

Resolution No. 1: Staff Analysis

League of California Cities Staff Analysis on Resolution No. 1

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Committee: Governance, Transparency, and Labor Relations

Summary:

This Resolution states that the League of California Cities shall call upon the Governor of the State of California and the elected members of the California Legislature, including all members of the Senate and Assembly to adopt the following policy:

“The California State Legislature shall not enact, and the Governor shall not sign into law, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution.”

Background:

This resolution states that examples of the California Legislature imposing rules limiting authority or regulating the conduct of local municipal officials that do not also apply to elected officials of the State of California include, but are not limited to:

- California's open meeting rules, codified in the **Ralph M. Brown Act**, Government Code, Chapter 9, §§ 54950 *et seq.*;
- “One-off” exemptions, in the form of Senate Bill No. 174, from the **California Environmental Quality Act (“CEQA”)**;
- Rules, in the form of **Senate Bill No. 1439**, amending the **Political Reform Act** (the “Act”); and
- Rules, in the form of **Assembly Bill No. 571**, that apply to city and county candidates for local elected office, but not to candidates for state-wide office.

Ralph M. Brown Act

[The California Attorney General's \(AG\) Office](#) defines [The Ralph M. Brown Act](#) (Brown Act) as what governs meetings conducted by local legislative bodies, such as boards of supervisors, city councils and school boards. The AG's office states the Act represents the Legislature's determination of how the balance should be struck between public access to meetings of multi-member public bodies on the one hand and the need for confidential candor, debate, and information gathering on the other.

[The Ralph M. Brown Act](#) governs local agencies, the [Bagley-Keene Open Meeting Act](#) covers all state boards and commissions, and [Government code](#)

[9027](#) governs the state Legislature. The California Constitution also mandates open meetings for state agencies, boards, and commissions. Specifically, the Constitution requires that each local agency comply with the Brown Act (Article I, section 3(b)(7)): and that the proceedings of each house of the Legislature be open and public (with exceptions for employment matters; matters affecting security; confer with legal counsel; and to meet as a caucus (Article IV, section 7)).

Although fairly detailed requirements apply to state agencies and other state bodies, they do not apply to the Legislature. The Legislature has Constitutional authority to adopt rules for its proceedings that are consistent with the requirement that the proceedings of each house and the committees be open and public.

Another notable difference between the Legislature and a city council is the ability for Legislators to have a caucus to discuss a bill, express how they will vote, and to count votes. This is not allowed under the Brown Act. One other difference is that the laws governing teleconferencing for members of the state Legislature is far less flexible than it is for local bodies. However, state agencies have more flexibility than locals in that regard.

California Environmental Quality Act (“CEQA”)

The Resolution cites the Legislature's action in exempting from CEQA the reconstruction of the State Capitol Annex building. The State Legislature enacted the [California Environmental Quality Act \(CEQA\)](#) in 1970, establishing it as a public disclosure law for the environmental review of discretionary projects and a process for mitigating or avoiding potential environmental impacts.

[SB 174 \(Committee on Budget and Fiscal Review\)](#) Chaptered by Secretary of State. Chapter 74, Statutes of 2024 was signed into law July 2, 2024. This bill exempts the work performed under the State Capitol Building Annex Act of 2016 from the California Environmental Quality Act (CEQA). In this example the Legislature exempted themselves as not being considered a “public agency,” “state agency,” or “lead agency” under CEQA. A lead agency under CEQA is the public agency that has the principal responsibility for carrying out or approving a project that is subject to CEQA.

Over the years, the Legislature has also created many CEQA exceptions and exemptions for local projects involving local agencies as well.

The Political Reform Act (PRA) - Senate Bill No. 1439

[SB 1439 \(Glazer\)](#) Chaptered by Secretary of State. Chapter 848, Statutes of 2022 amends section 84308 and is aimed at preventing "pay-to-play" practices, in part by prohibiting parties, participants, and their respective agents in a

proceeding involving a license, permit, or other entitlement for use from contributing more than \$250 to an officer of an agency during a 12 month period. When the Levine Act was first enacted in 1982, Section 84308 applied to appointed members of boards and commissions who were running for elective office. SB 1439 expended this law to now apply to local elected officials. Since it is focused on permits and licenses, it now applies to State agencies and local agencies that approve permits and licenses. Section 84308 does not apply to the Legislature or the Courts. It is important to note that unlike local governments, neither issue permits and licenses.

The Political Reform Act (PRA) - Assembly Bill No. 571

[AB 571 \(Mullin\)](#) Chaptered by Secretary of State. Chapter 556, Statutes of 2019 established default campaign contribution limits for county and city office at the same level as the limit on contributions from individuals to candidates for Senate and Assembly, effective January 1, 2021. This bill permitted a county or city to establish its own contribution limits, which would prevail over these default limits.

The Resolution cites AB 571 as an example of treating cities differently than the State. The Fair Political Practices Commission clarifies in their [AB 571 fact sheet](#) that under AB 571 a city may elect to have "no" contribution limit in which case the state contribution limit will not apply as a default for that jurisdiction. A city or county can set contribution limits higher than the default state limit, AB 571 sets a default in line with contributions Assembly Members and Senators if a city or county is silent on contribution limits.

Fiscal Impact:

Unknown.

Existing Cal Cities Policy:

Mission Statement

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

We Believe:

- Local self-governance is the cornerstone of democracy.
- In the involvement of all stakeholders in establishing goals and in solving problems.
- In conducting the business of government with transparency, openness, respect, and civility. The spirit of honest public service is what builds communities.
- Open decision-making that is of the highest ethical standards honors the public trust.
- The vitality of cities is dependent upon their fiscal stability and local autonomy. The active participation of all city officials increases Cal Cities' effectiveness.

- Partnerships and collaborations are essential elements of focused advocacy and lobbying.
- Ethical and well-informed city officials are essential for responsive, visionary leadership and effective and efficient city operations.

Comments:

Additional Examples

The Legislature has passed and the Governor has signed many laws that apply to local governments and do not apply to the state or the state Legislature. This year [AB 2561 \(McKinnor\)](#) was introduced, which requires local governments to present in a public meeting a detailed report about their vacancy rates and detailed information about their hiring practices. This is an attempt to address public sector vacancy rates. This bill does not apply to the state in a time when they are also dealing with high vacancy rates.

Additionally, there were several bills that aim to amend the Levine Act, which now applies to local elected officials, to make changes to SB 1439, referenced previously in the analysis. None of the bills would amend the law to be applicable to Assembly Members or Senators.

[AB 817 \(Pacheco\)](#), co-sponsored by Cal Cities tried to bring parity to the Brown Act by making the teleconference rules for state advisory bodies the same for local advisory bodies but the Legislature struck the bill down.

Applying to elected officials or to the legislative body? Legislature or the State?

The resolution also states, "... applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate."

This portion of the resolve clause is specifically speaking to local elected officials and State Assembly Members and Senators. However, many of the "where as" clauses are in reference to laws that apply to cities, the state and the Legislature as government agencies and not specifically to the elected officials on the governing bodies. For example, the Brown Act applies rules to the Legislative body and not the individual council member. Additionally, the city council as a whole is the lead agency under CEQA and not the individual council members.

Inherent Powers of the Legislative Branch

The resolution also states, "This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution."

It is unclear what inherent powers of the legislative branch under the California Constitution means in this context. The legislative branch does have the power

of preemption over cities and can state that a change in law is a matter of state wide concern. This allows the legislative branch to apply new laws or amend existing laws to apply to general law and charter cities. It seems like the last sentence of the resolve clause could negate the rest of the resolve clause if not clarified.

Support:

The following letters of concurrence were received:

April A. Verlato, Mayor, City of Arcadia

Robert Gonzales, Mayor, City of Azusa

Tim Hepburn, Mayor, City of La Verne

Bill Uphoff, Mayor, City of Lomita

John M. Cruikshank, Mayor, City of Rancho Palos Verdes