



LAW OFFICES OF MIDDLETON, YOUNG & MINNEY, LLP

**New Laws Concerning Board Action on
Executive Compensation, Required Employment Contract Provisions &
Agenda Posting to Agency Website**

Effective January 1, 2012, Assembly Bill 1344 will make a few key changes to requirements for local agencies/public employers as follows:

• **No Automatic Executive Compensation Renewals which Exceed COLA.**

AB 1344 prohibits public employers from executing or renewing an employment contract for a “local agency executive” (defined to include the chief executive officer or the head of a department) when such a contract includes an automatic increase in compensation that exceeds the cost of living adjustment (COLA is defined as the California Consumer Price Index for Urban Wage Earners and Clerical Workers as calculated by the Department of Industrial Relations).

• **Maximum Cash Settlement May Not Exceed Govt. Code Limitations**

In addition, the local agency may not approve or renew a contract of employment for a “local agency executive” that includes a maximum cash settlement that exceeds the amounts determined pursuant to Govt. Code section 53260 et seq. (in most cases 18 months).

• **Required Employment Contract Provisions**

Under the new law, any contract executed or renewed between a local agency and an officer or employee of that agency (which provides for paid leave pending an investigation or funds for a legal defense to criminal charges) shall require that any salary or legal fees provided for that purpose be fully reimbursed if the officer or employee is convicted of a crime involving an abuse of his or her office or position. Contracts for employment between an employee and local agency employer shall also include a provision which provides that, regardless of the term of the contract, if the contract is terminated, any cash settlement related to the termination that an employee may receive from the local agency shall be fully reimbursed to the local agency if the employee is convicted of a crime involving the abuse of his or her office or position.

• **Regular and Special Board Agendas Must be Posted on the School’s Website.**

The new law further requires agencies complying with the Brown Act who maintain an internet website to post Board meeting agendas on the site consistent with regular posting requirements (72 hours in advance for regular meetings and 24 hours in advance for special meetings). The website posting requirement does not apply to emergency meetings (e.g., work stoppage, crippling activity etc.) nor is the agency required to post committee or advisory body agendas unless the committee or advisory body members are compensated for their appearance.

• **Special Meeting Limitations Regarding Executive Officer Compensation**

In addition, the charter school governing board may not call a special meeting regarding the salaries, salary schedules, or fringe benefits compensation of a “local agency executive” (defined to include the chief executive officer and the head of a department); this limitation does not prevent the charter school board from calling a special meeting to discuss the budget.

Most charter schools are covered by these provisions (either because the charter school will be deemed a “local agency” subject to these laws and/or the charter school has committed to compliance with these laws in its charter), and as such should appropriately consider these requirements when adopting or renewing employee contracts and setting board meetings.

It is important to note that AB 1344 does not abrogate existing employment contracts. However, when existing contracts come up for renewal, the school must ensure these provisions have been complied with by the school.

If you should have any questions regarding this update, please contact Jim Young (jyoung@mymlaw.com) at the Law Offices of Middleton, Young & Minney, LLP at (916) 646-1400. Or find us on the web at: www.mymcharterlaw.com.

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