

Council Meeting of
February 7, 2006

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Subject: AB 1234 – Local agencies: Compensation and ethics

RECOMMENDATION

It is the recommendation of the Finance Director, City Manager and City Attorney that the Council adopt a **RESOLUTION** amending policy for Seminar, Conference and Travel reimbursement and a **RESOLUTION** amending policy for Routine Monthly Expense reimbursement.

Funding

Funding is available in existing departmental operating budget.

BACKGROUND/ANALYSIS

AB 1234 which took effect on January 1, 2006, requires ethics training for all local elected officials and makes changes in how legislative bodies may be reimbursed for their expenses. The ethics training requirements will be addressed at a later date. The new law requires that local agencies adopt a policy that sets reasonable rates for travel, meals, lodging and other expenses.

The City Attorney does not believe that AB 1234 applies to charter cities, notwithstanding the statute's statement that it does. Given the "onerous" penalties of AB 1234, the City Attorney believes that having a prudent policy in place is "wise" in case the courts decide otherwise.

There are three areas of reimbursable expenses that the Council receives that fall under the new law: Travel, Monthly Expense Reimbursement and Auto Allowance.

Under AB 1234, the City may specify what constitutes reasonable rates for travel, meals, lodging and other expenses. If the policy does not specify reimbursement rates, then the reimbursement rates default to those specified in IRS guidelines. It appears the intent of the law in this area is to reimburse elected officials for actual expenses subject to community standards for the use of scarce taxpayer dollars.

Travel

Currently, the City's travel policy specifies an amount not to exceed \$55 per day for meals, but does not specify the amount for lodging. Our continued policy of requiring receipts and providing names of any guests will continue. Staff is recommending modifying the City's

lodging reimbursement provisions to read as follows: "It is expected that negotiated, conference or preferred rates will be used and government or lowest rates will be requested whenever possible". (Attachment C).

Monthly Reimbursable Expenses

Reimbursable expenses for members of the legislative body continue to be allowable but require the legislative body to specify what occurrences qualify for reimbursement. Staff's recommendation is contained in Attachment B. "All" reimbursable expenses need to be documented with receipts and continue to be public records subject to disclosure. The new law requires any policy to specify what constitutes a "reasonable" time within which reimbursements are requested. Staff is recommending that this be defined at 30 days following the close of the month during which the expenses were incurred.

Auto Allowance

There are many differing opinions on how the new law affects flat auto allowances. There are numerous interpretations and/or opinions on this matter. The League's (which includes general law and charter cities) interpretation is that an agency may not pay flat monthly mileage allowances without requiring a mileage log or other proof of travel. Some cities that provide vehicles for their legislative body will continue that practice. Staff realizes the keeping of a mileage log is not always practical nor cost effective as well as the pros and cons of City-provided vehicles.

In light of the above information, Staff has the following three recommendations for the Council to consider:

- Adopt the amended City administrative policy on "Travel";
- Adopt the amended City administrative policy on "Reimbursable Expenses"; and
- In lieu of reimbursing vehicle use, allow the Council to increase the amount for monthly reimbursable expenses, inclusive of mileage, and direct staff to further research the matter.

The Council can defer action on any of the above items but it is the recommendation of the City Manager and City Attorney that any reimbursements for expenses be held until the appropriate policy is adopted by the Council.

It is important to note that members of Council serving on other legislative boards or commissions that provide reimbursements for travel and other expenses may want to check with the agency as to what policies have been adopted.

AB 1234 also requires new ethics training for local public officials. Staff will return to Council with a recommendation at a later date.

Respectfully submitted,

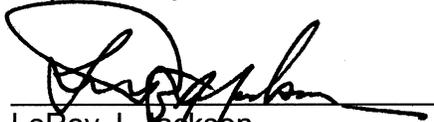


Eric E. Tsao
Finance Director

CONCUR:



John L. Fellows III
City Attorney



LeRoy J. Jackson
City Manager

ATTACHMENTS:

- A. Resolution for the Reimbursement of Travel
- B. Resolution for Routine Monthly Expenses
- C. City Policy on Seminars, Conferences and Travel Policy
- D. City Policy on Routine Monthly Expense Report
- E. Copy of Assembly Bill 1234
- F. Sample Policy
- G. Frequently Asked Questions re: AB 1234

RESOLUTION NO. 2006 -

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
ESTABLISHING POLICY FOR SEMINAR, CONFERENCE AND TRAVEL REIMBURSEMENT**

WHEREAS, effective January 1, 2006, Assembly Bill 1234 modified the general law of the state governing the reimbursement of expenses for members of the legislative bodies of local agencies; and

WHEREAS, the City of Torrance takes its stewardship over the use of its limited public resources seriously; and

WHEREAS, public resources should only be used when there is a substantial benefit to the City; and

WHEREAS, such benefits include:

1. The opportunity to discuss the community's concerns with state and federal officials;
2. Participating in regional, state and national organizations whose activities affect the City;
3. Attending educational seminars designed to improve officials' skill and information levels; and
4. Promoting public service and morale by recognizing such service.

WHEREAS, 1) legislative and other regional, state and federal agency business is frequently conducted over meals; 2) sharing a meal with regional, state and federal officials is frequently the best opportunity for a more extensive, focused and uninterrupted communication about the City's policy concerns; and 3) each meal expenditure must comply with the limits and reporting requirements of local, state and federal law; and

WHEREAS, this policy provides guidance to members of the City Council on the use and expenditure of City resources, as well as the standards against which those expenditures will be measured; and

WHEREAS, this policy would satisfy the requirements of Government Code sections 53232.2 and 53233.3 in the event such requirements could be constitutionally applied to charter cities;

NOW, THEREFORE, the City Council of the City of Torrance does hereby resolve that:

Section 1

Seminar, conference and travel expense reimbursements for the Mayor and City Council from January 1, 2006 forward shall be in accordance with the City's Seminar, Conference, and Travel Policy.

Introduced, approved, and adopted this 7th day of February, 2006.

Mayor of the City of Torrance

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III, CITY ATTORNEY

By _____

RESOLUTION NO. 2006 -

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
ESTABLISHING POLICY FOR ROUTINE MONTHLY EXPENSE REIMBURSEMENT**

WHEREAS, effective January 1, 2006, Assembly Bill 1234 modified the general law of the state governing the reimbursement of expenses for members of the legislative bodies of local agencies; and

WHEREAS, the City of Torrance takes its stewardship over the use of its limited public resources seriously; and

WHEREAS, public resources should only be used when there is a substantial benefit to the City; and

WHEREAS, such benefits include:

1. The opportunity to discuss the community's concerns with state and federal officials;
2. Participating in regional, state and national organizations whose activities affect the City;
3. Attending educational seminars designed to improve officials' skill and information levels; and
4. Promoting public service and morale by recognizing such service.

WHEREAS, 1) legislative and other regional, state and federal agency business is frequently conducted over meals; 2) sharing a meal with regional, state and federal officials is frequently the best opportunity for a more extensive, focused and uninterrupted communication about the City's policy concerns; and 3) each meal expenditure must comply with the limits and reporting requirements of local, state and federal law; and

WHEREAS, this policy provides guidance to members of the City Council on the use and expenditure of City resources, as well as the standards against which those expenditures will be measured; and

WHEREAS, this policy would satisfy the requirements of Government Code sections 53232.2 and 53233.3 in the event such requirements could be constitutionally applied to charter cities;

NOW, THEREFORE, the City Council of the City of Torrance does hereby resolve that:

Section 1

Routine monthly expense reimbursements for the Mayor and City Council from January 1, 2006 forward shall be in accordance with the City's Routine Monthly Expense Report Policy.

Introduced, approved, and adopted this 7th day of February, 2006.

Mayor of the City of Torrance

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III, CITY ATTORNEY

By _____

Seminars, Conferences and Travel Policy

The City of Torrance recognizes the constructive value of professional conferences, seminars, meetings, and training and provides travel funds for members of council, department managers and employees who attend such events. For City employees, the department head and City Manager must approve travel authorizations (for non-local travel). Travel request funding shall be part of the annual budget process and should be inclusive within each department budget. The expenses that are eligible for reimbursement are transportation, meals, parking, fuel, registration, lodging and authorized City purchases.

Definitions

Seminars and Conferences

Programs that specifically benefit the City by improving skills and informational levels for members of council and/or increases employee performance or skill in their immediate work assignment. This includes programs sponsored by professional and technical organizations, colleges and universities, other governmental agencies and private training organizations.

Travel

Authorized attendance at conferences and meetings, taking place at any location other than City-owned facilities, including necessary transportation to and from. Travel is further designated as local or non-local, by the following:

1. Local travel is not to exceed 200 miles round trip from either the traveler's home or City Hall. The department should research all local possibilities before traveling to a non-local destination. For City employees, department head approval is required.
2. Non-local travel is travel involving at least one overnight stay to a destination(s) exceeding 200 miles round trip from either the traveler's home or City Hall. For City employees, both department head and City Manager approval is required.
3. For City employees, any conference or seminar attendance outside the United States or Canada, if concurred with by the City Manager, must also be approved by the City Council.

Expenses

An advance for meal expenses shall be provided for each day or fraction thereof while on a trip lasting more than one day. The maximum daily allowance shall not exceed \$55. Adjustments may be made to the meal allowance (not to exceed the maximum daily allowable) when employees travel from home, meals are provided and/or for partial travel days. NOTE: Original receipts must be provided, whenever possible, for actual cost to receive reimbursement.

Unless the conference or training location necessitates differently, guidelines for individual meals are as follows:

Breakfast:	\$10
Lunch:	\$15
Dinner:	\$30

Variance to these guidelines requires written explanation.

- ⇒ If the maximum meal allowance is not used and a cash advance has been obtained, the balance is returned to the City Treasurer's Office.
- ⇒ Meal receipts are not required for Police Officer Standards Training (POST) classes, as these funds are reimbursed to the City by the training organization.

Transportation

- ⇒ The use of a City vehicle for transportation will be governed by:
 1. The availability of vehicles.
 2. The need for an automobile for side trips at the point of destination.
 3. The cost comparison, as determined by the department, with other means of transportation available, taking into consideration the loss of work time by the driver (and passengers), the costs of renting a car, mileage reimbursement and any cost savings to the City.
- ⇒ The rental of a car on-site will be governed by the availability of transportation to and from the Airport and hotel, the availability of transportation to and from the hotel and meeting facility, and the necessity to travel outside of the conference meetings. For City employees, any rental costs expected to exceed \$250 shall be pre-approved by the City Manager.
- ⇒ The use of a personal automobile, by City employees, when the destination is 200 miles or more round trip must be supported by written justification and have prior approval of the City Manager. Mileage will be reimbursed at the rate that is allowed per IRS Rules and Regulations.
- ⇒ Air Travel: The department travel coordinator is responsible for travel arrangements. Air travel shall be arranged at coach class. The travel coordinator should make an effort to obtain the lowest possible airfare by using a variety of resources including travel agencies, Internet, advertised specials, and other opportunities that are available. If a travel agent is used, the travel agent must be notified of any advertised discount airfare or hotel rates. The point of departure should be from the airport nearest the traveler's home, unless leaving from another airport will result in substantial savings.

Lodging

The department travel coordinator or travel agent should make hotel reservations. It is expected that negotiated, conference or preferred rates will be used and government or lowest rates will be requested whenever possible. Many hotels will deduct the transient occupancy tax from the hotel bill for government employees traveling on official business.

Authorization

- ⇒ Members of the legislative body are authorized to attend a conference either in or out of state and are reimbursed for conference travel expenses in an amount not to exceed \$7,500 per fiscal year, plus transportation costs, for members of Council and \$10,000 per fiscal year for the Mayor. The amount not to exceed is to cover meals, fuel, lodging and registration.

- ⇒ Department heads are authorized to attend a conference either in or out of state and are reimbursed for conference travel expenses in an amount not to exceed \$1,980 per fiscal year plus transportation costs. The \$1,980 is to cover meals, parking, fuel, lodging, and registration.
- ⇒ Division heads are authorized to attend a conference either in or out of state and are reimbursed for conference travel expenses in an amount not to exceed \$990 per fiscal year, plus transportation cost. The \$990 is to cover meals, parking, fuel, lodging, and registration. The department head must approve the request before it is submitted to the City Manager's Office for approval.
- ⇒ Special meeting attendance: Employees required to attend special meetings such as State committee meetings or who are members of a standing committee of the League of California Cities, if provided for in the department budget, shall be able to attend with prior approval from the City Manager's Office. All expenses will be charged to department budget. It shall not be deducted from the aforementioned conference travel allowance.
- ⇒ A City employee who is required to attend the League of California Cities Annual Conference shall charge the conference registration fee to the City's legislative budget. Attendance at the League conference is in addition to the authorized conference travel noted above.

Requests for additional travel funds will not normally be authorized except in cases of emergency or other special situations. In such instances, the City Council, City Manager or designee of the City Manager must approve requests.

Procedures for Seminars, Conferences, and Travel

The following rules and procedures shall regulate all seminars, conferences, and training that require out-of-town or overnight trips.

Before the Trip

A. Travel Request.

A Travel Request and Expense Report (Form FIN-103) shall be prepared in triplicate for each trip that is planned. All components of the advance estimate section must be filled out. For example, if the registration is paid by a direct payment voucher, then the amount paid must also be indicated as an estimate. A copy of the announcement or brochure should be attached to the forms being submitted. It is not necessary to complete the section under the individual days until travel is complete and the form is submitted for final accounting. This report form shall be processed as follows:

1. After the department head has approved the travel request, the request shall be submitted to the City Manager's Office for initial approval one month before the scheduled travel date.
2. After City Manager approval, the request will be sent to the Finance Department as a travel advance voucher if a cash advance is requested.
3. The second and third copy will be returned to the employee as official authorization for the trip, and upon return, the duplicate shall serve as the expense report form that will be submitted to the Finance Department for final accounting.

B. Travel Cash Advance Request.

A travel advance shall be issued by the Finance Department in the amount approved by the City Manager on the Travel Request and Expense Report form. The advance estimate section of the expense report must show the estimated cost of transportation, meals, parking, fuel, registration, and lodging.

1. Cash advance to an employee will be issued by Finance on Wednesday following the week of receipt.
2. In the event the travel agent includes an invoice for the purchased plane tickets, then the payment to the vendor may be processed through a Direct Payment Voucher (DPV) to Accounts Payable.
3. Use of a rental car by a City employee must be supported with written justification and requires prior approval from the City Manager.

An advance will not be given if there is failure to comply with the time limit restrictions.

After Travel

Within 10 working days upon completion of the trip, the employee shall submit the completed second copy of the Travel Request and Expense Report to the department head for approval. The department shall forward the report to the City Manager's Office. From the City Manager's Office, the form will be sent to the Finance Department for final approval. The legislative body would forward the request directly to the Finance Department. All expenses incurred by the employee, except gratuities, must be documented with original receipts. The report must show the time and date of departure and return. The employee is to provide the following information to be reimbursed for expenditures and cash advance:

- A. Lodging: Original receipts must be attached to the expense report in support of all claims for lodging.
- B. Meals: Regardless of amount, charge/credit card receipts or cash register receipts for all meals must be attached. The amounts claimed for meals should include tax and tip.
- C. Registration: Where the registration fee for a conference or seminar includes either lodging or meals, the details shall be set forth in the expense report and the registration receipt attached. (Note: the City does not pay for a spouse's registration or programs)
- D. Transportation: When using a personal automobile, mileage will be reimbursed at the rate allowed by the IRS. Check the current mileage rate with the Finance Department. Included in these costs are parking, tolls, taxi, and bus fees.
- E. Auto Rental: The original receipts must be attached to the expense report.

Other expense items must be detailed on the expense report and supported with original receipts. When an original receipt is not available, a written explanation of the expense and the reason for the missing receipt is required and must include the name of the vendor, location, day and the dollar amount. In the event a spouse or

family accompanies the employee, receipts must indicate the employee's individual expenses.

Finance Department and City Manager's Office Responsibilities

Both departments shall check the receipts for reasonableness, accuracy of figures and compliance with the City's policies and procedures.

Employee's Records

The third copy of the Travel Request and Expense Report shall be kept for the employee's personal records.

Routine Monthly Expense Report Policy

The City of Torrance shall have a uniform policy and procedure in regard to routine monthly expense reports. Members of the City Council and City employees shall be reimbursed for expenses related to job responsibilities, provided that certain rules and procedures are followed. Expenses related to trips not requiring an overnight stay are included in this category. Expenses not covered in this policy and procedure will be reviewed and approved on a case-by-case basis.

The following types of activities are authorized for reimbursement:

1. Educational seminars designed to improve skills and information levels;
2. Meetings with other governmental representatives on City policy;
3. Participation in professional, local, regional, state and national organizations;
4. Attending City events;
5. Recognizing service to the City;
6. Miscellaneous supplies and equipment necessary for the performance of City related duties that are not otherwise provided by the City.

Documentation

- ⇒ An individual may request reimbursement by submitting a Routine Monthly Expense Report and completing the following sections:
 - Detail of Expenses
 - Detail Required for Extra Meals
 - Other Expense
 - Summary of Expenses
 - Claim for Mileage and Parking and Toll
- ⇒ All receipts must be attached to the Expense Report form.
- ⇒ When reporting meals, the tax and tip must be included in the final amount.

Routine Monthly Expense Report Procedure

The following rules and procedures shall regulate the use of Routine Monthly Expense Reports.

Responsibilities

- A. The department head or designee shall approve all expense reports.
- B. The City Manager shall approve for City employees:
 - Reports exceeding \$150.00
 - Department head expense reports, exclusive of auto allowance and mileage
- C. The Finance Department shall review each expense report and reimburse individuals for expenses incurred.

Procedures for Reporting Expenses

The Routine Monthly Expense Report shall be prepared *no later than 30 days* following the close of the month during which the expenses were incurred and upon approval, the report shall be submitted to the Finance Department for reimbursement.

Deleted: 2 weeks

- A. Meals: claims must provide the date, name of the eating establishment, business purpose, the number of meals, and the amount of the expenses. An individual meal should not exceed \$30. (Participants should take care of any alcoholic beverages as a non-business expense.)
- B. Extra Meals: claims must provide the date, name, title or business.
- C. City Approved Banquet Functions: State of the City, Chamber of Commerce events, etc.
- D. Attendance at civic club events will be allowed only where approval has been obtained from the City Manager. (These requests must be submitted in writing prior to attendance.)
- E. Other Expenses: City-related expenditures may be claimed and must provide the date, the items of expense and the amount.
- F. Mileage: The destination and purpose shall be documented for each trip. Mileage will be reimbursed at the current mileage rate allowed by the IRS. Employees who receive a monthly vehicle allowance can be reimbursed on a per mileage basis for business travel that exceeds 25 miles each way. Reimbursement will be given on a per mile basis commencing after the 25th mile.

NOTE: All receipts must be attached, whenever possible.

BILL NUMBER: AB 1234 CHAPTERED
BILL TEXT

CHAPTER 700

FILED WITH SECRETARY OF STATE OCTOBER 7, 2005

APPROVED BY GOVERNOR OCTOBER 7, 2005

PASSED THE ASSEMBLY AUGUST 30, 2005

PASSED THE SENATE AUGUST 29, 2005

AMENDED IN SENATE AUGUST 22, 2005

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JULY 13, 2005

AMENDED IN SENATE JUNE 29, 2005

AMENDED IN SENATE JUNE 21, 2005

AMENDED IN SENATE JUNE 1, 2005

AMENDED IN ASSEMBLY APRIL 5, 2005

INTRODUCED BY Assembly Member Salinas

FEBRUARY 22, 2005

An act to amend Sections 25008 and 36514.5 of, and to add Article 2.3 (commencing with Section 53232) and Article 2.4 (commencing with Section 53234) to Chapter 2 of Part 1 of Division 2 of Title 5 of, the Government Code, to amend Sections 6060 and 7047 of the Harbors and Navigation Code, to amend Sections 2030, 2851, 4733, 4733.5, 6489, 9031, 13857, 13866, and 32103 of the Health and Safety Code, to amend Section 1197 of the Military and Veterans Code, to amend Sections 5536, 5536.5, 5784.15, and 9303 of the Public Resources Code, to amend Sections 11908, 11908.1, 11908.2, 16002, and 22407 of the Public Utilities Code, and to amend Sections 20201, 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, and 74208 of, and to add Section 20201.5 to, the Water Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1234, Salinas Local agencies: compensation and ethics.

Existing law provides for the establishment and operations of cities, counties, cities and counties, districts, and other local government agencies, the composition of their governing bodies, and the payment of governing body members for attending meetings and performing other duties, and prescribes conflicts of interest.

This bill would require a local agency that provides reimbursement for expenses to members of its legislative body to adopt a written policy on the duties for which legislative body members may receive compensation, other than meetings of the legislative body or an advisory body or attendance at a conference or organized educational activity. The bill would require such a governing body to adopt a written policy concerning what occurrences qualify a member to receive reimbursement of expenses for travel, meals, and lodging and would impose related requirements, including the filing of expense reports, which would be public records.

This bill would also require that if a local agency provides any type of compensation, salary, or stipend to, or reimburses the expenses of, a member of the legislative body, all local agency officials, except a member whose term of office ends before January 1, 2007, in local agency service as of January 1, 2006, or thereafter

receive training in ethics, as specified. This bill would provide that if any entity develops criteria for the ethics training, then the Fair Political Practices Commission and the Attorney General shall be consulted regarding any proposed course content. This bill would specify, with respect to certain special districts, how a director's activities on a specific day are determined to be compensable and would make related changes.

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

SECTION 1. Section 25008 of the Government Code is amended to read:

25008. Members shall be allowed their actual expenses in going to, attendance upon, and returning from state association meetings and their actual and necessary traveling expenses when traveling outside their counties on official business. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3.

SEC. 2. Section 36514.5 of the Government Code is amended to read:

36514.5. City council members may be reimbursed for actual and necessary expenses incurred in the performance of official duties. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3.

SEC. 3. Article 2.3 (commencing with Section 53232) is added to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 2.3. Compensation

53232. For the purposes of this article, the following terms have the following meanings:

(a) "Governing body" means the board of supervisors in the case of a county or a city and county, the city council or board of trustees in the case of a city, and the board of directors or other governing body in the case of a special district.

(b) "Legislative body" has the same meaning as specified in Section 54952.

(c) "Local agency" means a city, county, city and county, charter city, charter county, charter city and county, or special district.

(d) "Meeting" has the same meaning as specified in subdivision (a) of Section 54952.2.

53232.1. (a) When compensation is otherwise authorized by statute, a local agency may pay compensation to members of a legislative body for attendance at the following occurrences:

(1) A meeting of the legislative body.

(2) A meeting of an advisory body.

(3) A conference or organized educational activity conducted in compliance with subdivision (c) of Section 54952.2, including, but not limited to, ethics training required by Article 2.4 (commencing with Section 53234).

(b) A local agency may pay compensation for attendance at occurrences not specified in subdivision (a) only if the governing body has adopted, in a public meeting, a written policy specifying other types of occasions that constitute the performance of official duties for which a member of the legislative body may receive payment.

(c) This section shall not apply to any local agency that pays compensation in the form of a salary to members of a legislative

body, including, but not limited to, those local agencies whose legislative bodies' compensation is subject to Section 36516 or 36516.1, subparagraph (B) or (C) of paragraph (2) of subdivision (a) of Section 21166 or Section 22840 of the Water Code, Section 11908.1 of the Public Utilities Code, Section 6060 of the Harbors and Navigation Code, or subdivision (b) of Section 1 or Section 5 of Article XI of the California Constitution.

53232.2. (a) When reimbursement is otherwise authorized by statute, a local agency may reimburse members of a legislative body for actual and necessary expenses incurred in the performance of official duties, including, but not limited to, activities described in Article 2.4 (commencing with Section 53234).

(b) If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then the governing body shall adopt a written policy, in a public meeting, specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses.

(c) The policy described in subdivision (b) may also specify the reasonable reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses. If it does not, the local agency shall use the Internal Revenue Service rates for reimbursement of travel, meals, lodging, and other actual and necessary expenses as established in Publication 463, or any successor publication.

(d) If the lodging is in connection with a conference or organized educational activity conducted in compliance with subdivision (c) of Section 54952.2, including, but not limited to, ethics training required by Article 2.4 (commencing with Section 53234), lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the member of a legislative body at the time of booking. If the group rate is not available, the member of a legislative body shall use comparable lodging that is consistent with the requirements of subdivisions (c) and (e).

(e) Members of the legislative body shall use government and group rates offered by a provider of transportation or lodging services for travel and lodging when available.

(f) All expenses that do not fall within the adopted travel reimbursement policy or the Internal Revenue Service reimbursable rates as provided in subdivision (c), shall be approved by the governing body, in a public meeting before the expense is incurred, except as provided in subdivision (d).

(g) This section shall not supersede any other laws establishing reimbursement rates for local agencies.

53232.3. (a) If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then a local agency shall provide expense report forms to be filed by the members of the legislative body for reimbursement for actual and necessary expenses incurred on behalf of the local agency in the performance of official duties. Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel.

(b) Expense reports shall document that expenses meet the existing policy, adopted pursuant to Section 53232.2, for expenditure of public resources.

(c) Members of a legislative body shall submit expense reports within a reasonable time after incurring the expense, as determined by the legislative body, and the reports shall be accompanied by the receipts documenting each expense.

(d) 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.

(e) All documents related to reimbursable agency expenditures are public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

53232.4. Penalties for misuse of public resources or falsifying expense reports in violation of expense reporting polices may include, but are not limited to, the following:

(a) The loss of reimbursement privileges.

(b) Restitution to the local agency.

(c) Civil penalties for misuse of public resources pursuant to Section 8314.

(d) Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code.

SEC. 4. Article 2.4 (commencing with Section 53234) is added to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 2.4. Ethics Training

53234. For the purposes of this article, the following terms have the following meanings:

(a) "Legislative body" has the same meaning as specified in Section 54952.

(b) "Local agency" means a city, county, city and county, charter city, charter county, charter city and county, or special district.

(c) "Local agency official" means the following:

(1) Any member of a local agency legislative body or any elected local agency official who receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties.

(2) Any employee designated by a local agency legislative body to receive the training specified under this article.

(d) "Ethics laws" include, but are not limited to, the following:

(1) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.

(2) Laws relating to claiming prerequisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.

(3) Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.

(4) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.

53235. (a) If a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials shall receive training in ethics pursuant to this article.

(b) Each local agency official shall receive at least two hours of training in general ethics principles and ethics laws relevant to his or her public service every two years.

(c) If any entity develops curricula to satisfy the requirements of this section, then the Fair Political Practices Commission and the Attorney General shall be consulted regarding the sufficiency and accuracy of any proposed course content. When reviewing any proposed course content the Fair Political Practices Commission and the Attorney General shall not preclude an entity from also including local ethics policies in the curricula.

(d) A local agency or an association of local agencies may offer one or more training courses, or sets of self-study materials with tests, to meet the requirements of this section. These courses may be taken at home, in-person, or online.

(e) All providers of training courses to meet the requirements of this article shall provide participants with proof of participation to meet the requirements of Section 53235.2.

(f) A local agency shall provide information on training available to meet the requirements of this article to its local officials at least once annually.

53235.1. (a) Each local agency official in local agency service as of January 1, 2006, except for officials whose term of office ends before January 1, 2007, shall receive the training required by subdivision (a) of Section 53235 before January 1, 2007. Thereafter, each local agency official shall receive the training required by subdivision (a) of Section 53235 at least once every two years.

(b) Each local agency official who commences service with a local agency on or after January 1, 2006, shall receive the training required by subdivision (a) of Section 53235 no later than one year from the first day of service with the local agency. Thereafter, each local agency official shall receive the training required by subdivision (a) of Section 53235 at least once every two years.

(c) A local agency official who serves more than one local agency shall satisfy the requirements of this article once every two years without regard to the number of local agencies with which he or she serves.

53235.2. (a) A local agency that requires its local agency officials to complete the ethical training prescribed by this article shall maintain records indicating both of the following:

(1) The dates that local officials satisfied the requirements of this article.

(2) The entity that provided the training.

(b) Notwithstanding any other provision of law, a local agency shall maintain these records for at least five years after local officials receive the training. These records are public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

SEC. 6. Section 6060 of the Harbors and Navigation Code is amended to read:

6060. The commissioners shall serve without salary until the yearly gross income of the district, exclusive of taxes levied by the district, exceeds twenty thousand dollars (\$20,000) per year, when the board may, by ordinance, fix their salaries, which shall not exceed the sum of six hundred dollars (\$600) per month each.

In addition to any salary received pursuant to this section, the commissioners shall be allowed any actual and necessary expenses incurred in the performance of their duties. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 7. Section 7047 of the Harbors and Navigation Code is amended to read:

7047. Each director shall receive a sum as may be fixed by the board, not exceeding fifty dollars (\$50) for each meeting of the board attended by him or her, for not exceeding four meetings in any calendar month. A director may also receive traveling and other expenses incurred by him or her when performing duties for the district other than attending board meetings. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 8. Section 2030 of the Health and Safety Code is amended to read:

2030. (a) The members of the board of trustees shall serve without compensation.

(b) The members of the board of trustees may receive their actual and necessary traveling and incidental expenses incurred while on official business. In lieu of paying for actual expenses, the board of trustees may by resolution provide for the allowance and payment to each trustee a sum not to exceed one hundred dollars (\$100) per month for expenses incurred while on official business. A trustee may waive the payments permitted by this subdivision.

(c) Notwithstanding subdivision (a), the secretary of the board of trustees may receive compensation in an amount determined by the board of trustees.

(d) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 9. Section 2851 of the Health and Safety Code is amended to read:

2851. The members of the district board shall hold office at the pleasure of the board of supervisors. They shall serve without compensation, but shall be allowed their necessary traveling and other expenses incurred in performance of their official duties. In lieu of expenses, the district board may, by resolution, provide for the allowance and payment to each member of the board of a sum not exceeding one hundred dollars (\$100) as expenses incurred in attending each business meeting of the board. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 10. Section 4733 of the Health and Safety Code is amended to read:

4733. (a) The district board may fix the amount of compensation per meeting to be paid each member of the board for services for each meeting attended by the member. Subject to subdivision (b), the compensation shall not exceed one hundred dollars (\$100) for each meeting of the district board attended by the member or for each day's service rendered as a member by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incident thereto.

(b) The district board, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the compensation received by the district board members above the amount of one hundred dollars (\$100) per day.

(c) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(d) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 11. Section 4733.5 of the Health and Safety Code is amended to read:

4733.5. Where two or more county sanitation districts have joined in the purchase, ownership, use, construction, maintenance, or operation of a sewerage system, or sewage disposal or treatment plant, or refuse transfer or disposal system, or both, either within or without the districts, or have so joined for any combination of these purposes, as provided in Section 4742, and the districts hold their meetings jointly, and one or more of the directors serve as a director on more than one of these districts meeting jointly, the districts may, by joint resolution approved by each district, limit the compensation of a director to compensation equal to not more than fifty dollars (\$50) for each jointly held meeting attended by him or her, not to exceed one hundred dollars (\$100) in any one month for attendance at jointly held meetings. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 12. Section 6489 of the Health and Safety Code is amended to read:

6489. (a) Subject to subdivision (b), each of the members of the board shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incident thereto.

(b) The district board, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the compensation received by board members above the amount of one hundred dollars (\$100) per day.

(c) The secretary of the sanitary board shall receive compensation to be set by the sanitary district board, which compensation shall be in lieu of any other compensation to which he or she may be entitled by reason of attendance at the meeting or meetings of the sanitary board.

(d) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 13. Section 9031 of the Health and Safety Code is amended to read:

9031. (a) The board of trustees may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board. A member of the board of trustees shall not receive compensation for more than four meetings of the board in a month.

(b) The board of trustees, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation received for attending meetings of the board.

(c) In addition, members of the board of trustees may receive their actual and necessary traveling and incidental expenses incurred while on official business other than a meeting of the board.

(d) A member of the board of trustees may waive any or all of the payments permitted by this section.

(e) For the purposes of this section, a meeting of the board of trustees includes, but is not limited to, regular meetings, special meetings, closed sessions, emergency meetings, board field trips, district public hearings, or meetings of a committee of the board.

(f) For purposes of this section, the determination of whether a trustee's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(g) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 14. Section 13857 of the Health and Safety Code is amended to read:

13857. (a) Subject to subdivision (b), each member of the district board may receive compensation in an amount set by the district board not to exceed one hundred dollars (\$100) for attending each meeting of the district board. The number of meetings for which a member of the board of directors may receive compensation shall not exceed four meetings in any calendar month.

(b) The district board, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the compensation received by the district board members above the amount prescribed by subdivision (a).

(c) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 15. Section 13866 of the Health and Safety Code is amended to read:

13866. A district may authorize its directors and employees to attend professional or vocational meetings and pay their actual and necessary traveling and incidental expenses while on official business. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 16. Section 32103 of the Health and Safety Code is amended to read:

32103. The board of directors shall serve without compensation except that the board of directors, by a resolution adopted by a majority vote of the members of the board, may authorize the payment of not to exceed one hundred dollars (\$100) per meeting not to exceed five meetings a month as compensation to each member of the board of directors.

Each member of the board of directors shall be allowed his or her actual necessary traveling and incidental expenses incurred in the performance of official business of the district as approved by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 17. Section 1197 of the Military and Veterans Code is amended to read:

1197. The board shall consist of five members who shall be registered electors residing within the district or proposed district at the time of their election and shall be elected by the qualified electors of the district. A majority of the seats on the board shall

be designated for veterans, as defined in Section 940. Any board seat that is so designated, but is not currently filled by a qualifying individual, shall be filled by a qualified individual at the next election at which that seat is to be filled. Members shall serve without compensation, but shall be entitled to actual and necessary expenses incurred in the performance of duties. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 18. Section 5536 of the Public Resources Code is amended to read:

5536. (a) The board shall establish rules for its proceedings.

(b) The board may provide, by ordinance or resolution, that each of its members may receive an amount not to exceed one hundred dollars (\$100) per day for each attendance at a meeting of the board. For purposes of this section, a meeting of the board includes, but is not limited to, closed sessions of the board, board field trips, district public hearings, or meetings of a committee of the board. The maximum compensation allowable to a board member on any given day shall be one hundred dollars (\$100). Board members shall not receive any other compensation for meetings, and no board member shall receive more than five hundred dollars (\$500) compensation under this section in any one calendar month, except that board members of the East Bay Regional Park District may receive compensation for not more than 10 days in any one calendar month. A board member may elect to waive the per diem. In addition, the board may provide, by ordinance or resolution, that each of its members not otherwise eligible for an employer-paid or partially employer-paid group medical or group dental plan, or both, may participate in any of those plans available to permanent employees of the district on the same terms available to those district employees or on terms and conditions as the board may determine. A board member who elects to participate in any plan may also elect to have the premium for the plan charged against his or her per diem and may further elect to waive the balance of the per diem.

(c) All vacancies on the board shall be filled in accordance with the requirements of Section 1780 of the Government Code, except that, in the case of vacancies caused by the creation of new wards or subdistricts, the directors shall, prior to the vacancies being filled, determine by lot, for the purpose of fixing the terms of the first directors to be elected to the wards or subdistricts, which ward or subdistrict shall have a four-year term and which ward or subdistrict shall have a two-year term. The persons who fill the vacancies caused by the establishment of new wards or subdistricts shall hold office until the next general election and until their successors are elected and qualified for the terms previously determined by lot.

(d) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 19. Section 5536.5 of the Public Resources Code is amended to read:

5536.5. Members of the board of directors may be allowed actual necessary traveling and incidental expenses incurred in the performance of official business of the district as approved by the district board. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 20. Section 5784.15 of the Public Resources Code is amended to read:

5784.15. (a) The board of directors may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board. The board of directors, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation received for attending meetings of the board.

(b) The maximum compensation in any calendar month shall be five hundred dollars (\$500).

(c) In addition, members of the board of directors may receive their actual and necessary traveling and incidental expenses incurred while on official business.

(d) A member of the board of directors may waive the compensation.

(e) For the purposes of this section, a meeting of the board of directors includes, but is not limited to, regular meetings, special meetings, closed sessions, emergency meetings, board field trips, district public hearings, or meetings of a committee of the board.

(f) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(g) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 21. Section 9303 of the Public Resources Code is amended to read:

9303. The directors shall receive no compensation for their services as such, but each shall be allowed reasonable and necessary expenses incurred in attendance at meetings of the directors or when otherwise engaged in the work of the district at the direction of the board of directors. The directors shall fix the amount allowed for necessary expenses, but no director shall be appointed to any position for which he or she would receive compensation as a salaried officer or employee of the district. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 22. Section 11908 of the Public Utilities Code is amended to read:

11908. The board shall establish rules for its proceedings and may provide, by ordinance or resolution, that each member shall receive for each attendance at the meetings of the board, or for each day's service rendered as a director by request of the board, the sum of one hundred dollars (\$100). No director shall receive any other compensation, nor receive pay for more than six days in any one calendar month. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 23. Section 11908.1 of the Public Utilities Code is amended to read:

11908.1. (a) Notwithstanding Section 11908, a district with a board having seven directors may provide, by resolution or ordinance, that each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at public meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, or, in lieu of that compensation, a salary of not to exceed six hundred dollars (\$600) per month subject

to annual adjustments pursuant to subdivision (b), together with any expenses incurred in the performance of his or her duties required or authorized by the board. No resolution or ordinance establishing compensation pursuant to this subdivision shall provide for any automatic increase in that compensation.

(b) Any district which adopts salaries for directors pursuant to subdivision (a) may increase those salaries by not more than 5 percent for each calendar year following the operative date of the last adjustment, commencing with the calendar year following adoption of the salary or increase.

(c) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 24. Section 11908.2 of the Public Utilities Code is amended to read:

11908.2. Notwithstanding Section 11908, the board of a district which has owned and operated an electric distribution system for at least eight years and has a population of 250,000 or more may provide, by ordinance or resolution, that each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at public meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of 10 days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. The board may, by resolution or ordinance, increase the compensation per day by not more than 5 percent for each calendar year following the operative date of the last adjustment, commencing with the 1988 calendar year. No resolution or ordinance establishing compensation pursuant to this subdivision shall provide for any automatic increase in that compensation. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 25. Section 16002 of the Public Utilities Code is amended to read:

16002. Each member of the board shall receive the compensation that the board by ordinance provides, not exceeding four thousand eight hundred dollars (\$4,800) a year. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 26. Section 22407 of the Public Utilities Code is amended to read:

22407. Each member of the board of directors shall receive compensation in an amount not to exceed one hundred dollars (\$100) for each attendance at the meeting of the board held within the district, which amount shall be fixed from time to time by the board. No director, however, shall receive pay for more than four meetings in any calendar month.

Each director shall be allowed, with the approval of the board, all traveling and other expenses necessarily incurred by the member in the performance of the member's duties. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 27. Section 20201 of the Water Code is amended to read:

20201. Notwithstanding any other provision of law, the governing board of any water district may, by ordinance adopted pursuant to this chapter, provide compensation to members of the governing board, unless any compensation is prohibited by its principal act, in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board, or for each day's service rendered as a member of the board by request of the board, and may, by ordinance adopted pursuant to this chapter, in accordance with Section 20202, increase the compensation received by members of the governing board above the amount of one hundred dollars (\$100) per day.

It is the intent of the Legislature that any future increase in compensation received by members of the governing board of a water district be authorized by an ordinance adopted pursuant to this chapter and not by an act of the Legislature.

For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 28. Section 20201.5 is added to the Water Code, to read:

20201.5. Reimbursement for expenses of members of a governing board of a water district is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 29. Section 21166 of the Water Code is amended to read:

21166. Notwithstanding any other provision of law, a director, for sitting on the board or acting under its orders, shall receive both of the following:

(a) (1) Except as specified in paragraphs (2) and (3), compensation not to exceed one hundred dollars (\$100) per day, not exceeding six days in any calendar month.

(2) In districts that produce or distribute electric power, one of the following methods of compensation:

(A) Compensation not to exceed one hundred dollars (\$100) per day.

(B) A monthly salary of not to exceed six hundred dollars (\$600) per month.

(C) Annual compensation not to exceed fifteen thousand dollars (\$15,000). Any annual compensation pursuant to this subparagraph shall be fixed by the adoption of an ordinance pursuant to Sections 20203 to 20207, inclusive.

(3) Districts containing 500,000 acres or more are governed by Section 22840.

(b) Actual and necessary expenses when acting under the orders of the board.

For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 30. Section 30507 of the Water Code is amended to read:

30507. Each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the

determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 31. Section 30507.1 of the Water Code is amended to read:

30507.1. Each director of the Contra Costa Water District shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board and for each day's service rendered as a director by request of the board, not exceeding a total of 10 days in any calendar month, together with any expenses incurred in the performance of duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 32. Section 34741 of the Water Code is amended to read:

34741. Until their compensation is fixed by the adoption of bylaws, the officers shall receive the following compensation for their services:

(a) The secretary, tax collector, treasurer, and assessor, such sums as shall be fixed by the board.

(b) Each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 33. Section 40355 of the Water Code is amended to read:

40355. (a) A director, when sitting on the board or acting under its orders, shall receive not exceeding:

(1) One hundred dollars (\$100) per day, not exceeding six days in any calendar month.

(2) Ten cents (\$0.10) per mile for each mile traveled from his place of residence to the office of the board.

(3) Actual and necessary expenses while engaged in official business under the order of the board.

(b) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(c) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 34. Section 50605 of the Water Code is amended to read:

50605. (a) Each member of the board shall receive such compensation for services actually and necessarily performed as the board determines to be just and reasonable, and shall be reimbursed for expenses necessarily incurred in the performance of his duties as trustee.

(b) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be

made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 35. Section 55305 of the Water Code is amended to read:

55305. (a) The board of directors may fix the compensation of its members for their services as directors not to exceed ten dollars (\$10) for each meeting attended, not exceeding two meetings in any calendar month. If allowed by the board, a director shall also receive for performing duties for the district other than attending board meetings the following:

(1) An amount not to exceed one hundred dollars (\$100) for each day performing such duties.

(2) Traveling and other expenses incurred by him or her in performing his duties.

(b) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 36. Section 56031 of the Water Code is amended to read:

56031. The district board shall have power to fix the amount of compensation per meeting to be paid each member of the board for his or her services for each meeting attended by him or her; provided, that the compensation shall not exceed ten dollars (\$10) for each meeting of the district board attended by him or her, together with expenses necessarily incurred by him or her in traveling between his or her place of residence and the place of meeting. However, no member shall receive compensation for attending more than three meetings of the board during any calendar month. This compensation shall be in addition to any other fees or compensation allowed by law for the other official positions specified in Section 56030 that are occupied by members of the district board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 37. Section 60143 of the Water Code is amended to read:

60143. Each director shall receive compensation in an amount not exceeding one hundred dollars (\$100) for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 38. Section 70078 of the Water Code is amended to read:

70078. Each member of the board shall receive compensation for services actually and necessarily performed, as the board determines to be just and reasonable, and shall be reimbursed for expenses necessarily incurred in the performance of his or her duties as director. The salaries of all officers and employees of the district shall be fixed and determined by the directors. The board of directors shall fix the compensation that the election officers shall

receive for district elections. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 39. Section 71255 of the Water Code is amended to read:

71255. Each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 40. Section 74208 of the Water Code is amended to read:

74208. Each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 41. The Legislature finds and declares that transparency in the activities of local governments is a matter of statewide concern and not merely a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to charter cities, charter counties, and charter cities and counties.



INSTITUTE FOR LOCAL GOVERNMENT

Sample Expense And Use Of Public Resources Policy Statement¹

Findings

Whereas, _____ [*insert public agency name*] takes its stewardship over the use of its limited public resources seriously.

Whereas, public resources should only be used when there is a substantial benefit to the *city/county/special district*.

Whereas, such benefits include:

1. The opportunity to discuss the community's concerns with state and federal officials;
2. Participating in regional, state and national organizations whose activities affect the *city/county/district*;
3. Attending educational seminars designed to improve officials' skill and information levels; and
4. Promoting public service and morale by recognizing such service.

Whereas, 1) legislative and other regional, state and federal agency business is frequently conducted over meals; 2) sharing a meal with regional, state and federal officials is frequently the best opportunity for a more extensive, focused and uninterrupted communication about the *city/county/district's* policy concerns; and 3) each meal expenditure must comply with the limits and reporting requirements of local, state and federal law.

Whereas, this policy provides guidance to elected and appointed officials on the use and expenditure of *city/county/district* resources, as well as the standards against which those expenditures will be measured.

DRAFTING NOTES

¹ Local agencies that have authority to reimburse legislative body members for expenses incurred in the performance of their official duties must adopt, in a public meeting, written expense policies that specify the types of occurrences which will be reimbursable. *See* Cal. Gov't Code § 53232.2(b). The policy may also specify rates or default to Internal Revenue Service rates. *See* Cal. Gov't Code § 53232.2(c).

[For non-charter cities] Whereas, this policy satisfies the requirements of Government Code sections 53232.2 and 53233.3. *[For charter cities: Whereas, this policy would satisfy the requirements of Government Code sections 53232.2 and 53233.3 in the event such requirements could be constitutionally applied to charter cities.]*

Whereas, this policy supplements the definition of actual and necessary expenses for purposes of state laws relating to permissible uses of public resources.²

Whereas, this policy also supplements the definition of necessary and reasonable expenses for purposes of federal and state income tax laws.³

Whereas, this policy also applies to any charges made to a *city/county/district* credit card,⁴ cash advances or other line of credit.

Authorized Expenses⁵

City/County/District funds, equipment, supplies (including letterhead), titles,⁶ and staff time must only be used for authorized *city/county/district* business.⁷ Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this policy are met:

² See also Cal. Gov't Code § 1223 (allowing an allowance or mileage rate for state, county, judicial district, or city officer's automobile owned, rented or used in performance of duties); § 1091.5 (finding no impermissible interest in a contract if officer or employee is reimbursed actual and necessary expenses in performance of official duty); Cal. Water Code § 34741 ("Each director shall receive...expenses incurred in the performance of his duties required or authorized by the board."); Cal. Health & Safety Code § 32103 (allowing travel and incidental expenses incurred hospital district board members in the performance of their official duties as approved by the board); Cal. Gov't Code § 25008 (county supervisors are allowed expenses associated with traveling outside county on county business and to state association meeting); § 25305 (county may purchase automobiles for use of county officers and employees in lieu of mileage; county board may allow officers and employees using county automobiles their actual and necessary expenses when traveling on county business); See Cal. Gov't Code § 36514.5 (city council members); 65 Cal. Op. Att'y Gen. 517, 521 (1982) (interpreting Government Code section 36514.5); Cal. Health & Safety Code § 33114 (similar authority as to expenses of redevelopment agency members).

³ See, e.g., 26 U.S.C. § 162.

⁴ Because of the potential for confusing an agency credit card with a personal card, a number of agencies have concluded it is wiser not to issue officials credit cards. This is consistent with state law that appears not to forgive inappropriate public agency expenses if they are reimbursed. In the prosecution of one county supervisor for personal use of public resources, the court concluded that reimbursement was not a defense. See *People v. Bishop*, 2000 WL 520878 (2000) (conviction for personal and campaign use of county facilities and personnel). The court cited to *People v. Dillon*, 199 Cal. 1 (1926), a case in which convictions were upheld on facts demonstrating that the city was reimbursed for money improperly disbursed by the defendant. While *Dillon* did not expressly reject a reimbursement defense, the court said the decision cannot be reconciled with such a defense.

⁵ This section is designed to satisfy Government Code section 53232.2(b), which requires local agencies to specify what types of occurrences qualify for reimbursement.

⁶ Some agencies allow elected officials to use their titles "for identification purposes only" as long as the communication makes it clear that the use of the title does not imply agency participation in or endorsement of a communication.

⁷ State law prohibits personal use of public resources. See, e.g., Cal. Gov't Code § 8314 (making it unlawful for state or local officials to use public resources for personal or campaign purposes).

1. Communicating with representatives of regional, state and national government on *city/county/district* adopted policy positions;⁸
2. Attending educational seminars designed to improve officials' skill and information levels;⁹
3. Participating in regional, state and national¹⁰ organizations whose activities affect the *city's/county's/district's* interests;
4. Recognizing service to the *city/county/district* (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);¹¹
5. Attending *city/county/district* events;¹²
6. Implementing a *city/county/district*-approved strategy for attracting or retaining businesses to the *city/county/district*, which will typically involve at least one staff member; and¹³
7. *[For those agencies that pay meeting stipends, for example, water districts]* Meetings such as those listed above for which a meeting stipend is expressly authorized under this policy.

All other expenditures require prior approval by the *city/county/district* governing body.¹⁴

⁸ See Cal. Gov't Code §§ 50023 (legislative bodies of cities and counties may directly or through a representative attend legislative bodies and meet with representatives of executive agencies, and present information; cost and expense incident to such meetings are proper charges against the local agency); 53060.5 (cost of "attending" the Legislature and presenting information are proper charges against special districts; each district board member is allowed \$.11 per mile for automobile travel and actual traveling expenses when traveling by public conveyance).

⁹ See *Madden v. Riley*, 53 Cal. App. 2d 814, 823, 128 P.2d 602, 607 (1942) (propriety of conference expenses for networking purposes).

¹⁰ Some agencies may want to limit pre-approved travel to in-state travel only. This may be accomplished in the section that follows by requiring pre-approval for all out-of-state-travel.

¹¹ Counties have specific statutory authority to honor those who have performed unique or noteworthy public service. See Cal. Gov't Code § 26206 (specifying that such honors must be of nominal value and cost). See also 10 Cal. Op. Att'y Gen. 18 (1947) (school district may issue recognition pins).

¹² Agency officials may wish to consider whether attending certain agency events are expenses that officials should bear personally (or through their officeholder accounts under the Political Reform Act), particularly if attendance at such events is politically advantageous.

¹³ A consensus among the peer reviewers was that such meetings typically ought to involve the agency's economic development staff or chief administrative officer to insure the meetings are maximally productive.

¹⁴ Any expense not authorized by the agency's expense reimbursement policy must be approved in advance at a public meeting of the governing body. See Cal. Gov't Code §53232.2(f).

The following expenses also require prior governing body approval:

1. International [*and out-of-state*]¹⁵ travel;
2. Expenses which exceed the annual limits established for each office holder;¹⁶ and
3. Expenses exceeding \$_____ per trip.¹⁷

Examples of personal expenses that the *city/county/district* will not reimburse include, but are not limited to:

1. The personal portion of any trip;
2. Political or charitable contributions or events;
3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children- or pet-related expenses;¹⁸
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events;
5. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
6. Personal losses incurred while on *city/county/district* business. Any questions regarding the propriety of a particular type of expense should be resolved by the approving authority before the expense is incurred.

¹⁵ For some agencies, pre-approval of out-of-state travel may not make sense, given the frequency with which such travel occurs or the proximity of state lines.

¹⁶ Some jurisdictions find it useful to set an annual per office holder "budget" for such expenses. Such a budget does not, however, excuse agency officials from making a determination that each expense complies with the agency's policy, the law and ethical considerations. A strong argument can be made that, effective January 1, 2006, agencies may not pay flat monthly mileage allowances without requiring a mileage log or other proof of travel. *See* Cal. Gov't Code §53232.3(a)-(c).

¹⁷ The threshold for pre-approval of travel over a certain amount for any kind of travel is subject to community standards.

¹⁸ 75 Cal. Op. Att'y Gen. 20 (1992) (concluding there is no substantial public purpose associated with a public agency paying for spouse travel expenses).

Meeting Stipends¹⁹

General

Consistent with _____,²⁰ directors receive \$ _____²¹ per day (“daily meeting stipend”) for each day’s attendance at meetings, as defined in this policy. Such compensation is in addition to any reimbursement for meals, lodging, travel and expenses consistent with this policy.

Meetings And Service Subject To Daily Stipend

To be entitled to a daily stipend under this policy, the event in question must constitute one of the following:

1. A meeting of the district board within the meaning of Government Code section 54952.2(a);²²

¹⁹ This section should only be included for those local agencies whose enabling acts provide for per-day meeting stipends.

²⁰ Insert relevant code section establishing meeting stipend amounts and limits for type of agency.

²¹ Insert amount that does not exceed statutory limits. State law limits direct compensation for some local officials. These limits do not apply to any local agency that pays compensation in the form of a salary, including members of the board of directors of irrigation districts which provide electricity, directors of utility districts with boards having seven members and harbor district directors. The limits apply primarily to officials of independent districts who do not fall within these last two exceptions. With regard to nonsalaried officials, a stipend for attending a meeting or for a day of service can be paid for: a meeting of any “legislative body” of the agency (as Government Code section 54952 defines that term), a meeting of an advisory body (such as a less-than-a-quorum, temporary, *ad hoc* advisory subcommittee of a legislative body), and conference attendance including ethics training conferences, assuming that the stipend is authorized by another statute. Cal. Gov’t Code § 53232.1(a). If the agency wishes to compensate officials for attendance at other events, it may do so “only if the governing body has adopted, in a public meeting, a written policy specifying” the other events which constitute “the performance of official duties” allowing compensation. Cal. Gov’t Code § 53232.1(b).

City councils fix the compensation of all appointive officers and employees by resolution or ordinance. Cal. Gov’t Code § 36506. We believe this statute provides authority to compensate city appointive officers and employees and reimburse expenses. For counties, the board of supervisors prescribes the compensation of all county officers and shall provide for the number, compensation, tenure, appointment and conditions of employment of county employees. Except as otherwise required by Article XI of the California Constitution, such action may be taken by resolution of the board of supervisors as well as by ordinance. Cal. Gov’t Code § 25300.

Note, however, that unless specifically authorized by another statute, a city council may not enact an ordinance providing for compensation to elected city council members in excess of the schedules authorized under the Government Code. *See* Cal. Gov’t Code § 36516(d). If a statute provides for additional council member compensation for serving on a commission--but that statute does not specify an amount of compensation-- the compensation is \$150 per month. *See* Cal. Gov’t Code § 36516(d). If a community development commission is formed to oversee redevelopment functions, commissioner compensation may not exceed \$75 per commissioner per meeting, with a maximum of two meetings (\$150) per month. *See* Cal. Health & Safety Code §34130.5(b). If a community development commission is formed to oversee both redevelopment and housing authority functions, commissioner compensation may not exceed \$150 per commissioner per meeting, with a maximum of two meetings (\$300) per month. *See* Cal. Health & Safety Code §34130.5(c).

²² *See* Cal. Gov’t Code § 53232.1(a)(1) (authorizing that compensation be paid at meeting of a legislative body and tying it to the definition of meeting in section 54952.2(a), which reads as follows:

2. A meeting of a district committee within the meaning of Government Code section 54952(b),²³
3. An advisory body meeting within the meaning of Government Code section 54952(b),²⁴ or
4. A conference or organized educational activity conducted in compliance with Government Code section 54952.2(c), including ethics training required by Government Code sections 53234 and following.²⁵
5. A meeting of any multi-jurisdictional governmental body on which the district director serves as the district's designated representative.²⁶
6. Any meeting attended or service provided on a given day at the formal request of the district board and for which the district board approves payment of a daily meeting stipend.²⁷

As used in this chapter, "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.)

²³ That section reads as follows:

A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

See Cal. Gov't Code § 53232.1(a)(2).

²⁴ *See* Cal. Gov't Code § 53232.1(a)(2) (authorizing that compensation be paid at meeting of an advisory body). *See also* Cal. Gov't Code § 54952(b) ("advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body").

²⁵ *See* Cal. Gov't Code § 53232.1(a)(3) (authorizing that compensation be paid at conferences or organized educational activities).

²⁶ *See* Cal. Gov't Code § 54952.2(a). That section reads as follows:

(a) As used in this chapter, "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

Note that this is the test for meeting suggested by the Association for California Water Agencies in its sample policy on directors' compensation and expense reimbursement. *See* Cal. Gov't Code § 53232.1(a)(3).

²⁷ Check to make sure your district's enabling act includes authorization for payment of a daily stipend for non-meeting expenses.

Aggregate Limits

The number of days for which a district director receives a daily stipend will not exceed the aggregate limits established by state law.²⁸

Cost Control²⁹

To conserve *city/county/district* resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the *city/county/district* will be limited to the costs that fall within the guidelines.

Transportation³⁰

The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental vehicles may be reimbursed under this provision if more than one *city/county/district* official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.³¹

Airfare. Airfares that are equal or less than those available through the Enhanced Local

²⁸ See footnote 19 above for examples.

²⁹ Some agencies have chosen (usually through a request for proposals process) to work with a single travel agency to promote cost control and accountability on airline flights and lodging. Another option is to limit the number of staff who can contact the travel agency to book or change travel plans.

³⁰ The sample policy reflects the requirement that local reimbursement policies either specify reasonable reimbursement rates or use IRS rates for travel, meals, lodging and other authorized expenses. *See* Cal. Gov't Code § 53232.2(c). This requirement, as well as the requirement that expenses be reimbursed after the fact based on receipts supports the view that vehicle allowances are not permitted. *See* Cal. Gov't Code § 53232.3. Nevertheless, a statute that permits a vehicle allowance still exists. *See* Cal. Gov't Code § 1223 (allowing an allowance or mileage rate for state, county, judicial district, or city officer's automobile owned, rented or used in performance of duties). Even if the validity of vehicle allowances was not in question, however, using the more typical Internal Revenue Service Code mileage rate for distance actually traveled avoids questions over the amount of any such allowance. *See Albright v. City of South San Francisco*, 44 Cal. App. 3d 866, 118 Cal. Rptr. 901 (1975) (successful challenge to a flat expense allowance for non-itemized expenses that was not supported by an ordinance or resolution finding such expenses were actual, necessary or beneficial to the public). The court found the allowance violated the law as an unlawful gift of public funds. *See* Cal. Const. art. XVI, § 6. Note that there is a special statutory reimbursement rate for special district directors traveling on legislative business. *See* Cal. Gov't Code § 53060.5 (cost of "attending" the Legislature and presenting information are proper charges against special districts; each special district board member is allowed \$.11 per mile for automobile travel and actual traveling expenses when traveling by public conveyance).

³¹ *See* Cal. Gov't Code § 53232.2(e) ("Members of the legislative body shall use government and group rates offered by a provider of transportation or lodging services for travel and lodging when available.").

Government Airfare Program offered through the League of California Cities (www.cacities.org/travel), the California State Association of Counties (<http://www.csac.counties.org/default.asp?id=635>) and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy.³²

Automobile. Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect (*see* www.irs.gov). For 2006, the rate is 44.5 cents per mile. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle.³³ This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.

Car Rental. Rental rates that are equal or less than those available through the State of California's website (<http://www.catravelsmart.com/default.htm>) shall be considered the most economical and reasonable for purposes of reimbursement under this policy.

Taxis/Shuttles. Taxis or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

Lodging³⁴

Lodging expenses will be reimbursed or paid for when travel on official *city/ county/district*

³²Those rates can be accessed from the state's website without being a member of these programs by going to <http://www.catravelsmart.com/default.htm> and clicking on "Discount Travel Fares for Official Business."

³³ The sample policy reflects the requirement that local reimbursement policies either specify reasonable reimbursement rates or use Internal Revenue Service rates for travel, meals, lodging and other authorized expenses. *See* Cal. Gov't Code § 53232.2(c). This requirement, as well as the requirement that expenses be reimbursed after the fact based on receipts supports the view that vehicle allowances are not permitted. *See* Cal. Gov't Code § 53232.3. Nevertheless, a statute that permits a vehicle allowance still exists. *See* Cal. Gov't Code § 1223 (allowing an allowance or mileage rate for state, county, judicial district, or city officer's automobile owned, rented or used in performance of duties). Even if the validity of vehicle allowances was not in question, however, using the more typical Internal Revenue Service Code mileage rate for distance actually traveled avoids questions over the amount of any such allowance. *See Albright v. City of South San Francisco*, 44 Cal. App. 3d 866, 118 Cal. Rptr. 901 (1975) (successful challenge to a flat expense allowance for non-itemized expenses that was not supported by an ordinance or resolution finding such expenses were actual, necessary or beneficial to the public). The court found the allowance violated the law as an unlawful gift of public funds. *See* Cal. Const. art. XVI, § 6. Note that there is a special statutory reimbursement rate for special district directors traveling on legislative business. *See* Cal. Gov't Code § 53060.5 (cost of "attending" the Legislature and presenting information are proper charges against special districts; each special district board member is allowed \$.11 per mile for automobile travel and actual traveling expenses when traveling by public conveyance).

³⁴ A local expense reimbursement policy may specify what constitutes reasonable rates for lodging. If the policy does not, then the reimbursable rates default to those specified in the Internal Revenue Service guidelines. *See* Cal. Gov't Code § 53232.2(c). *See also* Publication 1542 at www.irs.gov or www.policyworks.gov/perdiem. An agency may want to provide guidance on what some circumstances reasonably requiring an overnight stay (for example, by distance or hours of travel from the agency's location).

business reasonably requires an overnight stay.³⁵

Conferences/Meetings. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking.³⁶ If the group rate is not available, see next section.

Other Lodging. Travelers must request government rates, when available.³⁷ A listing of hotels offering government rates in different areas is available at <http://www.catravelmart.com/lodguideframes.htm>. Lodging rates that are equal or less to government rates are presumed to be reasonable and hence reimbursable for purposes of this policy.

*Option #1 (Median Hotel Cost).*³⁸ In the event that government rates are not available at a given time or in a given area, lodging rates that do not exceed the median retail price for lodging for that area listed on websites like www.priceline.com or an equivalent service shall be considered reasonable and hence reimbursable.³⁹

Option #2 (Flat Cap). In the event that government rates are not available at a given time or in a given area, lodging rates that do not exceed \$150 per night⁴⁰ are presumed reasonable and hence reimbursable.

Option #3 (IRS Rates). In the event that government rates are not available at a given time or in a given area, lodging rates that do not exceed the IRS per diem rates for a given area are presumed reasonable and hence reimbursable.⁴¹

³⁵ An agency may want to provide guidance on what some circumstances reasonably requiring an overnight stay (for example, by distance or hours of travel from the agency's location).

³⁶ See Cal. Gov't Code §53232.2(d). If those rates are not available at the time the lodging is booked, the lodging rates must be comparable to those allowed by the Internal Revenue Service or government rates. *Id.*

³⁷ Local agency officials must use group or government rates for non-conference-related lodging and transportation services. See Cal. Gov't Code §53232.2(e). The Internal Revenue Service establishes per diem thresholds for employees; any amounts in excess of the per diem for a given area is treated as additional wages for tax purposes. For example, for 2006, the standard per diem rate for lodging in the continental United States is \$60. However the rate for the San Francisco area (as defined) is \$130.

³⁸ Select the option that best works for your agency.

³⁹ With www.priceline.com, one has the option of specifying what quality of hotel (for example, "3 Star, Moderate—Upscale"); and agency's policy could specify maximum quality thresholds to provide further guidance.

⁴⁰ Or any other threshold that meets community standards.

⁴¹ See Publication 1542 at www.irs.gov or www.policyworks.gov/perdiem). The site also has references to hotels that have government rates at or below Internal Revenue Service per diem limits. For example, for 2006, the standard per diem rate for lodging in the continental United States is \$60. However the rate for the San Francisco area (as defined) is \$130.

Meals

Reimbursable meal expenses and associated gratuities will not exceed the following rates:⁴²

Breakfast \$12

Lunch \$18

Dinner \$35

Such amounts will be annually adjusted to reflect changes in the cost of living in accordance with statistics published by the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, all urban consumers for the _____ Metropolitan Area. (The annual adjustment will be based on this area whether travel is within the area or not.)

*[The city/county/district will not pay for alcohol/personal bar expenses.]*⁴³

Telephone/Fax/Cellular⁴⁴

Officials will be reimbursed for actual telephone and fax expenses incurred on *city/county/district* business. Telephone bills should identify which calls were made on *city/county/district* business. For cellular calls when the official has a particular number of minutes included in the official's plan, the official can identify the percentage of calls made on public business.

Internet

Officials will be reimbursed for Internet access connection and/or usage fees away from home, not to exceed \$15.00 per day, if Internet access is necessary for *city/county/district*-related business.

⁴² A local expense reimbursement policy may specify what constitutes reasonable rates for meals. If the policy does not, then the reimbursable rates default to those specified in the Internal Revenue Service guidelines. *See* Cal. Gov't Code §53232.2(c). *See also* Publication 1542 at www.irs.gov or www.policyworks.gov/perdiem. The Internal Revenue Service establishes per diem thresholds for employees; any amounts in excess of the per diem for a given area is treated as additional wages for tax purposes. For example, for 2006, the standard per diem rate for meals and incidental expenses in the continental United States is \$39. However the rate for Los Angeles, San Francisco, and San Diego areas (as defined) is \$64. An alternate approach is to set a maximum daily reimbursement amount for meals, including beverages and tips. One agency's reimbursement policy provides for a higher maximum daily reimbursement amount for specific "high cost" cities.

⁴³ Alcohol-related expenses should or should not be reimbursed according to community standards. An alternative to an all or nothing policy on alcoholic beverages is to give specified management-level employees authority to engage in "third policy hosting expenses" for alcoholic beverages.

⁴⁴ Note that it may be an effective cost control measure to provide elected officials with access to agency telephones and faxes for official business and not to reimburse for calls and faxes made on personal equipment.

Airport Parking

Long-term parking must be used for travel exceeding 24-hours.

Other

Baggage handling fees of up to \$1 per bag and gratuities of up to 15 percent will be reimbursed. Expenses for which *city/county/district* officials receive reimbursement from another agency are not reimbursable.

Cash Advance Policy

From time to time, it may be necessary for an official⁴⁵ to request a cash advance to cover anticipated expenses while traveling or doing business on the *city/county/district's* behalf. Such request for an advance should be submitted to the *[indicate whom]*⁴⁶ _____ days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. The benefits of such expenditure to the residents of *city/county/district*;
3. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
4. The dates of the expenditure(s).

Any unused advance must be returned to the *city/county/district* treasury within two⁴⁷ business days⁴⁸ of the official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

In the event *[indicate who will be processing such requests]* _____ is uncertain as to whether a request complies with this policy, such individual must seek resolution from the *city/county/district* governing board.

Credit Card Use Policy

City/county/district does not issue credit cards to individual office holders but does have an

⁴⁵ Some agencies limit cash advances. One approach is to make cash advances only available for line (less well compensated) staff and elected and appointed officials in the amount of the recommended Internal Revenue Service per diem for the area being traveled to. Another is to offer partial cash advances.

⁴⁶ For example, agency manager for elected officials and supervising department heads for staff.

⁴⁷ Other time thresholds may be appropriate.

⁴⁸ Choose a time period that is practical, but also is mindful of legal restrictions that exist with respect to having extended access to agency cash. This issue is analogous to the "float" issue when officials use agency credit cards for personal purposes. See Cal. Penal Code § 424.

agency credit card for selected *city/county/district* expenses.⁴⁹ *City/county/district* office holders may use the *city/county/ district's* credit card for such purposes as airline tickets and hotel reservations by following the same procedures for cash advances. Receipts documenting expenses incurred on the *city/county/district* credit card and compliance with this policy must be submitted within five business days of use.⁵⁰

City/County/District credit cards may not be used for personal expenses, even if the official subsequently reimburses the *city/county/district*.⁵¹

Expense Report Content And Submission Deadline

All cash advance expenditures, [*credit card expenses*] and expense reimbursement requests must be submitted on an expense report form provided by the *city/county/ district*. [*This form shall include the following advisory:*

All expenses reported on this form must comply with the city/county/ district's policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the city/county/ district's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability.]

Expense reports must document that the expense in question met the requirements of this policy.⁵² For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the *city/county/ district's* adopted legislative positions and priorities.

⁴⁹ The decision on whether to issue agency credit cards to individuals is a policy determination. Many experienced administrators advise against issuing agency credit cards to either elected officials or staff because of the potential for inadvertent use for personal purposes and the legal questions about whether one can be protected from civil and criminal liability by reimbursing the agency. (See footnote 3). An alternative used by some public agencies is the Cal-Card program, which provides for specific dollar limits per card holder and can be restricted for use with certain kinds of vendors. The Cal-Card provides a clear audit/documentation trail. The program is administered through a master contract with the State of California. For more information, see www.documents.dgs.ca.gov/pd/calcard/calcardreq.pdf. Potential alternative language if an agency does issue credit cards is as follows:

City/County/District officials with *city/county/district* credit cards may only use those cards for official agency business consistent with this expense policy. Credit card expenses will be periodically reviewed by the governing body or its designee. Each credit card holder will, as a part of that individual's expense report, document compliance with this expense policy.

⁵⁰ Choose a time period that is practical, but enables agency financial staff to verify charges on the credit card monthly bill.

⁵¹ Note that this provision can be useful even if an agency does not issue credit cards to individuals because it establishes that using a central credit card for personal purposes is impermissible.

⁵² Local agencies must use expense report forms. See Cal. Gov't Code §53232.3(a). All expenses must be documented with receipts. See Cal. Gov't Code §53232.3(c). These documents are, of course, public records subject to disclosure. See Cal. Gov't Code §53232.3(e).

Officials must submit their expense reports within 30 days of an expense being incurred, accompanied by receipts documenting each expense.⁵³ Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

Audits Of Expense Reports

All expenses are subject to verification that they comply with this policy.

Reports To Governing Board

At the following *city/county/district* governing body meeting, each official shall briefly report on meetings attended at *city/county/district* expense.⁵⁴ If multiple officials attended, a joint report may be made.⁵⁵

Compliance With Laws

City/County/District officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws.⁵⁶ All agency expenditures are public

⁵³ An expense reimbursement policy must specify what constitutes a “reasonable time” within which requests for reimbursement must be submitted. *See* Cal. Gov’t Code §53232.3(c). If the deadline for expense reimbursement requests is too long or non-existent, it may be difficult to remember why certain expenses were incurred. Moreover, there may be audit issues in terms of recognizing the expense in the proper year.

Finally, the Internal Revenue Service requires that expenses that are reimbursed after 60 days be reported as income to reimburse. Under an “accountable plan,” expense reimbursements are not taxable to the employee; however, if the employee does not submit their substantiated claim for reimbursement within 60 days of the expenditure, then the reimbursement is taxable to the employee and reported in Box 1 of Form W-2. *See* discussion beginning on page 10 http://www.irs.gov/pub/irs-pdf/p15_05.pdf, discussion beginning on page 27 <http://www.irs.gov/pub/irs-pdf/p463.pdf>, and discussion beginning on page 48 <http://www.irs.gov/pub/irs-pdf/p535.pdf>.

⁵⁴ *See* Cal. Gov’t Code §53232.3(d). Presumably this can be either a written or oral report. The report should be agendized in some manner, both to remind the official of the obligation to report and to comply with Brown Act requirements.

⁵⁵ In making a joint report, officials should be mindful about open meeting laws governing communications among members of a legislative body. There is a conference exception to the Brown Act, as long as a majority of the members of a legislative body does not discuss among themselves business that is within the subject matter jurisdiction of the local agency (other than as part of the scheduled program). *See* Cal. Gov’t Code § 54952.2(c)(2). Officials should not discuss among themselves the content of a joint report in advance of a public meeting. Simply asking one official to be the lead on the report during the public meeting and then asking others if anything was omitted should avoid Brown Act issues.

⁵⁶ For example, meals are considered “gifts” to legislators that must be reported by them if the total value of gifts given from the agency exceeds \$50 in a year; there also is an annual gift limit. In 2003-2004, this limit is \$340. *See* Cal. Gov’t Code § 87103(3). Registered lobbyists, by contrast, are limited to gifts of \$10 per month. *See* Cal. Gov’t Code §§ 86201-86204.

records subject to disclosure under the Public Records Act [*and other laws*]⁵⁷

Violation Of This Policy

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the *city/county/district*, 3) the agency's reporting the expenses as income to the elected official to state and federal tax authorities, 4) civil penalties of up to \$1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources.⁵⁸

G:\Legal\INSTITUTE\Public Confidence\AB 1234\2006 sample reimbursement policy.doc

1/4/2006

⁵⁷ See generally Cal. Gov't Code §§ 6250 et seq. (California Public Records Act). Special districts have an additional obligation to prepare and annual summary of expense reimbursements over \$100 and make those available for public disclosure. Cal. Gov't Code § 53065.5.

⁵⁸ See Cal. Gov't Code § 53232.4.



INSTITUTE FOR LOCAL GOVERNMENT

New State Ethics Requirements for Local Officials: Frequently Asked Questions

1/13/06 Version

What new laws took effect on January 1, 2006 relating to local official ethics?

- AB 11: Relating to compensation of general law city council members and service on community redevelopment commissions;
- AB 1234: Relating to expense reimbursement for local officials, ethics training and special district compensation; and
- SB 8 : Relating to revolving door restrictions for local officials (effective July 1, 2006).

The January issue of *Western City* magazine has a summary of what these bills do. The following are some frequently asked questions about the bills.

Ethics Training

1. What requirements does AB 1234 create regarding ethics training for local officials?

The basic thrust of AB 1234 is to require covered officials (see next question) to take two hours of training in ethics principles and laws every two years.¹

2. Who is required to receive mandatory ethics training?

Basically the requirement applies to those elected or appointed officials who are compensated for their service or reimbursed for their expenses.² The specific trigger for

¹ Cal. Gov't Code § 53235(a), (b).

² The language is potentially confusing on this point. The new law says that if a local agency provides any type of compensation or reimbursement for members of its legislative bodies, then all "local agency officials" must receive training. See Cal. Gov't Code § 53235(a). But the definition of "local agency official" means "any member of a local agency legislative body or any elected official who receives any type of compensation . . . or reimbursement for actual and necessary expenses incurred in the performance of official duties." See Cal. Gov't Code § 53234(c)(1).

Institute for Local Government

www.ca-ilg.org

this requirement is whether the agency either compensates or reimburses expenses for members of any of its Brown Act covered bodies; if it does, then all elected and appointed “local agency officials” (as defined) must receive this training.³ “Local agency official” means any member of a legislative body or any elected local agency official who receives compensation or expense reimbursement.⁴

“Local agency” means “a city, county, city and county, charter city, charter county, charter city and county, or special district.”⁵ Thus the training requirement does *not* include agencies on which local officials serve (for example, redevelopment agency governing boards or joint powers agencies), although many such officials will likely be covered by virtue of their status with cities, counties and special districts. Note that it also does not include school districts.

Note that local agencies also have the option of requiring certain employees to receive this training.⁶

3. Where are local officials going to get this training?

Local agencies must provide covered officials with a list of options for satisfying this requirement at least once a year.⁷ Note that agencies are not required to provide the training themselves, although a number may choose to do so.

A variety of organizations are gearing up to offer options to help local officials satisfy these requirements. The League and the Institute plan to help local agencies too.

Note that the training can occur in-person, online or on a self-study basis (read materials and take a test).⁸ For example, upcoming articles in *Western City* will provide self-study options for local officials.

4. How is the League of California Cities helping local agencies implement the ethics training aspect of the new law?

The League and the Institute for Local Government are working on training courses and materials to affordably satisfy AB 1234’s requirements. Most associations of local agencies are planning on offering such training at their respective conferences. The League is working with division leadership on offering these regionally as well.

³ Cal. Gov’t Code § 53235(a) (“If a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials shall receive training in ethics pursuant to this article”); § 53234(a) (defining legislative body by reference to the Brown Act, Government Code section 54952).

⁴ Cal. Gov’t Code § 53234(c)(1).

⁵ Cal. Gov’t Code § 53234(b).

⁶ Cal. Gov’t Code § 53234(c)(2).

⁷ Cal. Gov’t Code § 53235(f).

⁸ Cal. Gov’t Code § 53235(d).

Institute for Local Government

www.ca-ilg.org

The Institute also plans to develop self-study materials and has a grant to fund, partially, the development of an online course. The Institute is also in the process of developing “train-the-trainer” programs for in-house counsel and others who are interested in offering such training. The Institute may also offer lists of trainers who are interested in helping agencies satisfy this requirement.

Watch for more information in [Priority Focus](#) and on League listserves.

5. When will associations and others begin offering such training?

It’s not clear. The Attorney General and FPPC are in the process of adopting guidelines for course curriculum accuracy and sufficiency.⁹ The Fair Political Practices Commission has a draft regulation being circulated for comment relating to how Political Reform Act-related ethics laws should be covered.¹⁰ The regulation is scheduled for discussion at the Commission’s January 20 meeting.

The Attorney General’s office is working on draft guidelines as well.

6. What issues must AB 1234 ethics training programs address?

The training must cover general ethics principles relating to public service and ethics laws.¹¹ “Ethics laws” are defined as including:¹²

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws);
- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources and prohibitions against gifts of public funds;
- Governmental transparency laws, including financial disclosure requirements and open government laws (the Brown Act and Public Records Act);
- Law relating to fair processes, including fair contracting requirements, common law bias requirements and due process.

The Institute has materials in production to address the “general ethics principles” aspect of AB 1234 training.

It’s important to note that, given the breadth of the subjects that need to be covered, the goal of the training cannot be to teach local officials the law in each of these areas. Instead the goal needs to be to acquaint local officials with the fact that there are laws

⁹ See Cal. Gov’t Code § 53235(c).

¹⁰ See www.fppc.ca.gov/index.html?id=247&r_id=/legal/proposed-regs/18371.htm.

¹¹ Cal. Gov’t Code § 53235(b).

¹² Cal. Gov’t Code § 53234(d).

Institute for Local Government
www.ca-ilg.org

that govern their behavior in each of these areas, to motivate officials to comply with such laws (among other things by explaining the consequences of missteps) and to alert them on when they need to seek the advice of qualified legal counsel when issues arise with respect to such laws.

7. Can AB 1234's ethics training requirements constitutionally apply to charter cities?

Many city attorneys are not convinced that AB 1234 contains the necessary findings to make it applicable to charter cities, although the bill purports to apply to charter cities by including charter cities within the definition of local agency.¹³ However, a number of charter cities already have such training programs and/or think they would be helpful and hence, are voluntarily complying with the spirit of AB 1234. Such an approach may reflect well on a city and city officials should the local media inquire about city officials' compliance with AB 1234.

8. When is the deadline for officials currently in office to complete mandatory ethics training?

Each local agency official in local agency service as of January 1, 2006 must receive ethics training by January 1, 2007. After that, the requirement is every two years.¹⁴ Officials whose term of office ends before January 1, 2007 are excused.¹⁵ There may be clean-up legislation that extends this deadline further to accommodate some county supervisors whose terms expire on January 8, 2007.¹⁶

9. How often must local officials receive ethics training?

Newly elected and appointed local agency officials must receive their first training within one year of commencing service.¹⁷ After that, the requirement is every two years.¹⁸

10. What is the enforcement mechanism to assure that local officials receive such training?

The new law is directory; there is no specific penalty for failing to complete the required training.

However, the law creates a public relations enforcement mechanism. When local agency officials receive the training, they will be given proof of participation.¹⁹ Copies of these certificates must be provided to the agency's custodian of records and

¹³ Cal. Gov't Code § 53234(b).

¹⁴ Cal. Gov't Code § 53235.1(a), (b).

¹⁵ Cal. Gov't Code § 53235.1(a).

¹⁶ See Cal. Gov't Code § 24200.

¹⁷ Cal. Gov't Code § 53235.1(b).

¹⁸ Cal. Gov't Code § 53235.1(a), (b).

¹⁹ Cal. Gov't Code § 53235.1(e).

Institute for Local Government

www.ca-ilg.org

maintained as public records subject to disclosure to the media, the public and others for at least five years.²⁰

Note: in addition to maintaining records on compliance with the minimum standards imposed by AB 1234, local agencies may also want to maintain records of any additional training local agency officials received. This will enable those inquiring to ascertain the agency's and individual's full scope of commitment to understanding the ethical and legal obligations associated with public service.

Expense Reimbursement

1. What about AB 1234's requirements with respect to expense reimbursement?

AB 1234 requires local agencies to adopt expense reimbursement policies that specify the kinds of activities that will be reimbursable.²¹ (Note that the law says that ethics training is also reimbursable.²²) The trigger for this requirement is whether the local agency reimburses members of a legislative body for expenses incurred in the performance of their official duties; if the agency does, then the governing body must adopt the policy contemplated by AB 1234.²³

The Institute for Local Government has developed a sample annotated expense reimbursement policy to help local officials with this task. The policy is available at www.ca-ilg.org/reimbursementpolicy.

If a legislative body member wants to seek reimbursement for something that is not on the list adopted by their local agency, then the official has the option of seeking prior approval for such reimbursement from the governing body.²⁴

Local agencies must use expense report forms and all expenses must be documented with receipts.²⁵ These documents are public records subject to disclosure.²⁶ The expense reimbursement policy must specify a "reasonable time" within which requests for reimbursement must be submitted.²⁷

²⁰ Cal. Gov't Code § 53235.2.

²¹ Cal. Gov't Code § 53232.2(b).

²² Cal. Gov't Code § 53232.2(a).

²³ Cal. Gov't Code § 53232.2(b).

²⁴ Cal. Gov't Code § 53232.2(f).

²⁵ Cal. Gov't Code § 53232.3.

²⁶ Cal. Gov't Code § 53232.3(e).

²⁷ Cal. Gov't Code § 53232.3(c).

2. Which agencies must adopt reimbursement policies?

Any local agency that reimburses any of its elected and appointed officials on legislative bodies for expenses must adopt a policy.²⁸ Local agency includes “a city, county, city and county, charter city, charter county, charter city and county, or special district.”²⁹ The definition of “legislative body” is tied to the Brown Act definition of legislative body (see text in note below³⁰).

Again, the tie to “local agency” as defined in the bill, means that AB 1234's requirements on reimbursement policies do not apply to some kinds of agencies on which local officials serve (for example, redevelopment agency governing boards or joint powers agencies), although of course voluntarily adopting expense reimbursement

²⁸ Cal. Gov't Code § 53232.2(b).

²⁹ Cal. Gov't Code § 53232(c).

³⁰ Government Code section 54952 provides in that regard:

As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

Institute for Local Government
www.ca-ilg.org

policies is a prudent course of action for non-covered entities. It also does not apply to school districts.

3. Does AB 1234 affect reimbursement practices in other ways?

AB 1234 emphasizes the level of the expense incurred (as opposed to what the agency will reimburse). Consistent with this, AB 1234 says that local agencies may specify what constitutes reasonable rates for travel, meals, lodging and other expenses. If a local policy does not specify reimbursement rates, then the reimbursable rates default to those specified in the Internal Revenue Service guidelines.³¹

If a legislative body member wants to seek reimbursement for levels of expenses not otherwise authorized under the agency's reimbursement policy, then the official has the option of seeking *prior* approval for such reimbursement from the governing body.³²

Note there may be clean-up legislation that clarifies that local officials have the option of personally paying for the difference between what an agency will reimburse and actual expense incurred.

4. If there are no mandatory reimbursement rates, is there no limit on what local officials may be reimbursed for?

The law specifies certain thresholds for what constitutes reasonable levels of expenses. For example, for lodging in connection with conferences, the rate may not exceed the maximum group rates published for the conference.³³ If those rates are not available at the time the lodging is booked, the lodging rates must be comparable to those allowed by the Internal Revenue Service or government rates.³⁴ Local agency officials must use group or government rates for non-conference-related lodging and transportation services.³⁵

But otherwise, AB 1234 retains agencies' discretion, subject to community standards relating to the judicious use of scarce taxpayer dollars.

Again, there may be clean-up legislation that clarifies that local officials have the option of personally paying for the difference between what an agency will reimburse and actual expense incurred.

³¹ Cal. Gov't Code § 53232.2(c). See also Publication 1542 at www.irs.gov or www.policyworks.gov/perdiem.

³² Cal. Gov't Code § 53232.2(f).

³³ Cal. Gov't Code § 53232.2(d).

³⁴ *Id.*

³⁵ Cal. Gov't Code § 53232.2(e).

5. What do we do about reimbursing expenses before we adopt the policies contemplated by AB 1234?

Agencies should not reimburse expenses until they have a policy in place. An option is to ask their officials to retain any receipts for reimbursable expenses until the policy can be adopted and then submit their reimbursement requests consistent with those policies and AB 1234's requirements.

6. May local agencies grant car allowances under AB 1234?

This is a very good question on which agency attorneys disagree. Some agency attorneys believe that AB 1234's requirement that expenses be reimbursed after the fact based on receipts means that vehicle and other expense allowances are not permitted.³⁶ Some local agencies had previously reimbursed auto expenses through an allowance, based on statute and case law³⁷ that seemed to permit allowances when based on empirically demonstrable information that the allowance matched actual and necessary expenses incurred.³⁸

A factor to keep in mind with expense allowances is that they may be taxable (and subject to withholding) if the official cannot document that his or her actual expenses met or exceeded the allowance.³⁹ This, and the requirement that any expense allowance be based on empirical information about actual expenses incurred, predate AB 1234's requirements.

7. If an agency has a current reimbursement policy, does AB 1234 require that it develop another policy if the current policy omits one of the identified items, like travel, meals, or lodging?

Agencies should consult with agency counsel to make sure that their policies comply with AB 1234's requirements specifically.

³⁶ Cal. Gov't Code § 53232.3.

³⁷ See Cal. Gov't Code § 1223 (authorizing local officials to "contract" for an allowance or mileage rate for automobile owned, rented or used in performance of duties); *Citizen Advocates, Inc. v. Board of Supervisors*, 146 Cal. App. 3d 171 (1983).

³⁸ See *Albright v. City of South San Francisco*, 44 Cal. App. 3d 866 (1975).

³⁹ Treas. Regs. § 1.62-2T(e), § 1.3401(a)-1T.

8. How should local agencies interpret the requirement for members of a legislative body to provide brief reports on the meetings they attended at the expense of the local agency at the next regular meeting of the legislative body?

AB 1234 requires members of a legislative body to report on “meetings” attended at public expense at the next meeting of the legislative body.⁴⁰ “Meetings” for purpose of this section are tied to the Brown Act meaning of the term:⁴¹ any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.⁴²

Presumably this can be either a written or oral report.

Note too that some public agencies have also voluntarily adopted requirements that any time an official attends a conference or similar gathering at public expense that a report be provided back to the body. Again, the report typically can be written or oral.

9. Can AB 1234’s requirements for expense reimbursement be constitutionally applied to charter cities?

A number of charter city attorneys argue that expense reimbursement falls under the category of “compensation” over which charter cities have plenary authority to the exclusion of state regulation.⁴³ Indeed, the portion of AB 1234 relating to expense reimbursement is part of a new article being added to the Government Code entitled “Compensation.”⁴⁴

Of course individual charter requirements and good fiscal management practices may make voluntary adoption of the kind of expense reimbursement policy contemplated by AB 1234 advisable. The Institute’s sample reimbursement policy includes a suggested finding for charter cities stating that the reimbursement policy would satisfy AB 1234’s requirements in the event such requirements could be constitutionally applied to charter cities.

⁴⁰ Cal. Gov’t Code § 53232.3(d).

⁴¹ Cal. Gov’t Code § 53232.3(d).

⁴² See Cal. Gov’t Code § 54952.2.

⁴³ Cal. Const. art. XI, § 5. *County of Sonoma v. Commission on State Mandates*, 84 Cal. App. 4th 1264 (2000).

⁴⁴ Article 2.3 of chapter 2 of Part 1 of division 2 of title 5 of the Government Code.

10. What are the penalties for misuse of public resources or falsifying expense reports?

Penalties for misuse of public resources or falsifying expense reports in violation of expense reporting policies may include at a minimum:⁴⁵

- Loss of reimbursement privileges
- Restitution to the local agency
- Civil penalties of up to \$1,000 per day and three times the value of the resource used⁴⁶
- Criminal prosecution and a lifetime bar from public office⁴⁷

Compensation

1. What impact does AB 1234 have on compensation for local officials?

AB 1234 limits direct compensation for some officials, primarily members of a legislative body of an independent special district, excluding irrigation districts that provide electricity, utility districts with boards having seven members, and harbor districts.⁴⁸ These limits do not apply to salaried officials of any local agency, including city council members and members of a board of supervisors, or charter cities.⁴⁹

Agencies that are subject to these provisions may pay a stipend to members of a legislative body for:

- A meeting of any “legislative body” as defined by the Brown Act
- A meeting of an advisory body
- Conference attendance or educational activities, including ethics training⁵⁰

Agencies may compensate officials for attendance at other events as specified in a written policy adopted in a public meeting.⁵¹

2. What about AB 11’s requirements with respect to city council member compensation?

AB 11 reiterates what some city attorneys considered to be existing law for general law cities: Unless specifically authorized by another statute, a city council may not enact an

⁴⁵ See Cal. Gov’t Code § 53232.4.

⁴⁶ See Cal. Gov’t Code § 8314.

⁴⁷ See Cal. Penal Code § 424.

⁴⁸ Cal. Gov’t Code § 53232.1(c).

⁴⁹ Cal. Gov’t Code § 53232.1(c).

⁵⁰ Cal. Gov’t Code § 53232.1(a).

⁵¹ Cal. Gov’t Code § 53232.1(b).

ordinance providing for compensation to elected city council members in excess of the schedules authorized under the Government Code.⁵² The goal of AB 11 was to make it clear that, in general law cities, city council members could not augment their compensation by creating additional boards and commissions on which council members would serve and then receive a separate stipend for that service.

AB 11 also changed the law with respect to serving on community development commission formed to oversee both redevelopment and housing authority functions. AB 11 says that, under such circumstances, commissioner compensation may not exceed \$150 per commissioner per meeting, with a maximum of two meetings (\$300) per month.⁵³ If the body just serves as a redevelopment agency, the compensation is \$75 per commissioner, per meeting, with a maximum of two meetings.⁵⁴

3. When does AB 11 go into effect?

January 1, 2006, although a number of city attorneys have questioned whether the Legislature can reduce the compensation of sitting city council members (see question below).⁵⁵

4. Does AB 11 apply to city council members who were elected to office before January 1, 2006?

This question is being addressed by the California Attorney General's office,⁵⁶ inasmuch as there is a Government Code provision that says that city council member salaries cannot be reduced during a city council member's term.⁵⁷

This of course gives rise to the question of what one should do while waiting for the Attorney General's answer. One option is to keep funds put in question by AB 11 into a sort of escrow account until the Attorney General's office issues its opinion (which is likely to be in the spring).

5. Does AB 11 apply to charter cities?

The general compensation restrictions of AB 11 (including the ability to create commissions and committees and augment compensation levels) apply only to general

⁵² See Cal. Gov't Code § 36516(d).

⁵³ Cal. Health & Safety Code § 34130.5(c).

⁵⁴ Cal. Health & Safety Code § 34130.5(b).

⁵⁵ 80 Cal. Op. Att'y Gen. 119 (1997) (interpreting Government Code section 36516.5 as precluding a change of council member salaries during the council member's term).

⁵⁶ See Attorney General Request for Input on pinion No. 05-1204 circulated December 8, 2005 and asking for input by February 6, 2006.

⁵⁷ 80 Cal. Op. Att'y Gen. 119 (1997) (interpreting Government Code section 36516.5 as precluding a change of council member salaries during the council member's term).

Institute for Local Government
www.ca-ilg.org

law cities—unless a charter somehow incorporates general law with respect to council member salaries.⁵⁸

To the extent that a charter city has a community redevelopment commission overseeing both housing authority and redevelopment functions, then those aspects of AB 11 are likely to apply, since redevelopment agencies are creatures of state law.⁵⁹

Revolving Door

What does SB 8 do?

State officials were precluded from representing individuals before their agencies for one year after leaving office.⁶⁰ Now that requirement also applies to a number of local officials, including elected officials and city and county managers.⁶¹ The section is operative July 1, 2006.

G:\Legal\INSTITUTE\Public Confidence\AB 1234\AB 1234 summary1_11Version.doc
 1/13/2006

⁵⁸ Government Code section 36516, which is the section AB 11 amended, is the code section specifying general law city council member compensation. Charter cities generally have absolute authority over city council member compensation. See Cal. Const. art. XI, § 5. *County of Sonoma v. Commission on State Mandates*, 84 Cal. App. 4th 1264 (2000).

⁵⁹ See *Andrews v. City of San Bernardino*, 175 Cal. App. 2d 459, 462 (1959).

⁶⁰ See Cal. Gov't Code §87406.

⁶¹ See Cal. Gov't Code §87406.3.