**Bullets You Didn’t Know You Dodged:**

**Some Recent Legislation CACEO Worked to Kill or Amend in Order to Save**

**Clerks of the Board a Lot of Money and Headaches**

(Bill numbers in bold characters are of particular significance to clerks.)

| **Year of Intro** | **Bill Number/ Author** | **Subject** | **Summary of Effects on Clerk** | **CACEO Action** | **Outcome** |
| --- | --- | --- | --- | --- | --- |
| **2011** | **AB 23 (Smyth)** | Brown Act: prohibition of simultaneous and sequential meetings | As introduced, this City of Bell scandal-related bill would have prohibited the members of a legislative body to convene a meeting of any other legislative body, simultaneously or in sequential order. This would have barred, for example, a board of supervisors from convening as the governing body of a special district or other authority, planning commission, etc., at a meeting of the board of supervisors. Thus, the bill would have ended a very efficient and cost-effective method of conducting sequential meetings (or simultaneous meetings) of the various bodies made up of the members of the board of supervisors. | CACEO Position: Oppose, unless amended to remove language that would bar simultaneous or sequential meetings from occurring.  CACEO worked closely with numerous county and city organizations and the author and proposed various amendments, a portion of which were accepted by the author. | AB 23 was **amended** several times in an attempt to address concerns raised by local government groups, including CACEO. The bill that was signed by the Governor would merely require that, when a legislative body convenes a meeting of another legislative body sequentially at the time of a meeting of the original legislative body, the clerk or member must verbally announce prior to convening the subsequent meeting, the amount of compensation or stipend, if any, that each member will receive and must indicate that the compensation or stipend is provided as a result of convening the subsequent meeting, unless the compensation or stipend is prescribed in statute and no additional compensation has been authorized by the local agency. |
|  | **AB 148 (Smyth)** | On-line posting of ethics training records | AB 148 would have required a local agency with a compensation policy to post that policy on the Web and to post the ethics training records of all individuals who take the training on the Web and forward the information to the State Controller within 15 days of completion of the training. The term “training records” was undefined. | The COB Legislative Committee took a position of Oppose, unless amended and worked with other stakeholders to greatly narrow the bill’s impact. | AB 148 **died** in the Assembly Appropriations Committee due to the cost of state reimbursement. The author did not accept CACEO’s amendments. |
|  | **AB 392 (Alejo)** | Brown Act: posting agendas | As introduced, AB 392, sponsored by the California Association of Realtors (CAR), would have required that all writings contained in the agenda packets of ALL legislative bodies governed by the Brown Act be physically posted with the agenda.  The bill also would have required the agendas and the agenda packets be posted on the agency’s Internet Web site in a manner that would make clear which agenda item the posted writings related to.  AB 392 would have barred action or discussion on any item for which the writings (agenda packet) were not posted in accordance with the terms of the bill, except under the conditions already set forth in the Brown Act that permit a legislative body to discuss and act on an item after the 72-hour posting deadline under specified circumstances (the matter arose after the posting deadline, etc.).  The bill also would have repealed the portion of the Brown Act that currently permits writings to be distributed to the members and to the public after the 72-hour posting deadline provided that the writing is made available to the public at the same time it is made available to the members of the legislative body. | CACEO Position: Oppose.  CACEO immediately got in touch with other county organizations to form a coalition of county and other local government associations to oppose AB 392.  After a meeting of local government stakeholders, CAR, and Mr. Alejo, the bill was amended on 4/14/11 to require that the agenda of all legislative bodies be posted on the agency’s Internet Web site, along with a copy of any related staff-generated reports (undefined) relating to items on the agenda. The bill would have required that, if requested, any staff-generated report would be made available to the public. A legislative body would have been barred from discussing or acting on any item not posted with related staff-generated reports.  CACEO continued to oppose the bill, largely on the grounds that many counties do not have the staff and the technology to post the agendas and related staff reports of all county legislative bodies on the Web. CACEO also rejected an offer by the author to include in the legislation a specific, delayed implementation date to allow counties to acquire the necessary staff and equipment on the grounds that it was impossible to know when all 58 counties would be able to comply. | AB 392 **died** quietly on the Assembly Appropriations Committee’s Suspense File based on legislative concerns about the cost of the bill that the state would have to reimburse to local agencies. |
|  | AB 582 (Pan) | Brown Act: proposed compensation increases | As introduced, AB 582 would have required that an agenda item that proposes to increase the compensation for unrepresented employees of a local agency be subject to public notice two times, first for general notice and nonvoting and discussion purposes, and second, in the event of a vote on the matter, no less than 12 days after the first notice, if the compensation increase is deemed necessary by the legislative body. | CACEO Position: Oppose, Unless Amended to require no less than a 5-day interval between notices. | AB 582 **died** on the Assembly Appropriations Committee’s Suspense File. |
|  | AB 781 (J. Perez) | Community services districts in newly disincorporated areas | As gutted and amended in the Senate on June 20, 2011, this bill would, among other things, have made the board of supervisors of a county in which a city has disincorporated the custodian of the records of the disincorporated city. This possibly would have resulted in the clerk of the board of the affected county becoming the *de facto* custodian of record. | CACEO Position: Oppose, Unless Amended to make the legislative body of a community services district the custodian of records of the disincorporated city. | AB 781 **died** on the Senate Third Reading File. |
|  | **AB 1292 Hernandez)** | Political Reform Act: posting Form 700s on-line | As introduced, this bill would have required a county filing officer (city clerk, too) to annually post on the Web all statements of economic interests filed with the clerk, including Article 2 filers whose statements are forwarded to the FPPC and county employees and officials required to file a statement with the county, whether they currently file with the clerk or with their own agency’s filing officer. | CACEO’s COB Legislative Committee took an oppose position to the portion of the bill dealing with Form 700 due to the tremendous cost impact on COBs who are Form 700 filing officers for their respective counties. | AB 1292 was **gutted and amended** to deal with safe drinking water. |
|  | **AB 1344 (Feuer and R. Hernandez)** | Brown Act: on-line posting of agendas | As introduced, this City of Bell scandal-related bill would have required ALL legislative bodies, including all boards, committees, and commissions that are subject to the Brown Act, to post their agendas for all of their meetings, including regular, special, and emergency meetings, on the Internet in an attempt to provide citizens with information relating to increases in the compensation and benefits of public officials. | CACEO Position: Oppose, unless amended to make the requirement to post agendas on the Internet be limited to governing bodies, since only these bodies have the authority to set compensation.  CACEO educated the author’s staff as to the over-reaching nature of the Brown Act provisions of the bill and suggested the alternative of limiting its impact to the meetings of governing bodies. | **Amended**. AB 1344 was amended on May 27, 2011 to limit its impact to all meetings of legislative bodies named in Subdivision (a) of Govt. Code Section 54952, i.e., governing bodies and bodies created pursuant to state or federal statute. CACEO removed its opposition to the bill. The bill was signed by the Governor as Ch. 692 of the Statutes of 2011. |
|  | **SB 46 (Correa)** | Local government: compensation disclosure requirement | SB 46 was another City of Bell scandal-related bill. As introduced, it would have required all elected or appointed officers of a county, city, city and county, school district (including community college district), special district, or joint powers agency who is required to file a Form 700 under GC Section 87200 and any of several school district management positions and county and city CAOs and CEOs to file an annual compensation disclosure form with the office where they file their Form 700, i.e., the clerk of the board, in most instances. A filing officer who maintains an Internet Web site would have been required to post the extensive compensation information from all of these officials on the Web. Copies of the compensation forms would have to have been made available for public inspection not later than the second day after receipt of the form by the filing officer.  The bill was later amended to require ALL officials who file a Form 700 to also file a compensation disclosure form, thus all school officials, special district officials, in addition to all county officials who file Form 700 would have filed a compensation disclosure form with the county filing officer. | CACEO Position: Oppose, unless amended to require all local agencies to centrally compile the required compensation information electronically and electronically forward that information to a designated state official, such as the State Controller.  CACEO worked with county organizations in opposition to the bill. Representatives of CACEO met several times with Senator Correa and his staff over a period of more than a year in order to resolve this issue, to no avail. In those meetings we discussed several alternative amendments in order to make the proposed information gathering more efficient and with far less impact on county filing officers, but no amending language was accepted by the author. | SB 46 **died** at the Assembly Desk in 2012. The bill was never taken up by the author after it passed the Senate. CACEO continued its opposition over the entire span of the two-year legislative session. |
|  | **SCA 7 (Yee)** | Brown Act mandate reimbursement | SCA 7 would have amended the California Constitution to require that each public body in California to provide public notice of its meetings and to disclose any action taken at those meetings. This bill was sponsored by the California Newspaper Publishers Association and was intended to put an end to Brown Act mandate reimbursement by adding the fundamental requirements of the Brown Act to the Constitution by a vote of the people. | CACEO Position: Oppose.  CACEO worked throughout the session to defeat SCA 7. CACEO was the bill’s only opposition of record. | SCA 7 **died** in Assembly Appropriations Committee’s Suspense File. It was decided that, in light of the state’s fiscal situation at the time, the bill would have created an unacceptable cost to the state to conduct the election in which the voters would have decided the bill’s fate. The bill was not taken up in 2012. |
| **2012** | AB 404 (Gatto) | Registration of tax agents as lobbyists | This late gut-and-amend, which was prompted by the scandals in 2012 at the L.A. County Assessor’s office, would have required, in a county that regulates, by ordinance, lobbying before the board of supervisors (there are 6 such counties), to amend that ordinance to apply its provisions to tax agents who practice before the assessment appeals board or county board of equalization and who “lobby” the assessor or assessor staff.  The likely impact of the bill would have been that the clerk of the board would have been the county officer responsible for administering the ordinance. Over time, it would have resulted in a patchwork in California that would have ultimately confused and disadvantaged taxpayers. Also, applying a lobbyist law to a quasi-judicial process would have been both silly and dysfunctional. | CACEO Position: Oppose, unless amended to address the L.A.-type scandals through legislation that more directly and appropriately dealt with the actual problems causing the scandals.  Somewhat ironically, CACEO worked very closely with the California Association of Taxpayer Advocates (CATA) to defeat the bill or to force the author to use a different approach. CACEO and CATA intensely lobbied against the bill and a similar bill (see AB 2183) up to the end of the two-year session. | AB 404 **failed passage** on the Senate Floor two days before the session ended. |
|  | **AB 1590 (Campos)** | Brown Act: assessment appeals boards | Sponsored by the California Association of Realtors (CAR), AB 1590 would have amended the Brown Act to include assessment appeals boards in the definition of “legislative body” contained in the Brown Act, thus making AABs subject to all of the provisions of the act. Had the bill been successful, it would have cost counties a good deal more to equalize the property tax role than it does now, late additions to AAB agendas would have been barred for no valid reason, more hearings would have been needed to handle workload, there would have been more delays in giving taxpayers their day in court, time would have been wasted in taking public comment that could not be used by the board in considering appeals, the right of taxpayers to due process would have been impaired, the bill would have caused lots of confusion in the appeal process, and the bill would have exposed the process to gaming. | CACEO Position: Oppose.  CACEO led a coalition of county organizations and individual counties in strong opposition to AB 1590. We were in contact several times with, and provided extensive information to, the Assembly Local Government Committee consultant whose analysis quoted CACEO’s input, at length. His analysis was the most negative we have seen in 30 years. | The bill failed miserably in the Assembly Local Government Committee. However, reconsideration was granted. Eventually, the author promised the committee members that she would gut the bill and amend it with a few do-nothing provisions (as a face-saver). The committee approved the bill on a party-line vote. The bill was never taken up in the Appropriations Committee and **died** there.  (However, see SB 1403, below.) |
|  | **AB 2183 (Smyth)** | Tax agent registration | Another late gut-and-amend, AB 2183 would have required non-attorney tax agents to register with, and pay a registration fee every two years to any county in which he/she practices, and to adhere to standards of ethical practice set forth in the bill.  The bill would have permitted a county to discipline an agent who violates the provisions of the bill and to impose monetary penalties who fails to register or who violates the ethics provisions of the bill.  It also would have permitted a county to impose additional standards, procedures, and penalties. Thus, it would have required an agent to separately register in as many as 58 counties and to adhere to as many as 58 separate and distinct local ordinances and sets of rules. Inevitably, it is likely that it would have fallen to the clerk of the board to administer these ordinances. | CACEO Position: Oppose, unless amended/support, if amended to give administrative responsibility for this process to a state agency that would apply uniform standards and procedures to the appeal process statewide.  CACEO worked closely with other county organizations and with the California Association of Taxpayer Advocates (CATA) to try to get the bill amended to give responsibility for administering a meaningful, statewide tax agent regulatory scheme to an appropriate state agency. However, even though Assemblymember Smyth appeared poised to do that, the bill faced opposition form Democrats due to the fact that Assemblymember Gatto, a Democrat, had a competing bill. (See AB 404, above.) Also, there was little time left in the legislative session to work out the details of such a complicated piece of legislation. | AB 2183 **died** in Assembly Appropriations Committee. |
|  | SB 1002 (Yee) | Public records: electronic format | As introduced, this well-intentioned bill would have added a new subdivision to GC Section 6253.9 (CPRA) to require that an agency may provide an electronic record in a format in which the text on the electronic record is searchable by commonly used software if the agency does not already have the electronic record in a searchable format.  This was an innocuous provision, but the bill was then amended to prohibit an agency from charging a requester for the cost to construct a record or the cost of programming and computer services necessary to produce a copy of the record under several, ill-defined circumstances. Additional amendments would have, instead, required public agencies to make electronic records available in an “open format”. However, the definition of “open format” raised numerous questions and concerns. Ultimately, the bill was gutted and amended to require the State CIO to conduct a study of providing electronic records in an open format, which adequately addressed CACEO’s concerns. | CACEO Position: Seek amendments/concerns.  CACEO and other state and local entities and associations either opposed SB 1002 or expressed concerns about its meaning and its potential impacts. CACEO worked with at least a dozen other stakeholders to try to resolve our collective problems with the bill.  The final amendments making it a “study bill” did address our concerns. | SB 1002 bill was **vetoed** by the Governor who believed that an additional legislative report on electronic public records wasn’t necessary. |
|  | **SB 1403 (Yee)** | Brown Act: assessment appeals boards | This bill was a late gut-and-amend that was identical to AB 1590 (Campos) (see above). The California Association of Realtors (CAR) purportedly told Senator Yee that all of the opposition issues regarding AB 1590 had been worked out and that there would be no opposition to SB 1403. | CACEO Position: Oppose, oppose, oppose.  Matt Siverling immediately notified all of the county organizations that had opposed AB 1590 of its reintroduction as SB 1403. All of us contacted Senator Yee’s staff and explained the true facts about AB 1590 and its fate and informed the staff that we would vigorously oppose SB 1403 if Senator Yee chose to take it up  . | Senator Yee decided to immediately drop the bill. The bill was, once again, **gutted and amended** to deal with domestic violence. |
| **2013** | **AB 185 (Hernandez)** | Brown Act: televised meetings | As introduced, this bill would have:   * Required retention of audio and video recordings to be retained two years, rather than current 30 days. * Prohibited an agency to use franchise fees for any other purpose than broadcasting the open and public meetings of its legislative body and of its “advisory committees” (i.e., committees and commissions), including live streaming of meetings on the Internet. * Created an unfunded mandate to televise or live-stream meetings of advisory committees. | CACEO Position: Concerns.  CACEO provided information to the author and to county organizations regarding the high cost of having to televise or live-stream meetings of advisory committees and commissions. | The requirement to televise or live-stream the meetings of advisory bodies was **amended** out of the bill. AB 185 is still opposed by CSAC and other county organizations for reasons unrelated to the clerks’ issue. This is a two-year bill and is stalled, but still pending, in the Asm. Comm. on Local Government. |
|  | **AB 194 (Campos)** | Brown Act: public criticism of a legislative body | This bill would have:   * Made it a criminal misdemeanor for a chairperson of ANY legislative body to prohibit public criticism of the policies, programs, or services of the agency or the acts or omissions of the legislative body. The bill would have affected boards, committees, and commissions, in addition to the governing body. * Made ANY violation of the public comment section of the Brown Act (not just the portion of 54954.3 dealing with criticism) subject to a procedure whereby a D.A. or ANY person could seek a court determination that an action taken in violation of 54954.3 was null and void. | CACEO Position: Oppose.  CACEO worked with other local government organizations and counties to kill AB 194. CACEO stressed the difficulties the bill would cause in the clerk’s ability to get citizen volunteers to act as chairpersons of boards, committees and commissions subject to the Brown Act. | The author has made this a two-year bill. AB 194 is **stalled**, but technically still pending, in the Asm. Comm. on Local Government. Ms. Campos has indicated that she will take the bill up in 2014, but is interested in taking reasonable amendments from the opposition. |
|  | AB 229 (J. Perez) | Infrastructure and Revitalization Financing Districts: formation | As introduced, this bill would have required the governing body of a county, city, or city and county to direct the clerk to mail a notice of intention to form a district to each owner of land and to each affected taxing entity. | CACEO Position: Seek Amendment.  CACEO persuaded the author to amend the bill to authorize the legislative body to designate the department or officer responsible for mailing the notice by inserting language that would require the legislative body to “cause” a copy of the resolution to be mailed, thus not specifically designating the clerk as the responsible officer. | AB 229 was **amended** to contain CACEO’s language on April 8, 2013. The bill passed both houses and is pending in the Asm. Inactive File. |
|  | AB 243 (Dickinson) | Infrastructure and Revitalization Financing Districts: formation | This bill is almost identical to AB 229, above. As introduced it would have required the governing body of a county, city, or city and county to direct the clerk to mail a notice of intention to form a district to each owner of land and to each affected taxing entity. | CACEO Position: Seek Amendment.  CACEO persuaded the author to amend the bill to authorize the legislative body to designate the department or officer responsible for mailing the notice by inserting language that would require the legislative body to “cause” a copy of the resolution to be mailed, thus not specifically designating the clerk as the responsible officer. | AB 243 was **amended** to contain CACEO’s language on June 5, 2013. The bill passed both houses and is pending in the Asm. Inactive File. |
|  | **AB 409 (Quirk-Silva)** | Statements of economic interests: FPPC online filing | As gutted and amended in June, this FPPC-sponsored bill would have fragmented the duties of agency and local government filing officers and filing officials by allowing Article 2 filers, including members of a board of supervisors, to file the Form 700 electronically with the FPPC, and would have permitted all other filers to file directly with the FPPC if their current filing officer gave them permission. However, agency and local filing officers would still have been legally responsible for ensuring that these filers fulfilled their filing obligation even though the filing officer would have no way of knowing whether the filer had, in fact filed his/her form without taking several extra steps to gain the necessary information from the FPPC. | CACEO Position: Oppose, unless amended.  CACEO withheld its letter of opposition to first give the FPPC and the author time to amend the bill into a form that was satisfactory to clerks. CACEO provided the Commission with the necessary language to remove its opposition. The Association provided leadership to other county stakeholders on this issue, which increased pressure on the FPPC and author to make the bill reasonable and workable. | **Amended**. The Commission and author willingly accepted all CACEO’s proposed amendments. AB 409, as signed by the Governor (Ch. 643 of the Statutes of 2013), authorizes the FPPC to identify any population of filers described in Gov. Code Sec. 87500 and to permit that population to file electronically with the FPPC with the permission of the affected filing officer(s). However, ALL filers in that population, whether they file electronically or on paper, would be the sole responsibility of the FPPC. |
|  | **AB 792 (Mullin)** | Brown Act: online agendas and technical problems | Initially, this bill, sponsored by the California Special District Association, would have amended the Brown Act to provide that a delay in posting, or the failure to post, an agenda or notice on an agency’s Internet Web site due a software or hardware problem not within the agency’s control would not preclude a local agency from conducting a meeting or taking action on items of business, provided that the agency complied with all other relevant requirements, including posting the agenda or notice immediately upon resolution of the technological problem.  However, another member of the Legislature who was upset with the author, succeeded in forcing an amendment of the bill that would have required the legislative body or the clerk to announce at the beginning of the meeting the reason for the failure to post or the delay in posting. And the legislative body or the clerk would have had to attest to a written statement from the agency describing the reason for the failure or delay on the Web. The statement would have had to be posted on the Web “without the delay”. | CACEO Position: Oppose, unless amended  CACEO initially supported AB 972. However, after the hostile amendment, the Association changed its position to Oppose, unless amended to delete the new amendment. The bill would have placed the clerk or other local official responsible for the Web posting in a sometimes impossible situation in having to determine and announce or post on the Web a statement explaining the reasons for the delay or failure to post. The clerk is rarely, if ever, in a position to know the cause of such failure on short notice.  The bill also would have resulted in the cancellation of meetings or the invalidation of actions taken at a meeting relating to the technological posting problem.  CACEO worked closely with several other local government organizations in trying to resolve the problems that would have been created by the amended bill. | CACEO was not able to stop AB 792 in the Assembly, but it was **gutted and amended** upon reaching the Senate and, from that point onward, dealt with the utility user tax. |
|  | AB 1080 (Alejo) | Community revitalization and investment authorities | This bill would provide for the formation of Community Revitalization and Investment Authorities. A revitalization authority would be required to adopt an annual report concerning the operations and activities of the authority.  For an authority created by a board of supervisors, the bill specifically would have required the clerk of the legislative body (board of supervisors) to post a draft of the authority’s annual report on the authority’s Internet Web site and to mail a written notice of the availability of the draft report on the Web site to each owner of land within the area covered by the plan and to each taxing entity that receives ad valorem property taxes from property located in the area and that has adopted a certain resolution described in the bill. | CACEO Position: Seek Amendment.  CACEO suggested an amendment to clarify that the posting of the draft annual report described in the bill be handled by the authority, not necessarily by the board of supervisors, and that the bill be worded in a manner that would require the authority to “cause” the draft report to be posted, so that it would not necessarily be the responsibility of the clerk of the board of supervisors to perform that function. | AB 1080 was **amended** exactly as drafted by CACEO on June 25, 2013. The bill is currently pending in Sen. Appropriations Committee. |
|  | **SB 570 (DeSaulnier)** | Public records: copy charges: retrieval | SB 570 would have required that the forms of acceptable payment for copies of records include credit card payment or another form of electronic payment option for public records requests that include a total of 20 or fewer pages. It also would have prohibited a public agency form charging for copies of records that are available in pdf or data that is extracted from a database if new programming is not required to extract the data. | CACEO was poised to oppose SB 570, unless amended to delete the credit card payment portion of the bill. The Association also had concerns about the pdf provision. We coordinated with other local and state government associations and agencies to oppose the bill. | In the face of significant opposition from all levels of state and local government, SB 570 was **gutted and amended** to deal with alcohol and drug counselors. |

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