

ETHICS ISSUES FOR SPECIAL DISTRICT LEADERS

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Topics for Discussion

- A.B. 1234 (Salinas, D-Salinas)
 - Status of Bill
 - New Rules re Compensation
 - New Ethics Training Requirements
- Some General Thoughts on Ethical Decision-Making for Local Officials
- Q&A

A.B. 1234 – Overview

- Imposes limits on expense reimbursement for most local government officials
- Requires adoption of expense reimbursement policy
- Requires 2 hours of ethics training every two years for local elected officials and designated staff

A.B. 1234 - History

Introduced by Assemblyman Simon Salinas (D-Salinas), Chair of Assembly Local Government Committee

Responding to news reports of alleged misconduct in the Sacramento Suburban Water District, Otay Water District, and City of Elk Grove

Relies on State Auditor's report on Independent Special Water Districts and publications of the Institute for Local Self Government

A.B. 1234 - Status

- As of August 25th, awaiting third-reading in Senate and then Assembly concurrence in Senate amendments
- Passed Assembly and Senate Committees and on Assembly Floor without a single “no” vote
- No formal opposition
- Supported by ACWA, CSAC, CSDA, LCC
- Passage likely

New Rules re Compensation

- Meeting stipend can be paid for meeting of “legislative body,” meeting of an advisory body, and conference attendance
- No other meeting stipend unless authorized by written policy adopted at public meeting of governing body specifying “other types of occasions that constitute the performance of official duties.”

Compensation Rules (Cont.)

- Does not apply to salaried officials (most cities and counties, irrigation districts which provided electricity, harbor districts, East Bay MUD)
- Other statutory authority to pay compensation required
- Effective 1/1/06

Expense Reimbursements

- Each agency must adopt a written expense reimbursement policy for “travel, meals, lodging, and other actual and necessary expenses.”
- Policy must specify “reasonable reimbursement rates” or IRS rules will apply
- Lodging must be at conference or government rate, if available; in comparable lodging, otherwise
- Any exceptions must be approved in advance

Expense Reimbursements (Cont.)

- Agency must provide “expense report forms to be filed by the members of the legislative body”
- Reports must document compliance with policy
- “Members of a legislative body shall submit expense reports within a reasonable time .. as determined by the legislative body, andshall be accompanied by ... receipts.”

Expense Reimbursement (Cont.)

- Flat monthly mileage allowances will not comply with this law; use of agency vehicles for agency business still permissible
- “Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.”
- Policies and expense reports are public records

Penalties

- “Penalties for misuse of public resources or falsifying expense report” include:
 - Loss of reimbursement privileges
 - Restitution
 - Civil penalties of up to \$1k per day and 3x the value of the resources used
 - Criminal prosecution and lifetime bar from public office

Ethics Training – Who?

- Applies to agencies which provide compensation, salary or stipend or expense reimbursements to legislative body
- Applies to members of legislative body, other compensated elected officials, and “any employee designated by a local agency legislative body”

Ethics Training – What?

- Curricula established by local agency or groups such as the CSDA in consultation with the Attorney General and FPPC

Ethics Training – What? (cont.)

- “Laws relating to claiming [perquisites] of office”: gifts & travel, use of public resources, mass mailing restrictions, gifts of public funds, free / discounted transportation
- “Government transparency laws”: financial interest disclosure, Brown Act, Public Records Act
- “Laws relating to fair processes”: bias, due process, incompatible offices, competitive bidding, nepotism
- Local ethics policies (optional)

Ethics Training – When?

- Two hours every two years
- By 1/1/07 for those in office as of 1/1/06 unless leaving office in 2006
- Within 1 year of taking office for those who do so after 1/1/06

Ethics Training – Where & How?

- By local agency or association of local agencies
- Seminars, self-study courses with tests to be taken at home, in person or online
- Trainer must provide proof of participation
- Agency must inform officials of training opportunities at least annually
- Agency must keep records of training attendance for five years, listing dates of attendance and the entity which provided the training

Ethics Training – How?

- Holder of more than one covered position need only complete two training hours every two years as to all positions
- All policies and attendance records are public records

General Thoughts on Ethical Decision-Making

- Is the action legal?
- Does it meet your own sense of right and wrong?
- Is it good public policy?
- Is it consistent with the agency's or the community's values?
- Does it comply with the Golden Rule?

Ethical Decision-making (Cont.)

- Don't be afraid to invite ethics into the room
- There is often more than one “right” answer and it is okay to disagree about what is right or wrong
- Consider adopting a local ethics or standards of conduct policy
- The Institute for Local Government has good resource materials at www.ilsg.org

Conclusion

- Prepare to comply with compensation and expense claiming rules by 1/1/06
- Obtain ethics training by 1/1/07
- We can all do our part to “invite ethics into the room”

Q&A

- Questions?