's violation of this provision, or because the employer failed to ensure continued coverage during a strike, and would require other equitable adjustments to ensure that the employee and their dependents are made whole, as specified.

The bill would define "covered employer" to include any public employer, as specified, that offers health care or other medical coverage for nonoccupational injuries or illness to its employees. The bill would grant PERB jurisdiction over any violation of these provisions as an unfair practice, with specified enforcement powers and duties, including adjudication of claims. By requiring unfair practice claims against local public employers to be adjudicated before PERB, this bill would impose a state-mandated local program.

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.

### **AB 513      Employment: Telecommuting Employees.**

**Subject:** An act to add Chapter 5 (commencing with Section 1410) to Part 4 of Division 2 of the Labor Code, relating to employment.

**Status:** Introduced February 10, 2021. May be heard in committee March 12.

Existing law regulates the wages, hours, and working conditions of any worker employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, except as specified.

This bill would authorize an employee working from home to receive legally required notices and postings electronically and sign certain documents electronically. The bill would also require that a working from home employee's wages due at the time of separation of employment be deemed to have been paid on the date that the wages are mailed to the employee.

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### **AB 654      COVID-19 Exposure: Notification**

**Subject:** An act to amend Section 6409.6 of the Labor Code, relating to occupational safety, and declaring the urgency thereof, to take effect immediately.

**Status:** Introduced February 13, 2021. May be heard in committee March 15.

Under existing law, if an employer or representative of the employer receives a notice of potential exposure to COVID-19, the employer is required to take specified actions within one business day of the notice of potential exposure to, among other things, provide written notice to all employees on the premises at the worksite that they may have been exposed to COVID-19 and to report related information to the local public health department. Existing law also requires the State Department of Public Health to make workplace industry information received from local public health departments pursuant to these provisions available on its internet website in a manner that allows the public to track the number and frequency of COVID-19 outbreaks and the number of COVID-19 cases and outbreaks by industry reported by any workplace.

This bill would require the State Department of Public Health to make workplace and industry information received from local public health departments available on its internet website in a manner that, among other things, allows the public to track the number of COVID-19 cases and outbreaks by both workplace and industry.

This bill would declare that it is to take effect immediately as an urgency statute.

### **SB 46      Employment: Contact Tracing and Safety Policies: COVID-19.**

**Subject:** Declaration of Intent

**Status:** December 7, 2020, introduced. Read first time to Com. on RLS for assignment. May be acted upon on or after January 7.

Existing law requires an employer to furnish employment and a place of employment that is safe and healthful for its employees.

This bill would state the intent of the Legislature to enact legislation that would require an employer to develop and implement contact tracing and safety policies for its employees, including requiring notice to the employer when an employee receives a positive COVID-19 test.

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### **SB 270      Public Employment: Labor Relations: Employee Information**

**Subject:**      An act to amend Section 3558 of the Government Code, relating to public employment.

**Status:**      February 10, 2021, referred to Coms. On L., P.E. & R. and JUD

Existing law, including the Meyers-Milias-Brown Act, the Ralph C. Dills Act, the Trial Court Employment Protection and Governance Act, the Trial Court Interpreter Employment and Labor Relations Act, and the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act, provisions commonly referred to as the Educational Employment Relations Act, and the Higher Education Employer-Employee Relations Act, among others, regulates the labor relations of the state, the courts, and specified local public agencies and their employees.

Existing law requires these public employers to provide certain labor representatives with the names and home addresses of newly hired employees, as well as their job titles, departments, work locations, telephone numbers, and personal email addresses, within 30 days of hire or by the first pay period of the month following hire. Existing law also requires the public employers to provide this information for all employees in a bargaining unit at least every 120 days, except as specified. Existing law requires the Public Employment Relations Board to have jurisdiction over violations of these requirements and to have certain powers and duties related to enforcement of these requirements, except as specified.

This bill, commencing July 1, 2022, would authorize an exclusive representative to file a charge of an unfair labor practice with the board, as specified, alleging a violation of the above-described requirements only if specified conditions are met, including that the exclusive representative gives written notice of the alleged violation and that the public employer fails to cure the violation, as specified. The bill would limit a public employer's opportunity to cure certain violations.

This bill would subject a violator to a penalty, not to exceed \$10,000, to be determined by the board based on specified criteria, and would require the penalty to be deposited in the General Fund. The bill would require the board to award a party who prevails in these circumstances specified attorney's fees and costs.

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### III. Fair Political Reform Act and Public Records Act

#### AB 20 Political Reform Act of 1974: The Clean Money Act of 2021 (Lee)

**Subject:** An act to add Section 85322 to the Government Code, relating to the Political Reform Act of 1974.

**Status:** January 11, 2021 – Referred to Com. on Elections.

The Political Reform Act of 1974 imposes various limitations on contributions that may be made to, or accepted by, candidates for elective office. A violation of the act's provisions is punishable as a misdemeanor and subject to specified penalties.

This bill, the Clean Money Act of 2021, would prohibit a candidate for elective office from receiving a contribution from a business entity, and a business entity from making a contribution to a candidate for elective office, and would make related findings and declarations. By expanding the scope of existing crimes with regard to contribution limitations, this bill would impose a state-mandated local program.

This bill would state that it is the intent of the Legislature to enact legislation to create a public financing system for elections within the state.

#### **AB 473      California Public Records Act**

**Subject:** An act to add and repeal Article 3 (commencing with Section 6276.50) of Chapter 3.5 of Division 7 of, and to add Division 10 (commencing with Section 7920.000) to, Title 1 of the Government Code, relating to public records.

**Status:** Introduced February 8, 2021. May be heard in committee on March 11, 2021.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.

This bill would recodify and reorganize the provisions of the act. The bill would include provisions to govern the effect of recodification and state that the bill is intended to be entirely nonsubstantive in effect. The bill would contain related legislative findings and declarations. The bill would become operative on January 1, 2023.

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### **AB 474      California Public Records Act: Conforming Revisions**

**Subject:**      An act to amend sections of Public Records Act

**Status:**      February 18, 2021 referred to Com. on JUD.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.

This bill would enact various conforming and technical changes related to another bill that recodifies and reorganizes the California Public Records Act. The bill would only become operative if the related bill recodifying the act is enacted and becomes operative on January 1, 2023. The bill would also specify that any other bill enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, and that affects a provision of this bill shall prevail over this act, except as specified.

### **AB 975      Political Reform Act of 1974: Statement of Economic Interests and Gifts**

**Subject:**      An act to amend Sections 82028, 86112.5, and 87500.3 of, and to repeal and add Section 87500 of, the Government Code, relating to the Political Reform Act of 1974.

**Status:**      Introduced February 19, 2021. May be heard in committee March 21.

(1) The Political Reform Act of 1974 regulates conflicts of interests of public officials and requires that public officials file, with specified filing officers, periodic statements of economic interests disclosing certain information regarding income, investments, and other financial data. The Fair Political Practices Commission is the filing officer for statewide elected officers and candidates and other specified public officials. If the Commission is the filing officer, the public official generally files with their agency or another person or entity, who then makes a copy and files the original with the Commission.

This bill would revise and recast these filing requirements to make various changes, including requiring public officials and candidates for whom the Commission is the filing officer to file their original statements of economic interests electronically with the Commission. The bill would also make conforming changes to other provisions of law. The bill would prohibit the Commission from making available on the internet statements of economic interests filed by certain nonelected officials and would require the Commission to redact personal addresses and telephone numbers of all filers.



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(2) The Political Reform Act of 1974 regulates the making of gifts to public officials. However, the act exempts from the definition of “gift,” among other things, a gift to an official that, within 30 days of receipt, is returned to the donor or delivered to a charitable organization without being claimed as a deduction for tax purposes.

This bill would allow a gift of admission to an invitation-only event to be returned, reimbursed, or donated within 30 days of the calendar quarter in which it was received, and would make other changes prescribing conditions for the donation, return, or reimbursement.

(3) Under the Political Reform Act of 1974, lobbyists, lobbying firms, and lobbyist employers are required to provide each beneficiary of a gift with the date and amount of each gift reportable by the beneficiary and a description of the goods or services provided to the beneficiary within 30 days following the end of each calendar quarter in which the gift was provided.

This bill would reduce that time limit to 15 days following the end of each calendar quarter in which the gift was provided.

(4) Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

### **SB 459      Political Reform Act of 1974: Lobbying**

**Subject:**      An act relating to the Political Reform Act of 1974.

**Status:**      February 17, 2021 introduced. May be acted upon on March 19.

Existing law, the Political Reform Act of 1974, regulates the activities of lobbyists, lobbying firms, and lobbyist employers in connection with attempts to influence legislative and administrative action by legislative and other state officials, including by requiring that lobbyists, lobbying firms, and lobbyist employers register and file periodic reports with the Secretary of State.

This bill would state the intent of the Legislature to enact legislation to increase transparency and public access to lobbying information illustrating how money is spent to influence the actions of California’s government.

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### IV. Local Government

#### SCR 5 State of Emergency: COVID 19: Termination

This measure, in accordance with specified law, would declare that the state of emergency proclaimed by the Governor on March 4, 2020, is at an end, thereby terminating the emergency powers granted to the Governor as a result of that proclamation.

#### AB 339 State and Local Government: Open Meetings

**Subject:** An act to amend Sections 9027, 54953, 54954.2, 54954.3, 11122.5, 11123, 11125.7 of, and to add Sections 9027.1 and 9028.1 to, the Government Code, relating to state and local government.

**Status:** May be heard in committee on February 28, 2021.

Existing law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified.

This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation, as provided, and requires translation services to be provided for the 10 most-spoken languages, other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified. The bill would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified.

Existing law, 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.

This bill would require all meetings to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require, even in the case of a declared state or local

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emergency, teleconferenced meetings to include an in-person public comment opportunity. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified. The bill would also require the legislative bodies of the local agency to employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of a non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people, as defined.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The Act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

This bill would require all meetings, as defined, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified.

Existing law, the Dymally-Alatorre Bilingual Services Act, requires any materials explaining services available to the public to be translated into any non-English language spoken by a substantial number of the public, as defined, served by the agency, and requires every state and local agency serving a substantial number of non-English-speaking people, as defined, to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to ensure provision of information and services in the language of the non-English-speaking person.

This bill would require legislative bodies of local agencies, and state bodies, as defined, to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5% of the population in the area governed by the local agency, or state body's jurisdiction, are speakers.

By imposing new duties on local governments with respect to meetings, this bill would impose a state-mandated local program.

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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.

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.

### **AB 361      Open Meetings: Local Agencies: Teleconferences**

**Subject:**      An act to amend Section 54953 of the Government Code

**Status:**      February 2, 2021 – From Printer. May be heard in committee  
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Existing law, 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 contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances, and authorizes a specified legislative body or an official designated to proclaim a local emergency. Existing law allows a local health

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officer to declare a local public health emergency, which, after 7 days, must be ratified by the county board of supervisors, or city council, as applicable, in order to remain in place. Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency, during a declared state or local emergency, as those terms are defined, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency provided the legislative body makes certain determinations by majority vote. The bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, as provided, to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

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.

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### AB 703      Open Meetings: Local Agencies: Teleconferences

**Subject:** An act to amend Section 54953 of the Government Code, relating to local government.

**Status:** February 16, 2021 read first time. May be heard in committee March 19.

Existing law, 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 contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, Executive Order N-29-20, suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic, provided that notice requirements are met, the ability of the public to observe and comment is preserved, as specified, and that a local agency permitting teleconferencing have a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill would remove the requirements of the act particular to teleconferencing and allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda and the ability of the public to observe the meeting and provide public comment. The bill would require that, in each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the local agency also give notice of the means by which members of the public may observe the meeting and offer public comment and that the legislative body have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act, as provided.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order N-29-20, to improve and enhance public access to local agency meetings into the

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future, and considering the digital age, by allowing broader access through teleconferencing options.

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.

### **AB 821      Local Government: Open Meetings**

**Subject:** An act to amend Section 54950 of the Government Code, relating to local government.

**Status:** February 16, 2021, read first time. To print.

Existing law, the Ralph M. Brown Act, requires each legislative body of a local agency to provide notice of the time and place for its regular meetings and an agenda containing a brief general description of each item of business to be transacted. The act also requires that all meetings of a legislative body be open and public, and that all persons be permitted to attend unless a closed session is authorized.

This bill would make nonsubstantive changes to a provision of the Ralph M. Brown Act.

### **SB 274      Local Government: Meetings, agenda and documents**

**Subject:** An act to amend Section 54954.1 of the Government Code, relating to local government.

**Status:** Introduced to Com. on RLS assignment on January 29, 2021

Existing law, the Ralph M. Brown Act, requires meetings of the legislative body of a local agency to be open and public and also requires regular and special meetings of the legislative body to be held within the boundaries of the territory over which the local agency exercises jurisdiction, with specified exceptions. Existing law authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person.

This bill would require a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the

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agenda packet if the person requests that the items be delivered by email. If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by mail or by other electronic means, the bill would require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified. By requiring local agencies to comply with these provisions, this bill would impose a state-mandated local program.

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.

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.

### V. Other Bills of Interest

#### **SB 278: Public Employees' Retirement System: Disallowed Compensation: Benefit Adjustments.**

**Subject:** An act to add Section 20164.5 to the Government Code, relating to public employees' retirement.

**Status:** February 22, 2021 set for hearing on March 8, 2021.

(1) Existing law, the Public Employees' Retirement Law (PERL), establishes the Public Employees' Retirement System (PERS), which provides a defined benefit to members of the system, based on final compensation, credited service, and age at retirement, subject to certain variations. PERL authorizes a public agency to contract to make its employees members of PERS and prescribes a process for this. PERS is administered by its board of administration, which is responsible for correcting errors and omissions in the administration of the system and the payment of benefits. Existing law requires the



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board to correct all actions taken as a result of errors or omissions of the state or a contracting agency, in accordance with certain procedures.

The California Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act. PEPRA, among other things, establishes new defined benefit formulas and caps on pensionable compensation.

This bill would establish new procedures under PERL for cases in which PERS determines that the benefits of a member or annuitant are, or would be, based on disallowed compensation that conflicts with PEPRA and other specified laws and thus impermissible under PERL. The bill would also apply these procedures retroactively to determinations made on or after January 1, 2017, if an appeal has been filed and the employee member, survivor, or beneficiary has not exhausted their administrative or legal remedies. At the threshold, after determining that compensation for an employee member reported by the state, school employer, or a contracting agency is disallowed, the bill would require the applicable employer to discontinue the reporting of the disallowed compensation. The bill would require that contributions made on the disallowed compensation, for active members, be credited against future contributions on behalf of the state, school employer, or contracting agency that reported the disallowed compensation and would require that the state, school employer, or contracting agency return to the member any contributions paid by the member or on the member's behalf.

With respect to retired members, survivors, or beneficiaries whose benefits are based on disallowed final compensation, the bill would require PERS to adjust the benefit to reflect the exclusion of the disallowed compensation, and provide that contributions made on the disallowed compensation be credited against future contributions on behalf of the employer entity that reported the disallowed compensation. Additionally, if specified conditions are met, the bill would require the employing entity to refund overpayment costs to the system and to pay retired members, survivors, and beneficiaries whose benefits have been reduced an annuity, or a lump sum, as prescribed, that reflects the difference between the monthly allowance that was based on the disallowed compensation and the adjusted monthly allowance calculated without the disallowed compensation, as provided. The bill would require the system to provide certain notices in this regard. This bill would require the system to provide confidential contact information of retired members, and their survivors and beneficiaries, who are affected by these provisions to the relevant employing entities, the confidentiality of which the entities would be required to maintain.

The bill would authorize the state, a school employer, as specified, or a contracting agency, as applicable, to submit to the system an additional compensation item

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proposed to be included or contained in a memorandum of understanding or collective bargaining agreement on and after January 1, 2022, that is intended to form the basis of a pension benefit calculation in order for PERS to review its consistency with PEPRA and other laws, as specified, and would require PERS to provide guidance regarding the review within 90 days, as specified. The bill would require PERS to publish notices regarding proposed compensation language submitted to the system for review and the guidance given by the system that is connected with it. For educational entities that participate in the system, the final responsibility for funding payments to the system and to retired members, survivors, and beneficiaries would belong to the educational entity that is the actual employer of the employee. The bill would make related legislative findings and declarations.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

### **AB 386      Public Employees' Retirement Fund: Investments: Confidentiality**

**Subject:**      An act to add Section 6254.32 to the Government Code, relating to public records.

**Status:**      Introduced February 2, 2021. May be heard in committee March 5.

Existing law, the California Public Records Act, requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Existing law excludes from the disclosure requirement certain records regarding alternative investments in which public investment funds invest.

This bill would exempt from disclosure under the act specified records regarding an internally managed private loan made directly by the Public Employees' Retirement Fund. Under the bill, these records would include quarterly and annual financial statements of the borrower or its constituent owners, unless the information has already been publicly released by the keeper of the information.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

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### **AB 457      Public Employees Retirement Systems: Investment Portfolios: Divestment from Turkey**

**Subject:** An act to add Section 22338 to the Education Code, and to add Section 20140 to the Government Code, relating to retirement.

**Status:** Introduced on February 16, 2021. To Com. on RLS for assignment.

The California Constitution grants the retirement board of a public employee retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the retirement fund and system. The California Constitution qualifies this grant of powers by reserving to the Legislature the authority to prohibit investments if it is in the public interest and the prohibition satisfies standards of fiduciary care and loyalty required of a retirement board. Existing law prescribes specified duties for the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System in connection with investment in specified countries and, under certain conditions, limits the authority of the boards to invest in those countries.

This bill would require the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System to provide employers that are school districts and cities that participate in the systems an option to elect an investment portfolio that does not contain investment vehicles that are issued or owned by the government of the Republic of Turkey.

### **AB 761      County Employees' Retirement: Personnel: Orange County**

**Subject:** An act to amend Section 31580.2 of, and to add Section 31522.11 to, the Government Code, relating to county employees' retirement.

**Status:** Introduced February 16, 2021. May be heard in committee March 19.

The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to their employees. CERL authorizes the board of retirement and both the board of retirement and the board of investment to appoint administrative, technical, and clerical staff as required to accomplish the necessary work of the board. Under CERL, these appointments are generally required to be made from eligible lists created in accordance with the civil service system or merit system rules of the county. CERL, however, authorizes the retirement boards of 5 specified counties to appoint assistant administrators and chief investment officers who, following appointment, are outside

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county charter, civil service, and merit system rules, except as specified. CERL provides that these administrators and officers are employees of the county, as specified, while serving at the pleasure of the appointing boards, and that they may be dismissed without cause. Existing law also applies these provisions to any county if the board of supervisors for that county, by resolution adopted by majority vote, makes those provisions applicable in the county.

This bill would authorize the board of retirement for Orange County to appoint an administrator, assistant administrators, a chief investment officer, subordinate investment officers, senior management employees, legal counsel, and other specified employees. The bill would provide that the personnel appointed pursuant to these provisions would not be county employees subject to county civil service and merit system rules, and instead would be employees of the retirement system. The bill would provide that the compensation of personnel appointed pursuant to these provisions is an expense of administration of the retirement system. The bill would authorize the board of retirement and board of supervisors to enter into agreements as necessary and appropriate to carry out these provisions and would make related, conforming changes.

### **AB 1019      Public Employee Retirement Systems: Prohibit Investments: Turkey**

**Subject:**      An act to add Section 7513.73 to the Government Code, relating to public employee retirement systems.

**Status:**      February 19, 2021 may be heard in committee on March 21, 2021.

Existing California Constitution provisions grant the retirement board of a public employee retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the retirement fund and system. These provisions qualify this grant of powers by reserving to the Legislature the authority to prohibit investments if it is in the public interest and the prohibition satisfies standards of fiduciary care and loyalty required of a retirement board.

Existing law, upon the passage of a federal law that imposes sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, prohibits the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System from making additional or new investments, or renewing existing investments, of public employee retirement funds in an investment vehicle in the government of Turkey that is issued by the government of Turkey or that is owned by the government of Turkey. Existing law repeals the above-described provision on January 1, 2025, or upon a determination by the board, the United States Department of State, the Congress of the United States, or another

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appropriate federal agency that the government of Turkey has officially acknowledged its responsibility for the Armenian Genocide, whichever occurs first.

This bill would, in addition, prohibit state trust moneys from being used to make additional or new investments or to renew existing investments in investment vehicles issued or owned by the government of Turkey, unless the government adopts a policy to acknowledge the Armenian Genocide and embark on a path of affording justice to its victims. The bill would define “state trust moneys” to mean funds administered by specified state employee retirement funds, including the Public Employees’ Retirement Fund and the Legislators’ Retirement Fund.

### **AB 1133      Public Employee Retirement: Hybrid Pension Plan**

**Subject:**      An act relating to a state employee hybrid pension system.

**Status:**      February 19, 2021 may be heard in committee on March 21, 2021.

Existing law creates the Public Employees’ Retirement System (PERS), which offers a defined benefit pension and other benefits to its members based on age at retirement, service credit, and final compensation, subject to certain variations. Existing law generally provides that state employees become members of PERS upon employment. Existing law authorizes the Department of Personnel Administration to create a tax-deferred savings plan, which has been named Savings Plus, that permits state employees to build a retirement savings account using payroll deductions.

The bill would state the intent of the Legislature to enact legislation that would create a hybrid retirement benefit, consisting of a defined benefit pension and a defined contribution program, within the Public Employees’ Retirement System, that state employees would have the option of electing.

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### **SB 294: Public Retirement: Leave of Absence: Service Credit**

**Subject:** An act to amend Sections 22711, 44987, 45210, 87768.5, and 88210 of the Education Code, and to amend Section 20906 of the Government Code, relating to public retirement, and making an appropriation therefor.

**Status:** Set for hearing on March 8, 2021.

The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to state employees and employees of contracting agencies. Existing law requires administration of PERS by the Board of Administration of PERS. Existing law creates the Public Employees' Retirement Fund, a continuously appropriated fund, as a trust fund to be expended for purposes related to the system and its administration, and into which employee contributions are deposited.

The Teachers' Retirement Law establishes the State Teachers' Retirement System (STRS) for the purpose of providing a defined benefit to members of the program. STRS is governed by the Teachers' Retirement Board. Existing law creates the Teachers' Retirement Fund, which is continuously appropriated for specified purposes, and into which employee contributions are deposited.

PERS and STRS require employees to make contributions to the system based on their creditable compensation, as defined. Existing law defines "leave of absence" for purposes of both laws as a period of leave to which a member is entitled that is expressly authorized or required pursuant to specified provisions, including employer-approved compensated leave, subject to specified requirements. Under existing law, during a leave of absence for an employer-approved compensated leave, an employee earns full service credit and is required to pay employee contributions, as specified. Existing law limits the maximum amount of the service credit earned during an employer-approved compensated leave of absence to 12 years.

This bill would remove the 12-year limitation for service credit earned on an employer-approved compensated leave. By increasing contributions into the continuously appropriated Public Employees' Retirement Fund and Teachers' Retirement Fund, the bill would make an appropriation.

End of Memo.  
BMH:ycb