

Assembly Bill No. 485

CHAPTER 803

An act to add Section 53083.1 to the Government Code, relating to local government.

[Approved by Governor October 12, 2019. Filed with Secretary
of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 485, Medina. Local government: economic development subsidies.

Existing law requires each local agency, as defined, to provide specified information to the public before approving an economic development subsidy within its jurisdiction, and to, among other things, hold hearings and report on those subsidies, as provided. Existing law defines "economic development subsidy" for these purposes to mean any expenditure of public funds or loss of revenue to a local agency in the amount of \$100,000 or more, for the purpose of stimulating economic development within the jurisdiction of a local agency, as provided.

This bill, on and after January 1, 2020, would similarly require each local agency to provide specified information to the public before approving an economic development subsidy for a warehouse distribution center, as defined, and to, among things, hold hearings and report on those subsidies, as provided. The bill would require local agencies to submit a report to the Governor's Office of Business and Economic Development providing specified information and would require the office to make those reports available to the public through its internet website. The bill would require a warehouse distribution center to provide a local agency any information necessary to comply with these provisions.

The bill would prohibit a local agency from signing a nondisclosure agreement regarding a warehouse distribution center as part of negotiations or in the contract for any economic development subsidy.

The bill would declare that its provisions address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The people of the State of California do enact as follows:

SECTION 1. Section 53083.1 is added to the Government Code, to read:
53083.1. (a) On and after January 1, 2020, each local agency shall, before approving any economic development subsidy for a warehouse distribution center within its jurisdiction, and instead of complying with Section 53083, provide all of the following information in written form available to the public, and through its internet website, if applicable:

(1) The name and address of all corporations, including members of a commonly controlled group or members of a combined reporting group of which the corporation is a member, or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy.

(2) The name and address of all warehouse distribution centers that are the beneficiary of the economic development subsidy.

(3) The start and end dates and schedule, if applicable, for the economic development subsidy.

(4) A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.

(5) A statement of the public purposes for the economic development subsidy.

(6) The projected tax revenue to the local agency as a result of the economic development subsidy.

(7) The estimated number of jobs created by the economic development subsidy, including wage scale, broken down by full-time, part-time, and temporary positions.

(8) The estimated number of workers employed through temporary agencies.

(9) Whether any benefit package is offered, including health benefits, fringe benefits, and defined benefit pensions.

(10) Both of the following regarding each warehouse distribution center that is the beneficiary of the economic development subsidy:

(A) A description of the outreach, training, and hiring plans, including plans to hire disadvantaged workers.

(B) A description and total value of any state or federal subsidies in the process of being applied for, or received by, the warehouse distribution center.

(11) A description of any accountability measures, including, but not limited to, clawbacks of subsidies, provided in the contract if the warehouse distribution center does not meet the goal outlined in the contract for subsidies.

(b) Before granting an economic development subsidy to a warehouse distribution center, each local agency shall provide public notice and conduct a hearing regarding the economic development subsidy. A public hearing and notice under this subdivision is not required if a hearing and notice regarding the economic development subsidy is otherwise required by law.

(c) The information required to be provided in subdivision (a) shall remain available and easily accessible to the public under existing state and federal law and shall be posted on the local agency's internet website, if applicable, for the entire term of the economic development subsidy.

(d) The local agency, after the action granting an economic development subsidy for a warehouse distribution center on or after January 1, 2020, shall issue an annual report during the term of the economic development subsidy for each economic development subsidy. The local agency shall make the report available to the public and through its internet website, if applicable. The report shall contain the information described in subdivision (a). The report shall also contain the following information, if applicable:

(1) The net tax revenue accruing to the local agency as a result of the economic development subsidy.

(2) The net number of jobs created by the economic development subsidy, including wage scales, broken down by full-time, part-time, and temporary positions.

(3) The number of workers employed through temporary agencies.

(4) Whether any benefit package is offered, including health benefits, fringe benefits, and defined benefit pensions.

(5) The number of disadvantaged workers employed, if known.

(6) Any net job loss or replacement due to the use of automation, artificial intelligence, or other technologies, if known.

(7) For each warehouse distribution center that is the beneficiary of the economic development subsidy, the retention rate of employees broken down by full-time and part-time positions, and whether the turnover rate of employees exceeds 20 percent.

(e) The local agency, after an action granting an economic development subsidy for a warehouse distribution center on or after January 1, 2020, shall hold an annual public hearing during the term of the economic development subsidy to consider any written or oral comments on the information contained in the report prepared pursuant to subdivision (d).

(f) Each public hearing required by this section shall be consolidated with a local agency's regularly scheduled hearing.

(g) (1) The local agency shall submit the reports required in subdivisions (a) and (d) to the Governor's Office of Business and Economic Development.

(2) The Governor's Office of Business and Economic Development shall make each report submitted under paragraph (1) available to the public, and available through its internet website.

(h) A local agency shall not sign a nondisclosure agreement regarding a warehouse distribution center within its jurisdiction as part of negotiations or in the contract for any economic development subsidy.

(i) A warehouse distribution center shall provide a local agency any information necessary to comply with this section.

(j) As used in this section:

(1) "Disadvantaged worker" means an employee of the warehouse distribution center who satisfies any of the following:

(A) Was unemployed for the six months immediately preceding employment with the warehouse distribution center. In the case of an employee that completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the warehouse distribution center, that employee must have completed that program of study at least 12 months before the individual's commencement of employment with the warehouse distribution center.

(B) Is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the warehouse distribution center.

(C) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(D) Is an ex-offender previously convicted of a felony.

(E) Is a recipient of either CalWORKs, in accordance with Article 2 (commencing with Section 11250) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or general assistance, in accordance with Section 17000.5 of the Welfare and Institutions Code.

(2) "Economic development subsidy" means any expenditure of public funds or loss of revenue to a local agency in the amount of one hundred thousand dollars (\$100,000) or more, for the purpose of stimulating economic development within the jurisdiction of a local agency, including, but not limited to, bonds, grants, loans, loan guarantees, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits. "Economic development subsidy" shall not include expenditures of public funds by, or loss of revenue to, the local agency for the purpose of providing housing affordable to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(3) "Local agency" means a city, including a charter city, county, or city and county.

(4) "Members of a combined reporting group" has the same meaning as that term is defined in paragraph (3) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations, as that section read on January 1, 2019.

(5) "Members of a commonly controlled group" has the same meaning as that term is defined in Section 25105 of the Revenue and Taxation Code.

(6) "Warehouse distribution center" means an establishment as defined by any of the following North American Industry Classification System (NAICS) Codes:

(A) 493110 for General Warehousing and Storage.

(B) 423 for Merchant Wholesalers, Durable Goods.

(C) 424 for Merchant Wholesalers, Nondurable Goods.

SEC. 2. The Legislature finds and declares that the right of the public to be informed of economic development subsidies for warehouse distribution centers approved by their local agencies, as described in Section

53083.1 of the Government Code, as added by Section 1 of this act, is a matter of statewide concern, and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act applies to all cities, including charter cities.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Section 53083.1 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act ensures the public's right of access to information about the conduct of their government agencies relating to economic development subsidies for warehouse distribution centers.