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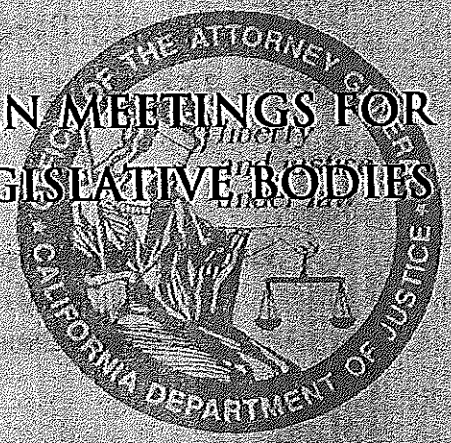
THE BROWN ACT

OPEN MEETINGS FOR LOCAL LEGISLATIVE BODIES



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CALIFORNIA ATTORNEY
GENERAL'S OFFICE

THE BROWN ACT

OPEN MEETINGS FOR LOCAL LEGISLATIVE BODIES

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Throughout California's history, local legislative bodies have played a vital role in bringing participatory democracy to the citizens of the state. Local legislative bodies - such as boards, councils and commissions - are created in recognition of the fact that several minds are better than one, and that through debate and discussion, the best ideas will emerge. The law which guarantees the public's right to attend and participate in meetings of local legislative bodies is the Ralph M. Brown Act.

While local legislative bodies generally are required to hold meetings in open forum, the Brown Act recognizes the need, under limited circumstances, for these bodies to meet in private in order to carry out their responsibilities in the best interests of the public. For example, the law contains a personnel exception based on notions of personal privacy, and a pending litigation exception based upon the precept that government agencies should not be disadvantaged in planning litigation strategy. Although the principle of open meetings initially seems simple, application of the law to real life situations can prove to be quite complex.

The purpose of this pamphlet is to provide a brief description of the Brown Act, along with a discussion of court decisions and opinions of this office that add to our understanding by applying it in specific factual contexts. We hope this pamphlet will assist both public officials and those who monitor the performance of local legislative bodies to minimize and resolve disputes over interpretations of the Brown Act. In recent years, both the California Supreme Court and the courts of appeal have recognized the benefit of pamphlets issued by our office. This recognition by the courts, along with many favorable comments from members of the public, strengthens our resolve to continue producing reliable informational materials on the Brown Act and other California laws. Publication of these materials constitutes a tradition of service that we value greatly.

Ideas and suggestions for future editions of this pamphlet are welcomed and should be addressed to the editor.

Sincerely,

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Attorney General

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INTRODUCTION

This pamphlet concerns the provisions of the Ralph M. Brown Act, which govern open meetings for local government bodies. The Brown Act is contained in section 54950 et seq. of the Government Code. Accordingly, all statutory references in this pamphlet are to the Government Code unless otherwise noted. The pamphlet contains a table of contents, which may also serve as a topical outline for the reader. The pamphlet also includes a brief summary of the main provisions of the Brown Act, along with references to the appropriate Government Code sections and chapters of the text. The text includes a discussion of the law along with tips on how the law should be applied in particular situations. Numerous references are made to legal authorities throughout the text. A copy of the Brown Act in its entirety is set forth in the appendix to the pamphlet. Lastly, the pamphlet contains a table of authorities so that the reader can determine all of the places in the text where references are made to a particular authority.

In preparing this pamphlet, we relied on a variety of legal resources. Appellate court cases were consulted and are cited throughout the pamphlet. While most of the more significant cases are discussed, this pamphlet is not intended to be a compendium of all court cases in this area. In addition, we drew upon published opinions and unpublished letter opinions issued by this office. Attorney General opinions, unlike appellate court decisions, are advisory only and do not constitute the law of the state. However, with respect to the Brown Act, the courts have frequently adopted the analysis of Attorney General opinions, and have commented favorably on the service afforded by those opinions and this pamphlet. (*Bell* v. *Vista Unified School Dist.* (2000) 82 Cal.App.4th 672; *Freedom Newspapers* v. *Orange County Employees Retirement System* (1993) 6 Cal. 4th 821, 829.)

Published opinions are cited by volume and page number (e.g., 32 Ops.Cal.Atty.Gen. 240 (1958)). Unpublished letter opinions are cited as indexed letters by year and page number (e.g., Cal.Atty.Gen., Indexed Letter, No. IL 76-201 (October 20, 1976).) Published opinions are available through law libraries and some attorneys' offices. As a general rule, indexed letters are available only in the Office of the Attorney General. Copies may be obtained by a request to the Public Inquiry Unit of the Office of the Attorney General.

If you have specific questions or problems, the statutes, cases and opinions should be consulted. You also may wish to refer the matter to the attorney for the agency in question, a private attorney or the district attorney.

The pamphlet is current through January 2003 with respect to statutes, case law, and Attorney General opinions.

SUMMARY OF KEY BROWN ACT PROVISIONS

COVERAGE

PREAMBLE:

Public commissions, boards, councils and other legislative bodies of local government agencies exist to aid in the conduct of the people's business. The people do not yield their sovereignty to the bodies that serve them. The people insist on remaining informed to retain control over the legislative bodies they have created.	54950	Ch. I

GOVERNING BODIES:

Includes city councils, boards of supervisors, and district boards. Also covered are other legislative bodies of local government agencies created by state or federal law.	54952(a)	Ch. I & II

SUBSIDIARY BODIES:

Includes boards or commissions of a local government agency as well as standing committees of a legislative body. A standing committee has continuing subject matter jurisdiction or a meeting schedule set by its parent body. Less-than-a-quorum advisory committees, other than standing committees, are exempt.	54952(b)	Ch. II

PRIVATE OR NONPROFIT CORPORATIONS OR ENTITIES:

Covered only if:

a.	A legislative body delegates some of its functions to a private corporation or entity; or	54952(c)(1)(A)	Ch. II
b.	If a legislative body provides some funding to a private corporation or entity and appoints one of its members to serve as a voting member of entity's board of directors.	54952(c)(1)(B)	

MEETING DEFINED

INCLUDES:

Any gathering of a quorum of a legislative body to discuss or transact business under the body's jurisdiction; serial meetings are prohibited.	54952.2	Ch. III

EXEMPTS:

(1)	Individual contacts between board members and others which do not constitute serial meetings;	54952.2(c)(1)	Ch. III
(2)	Attendance at conferences and other gatherings which are open to public so long as members of legislative bodies do not discuss among themselves business of a specific nature under the body's jurisdiction;	54952.2(c)(2), (3) and (4)	
(3)	Attendance at social or ceremonial events where no business of the body is discussed.	54952.2(c)(5)	

LOCATIONS OF MEETINGS:

A body must conduct its meetings within the boundaries of its jurisdiction unless it qualifies for a specific exemption.	54954	Ch. IV

TELECONFERENCE MEETINGS:

Teleconference meetings may be held under carefully defined conditions. The meeting notice must specifically identify all teleconference locations, and each such location must be fully accessible to members of the public.	54953	Ch. III

PUBLIC RIGHTS

PUBLIC TESTIMONY:

Public may comment on agenda items before or during consideration by legislative body. Time must be set aside for public to comment on any other matters under the body's jurisdiction.	54954.3	Ch. IV & V

NON-DISCRIMINATORY FACILITIES:		
Meetings may not be conducted in a facility that excludes persons on the basis of their race, religion, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase.	54953.2; 54961	Ch. V
COPY OF RECORDING:		
Public may obtain a copy, at cost, of an existing tape recording made by the legislative body of its public sessions, and to listen to or view the body's original tape on a tape recorder or viewing device provided by the agency.	54953.5	Ch. V
PUBLIC VOTE:		
All votes, except for those cast in permissible closed session, must be cast in public. No secret ballots, whether preliminary or final, are permitted.	54953(c)	Ch. VI
CLOSED MEETING ACTIONS/DOCUMENTS:		
At an open session following a closed session, the body must report on final action taken in closed session under specified circumstances. Where final action is taken with respect to contracts, settlement agreements and other specified records, the public may receive copies of such records upon request.	54957.1	Ch. IV, V & VI
TAPING OR BROADCASTING:		
Meetings may be broadcast, audio-recorded or video-recorded so long as the activity does not constitute a disruption of the proceeding.	54953.5; 54953.6	Ch. V
CONDITIONS TO ATTENDANCE:		
Public may not be asked to register or identify themselves or to pay fees in order to attend public meetings.	54953.3; 54961	Ch. V
PUBLIC RECORDS:		
Materials provided to a majority of a body which are not exempt from disclosure under the Public Records Act must be provided, upon request, to members of the public without delay.	54957.5	Ch. V

REQUIRED NOTICES AND AGENDAS

REGULAR MEETINGS:		
Agenda containing brief general description (approximately twenty words in length) of each matter to be considered or discussed must be posted at least 72 hours prior to meeting.	54954.2	Ch. IV
SPECIAL MEETINGS:		
Twenty-four hour notice must be provided to members of legislative body and media outlets including brief general description of matters to be considered or discussed.	54956	Ch. IV
EMERGENCY MEETINGS:		
One hour notice in case of work stoppage or crippling activity, except in the case of a dire emergency.	54956.5	Ch. IV
CLOSED SESSION AGENDAS:		
All items to be considered in closed session must be described in the notice or agenda for the meeting. A model format for closed-session agendas appears in section 54954.5. Prior to each closed session, the body must orally announce the subject matter of the closed session. If final action is taken in closed session, the body generally must report the action at the conclusion of the closed session.	54954.2; 54954.5; 54957.1 and 54957.7	Ch. IV
AGENDA EXCEPTION:		
Special procedures permit a body to proceed without an agenda in the case of emergency circumstances, or where a need for immediate action came to the attention of the body after posting of the agenda.	54954.2(b)	Ch. IV

CLOSED-SESSION MEETINGS

PERSONNEL EXEMPTION:		
The body may conduct a closed session to consider appointment, employment, evaluation of performance, discipline or dismissal of an employee. With respect to complaints or charges against an employee brought by another person or another employee, the employee must be notified, at least 24 hours in advance, of his or her right to have the hearing conducted in public.	54957	Ch. VI
PUBLIC SECURITY:		
A body may meet with law enforcement or security personnel concerning the security of public buildings and services.	54957	Ch. VI
PENDING LITIGATION:		
A body may meet in closed session to receive advice from its legal counsel concerning existing litigation, initiating litigation, or situations involving a significant exposure to litigation. The circumstances which constitute significant exposure to litigation are expressly defined in section 54956.9(b)(3).	54956.9	Ch. VI
LABOR NEGOTIATIONS:		
A body may meet in closed session with its negotiator to consider labor negotiations with represented and unrepresented employees. Issues related to budgets and available funds may be considered in closed session, although final decisions concerning salaries of unrepresented employees must be made in public.	54957.6	Ch. VI
REAL PROPERTY NEGOTIATIONS:		
A body may meet in closed session with its negotiator to consider price and terms of payment in connection with the purchase, sale, exchange or lease of real property.	54956.8	Ch. VI

REMEDIES AND SANCTIONS

CIVIL REMEDIES:

Individuals or the district attorney may file civil lawsuits for injunctive, mandatory or declaratory relief, or to void action taken in violation of the Act.	54960; 54960.1	Ch. VII
Attorneys' fees are available to prevailing plaintiffs.	54960.5	

CRIMINAL SANCTIONS:

The district attorney may seek misdemeanor penalties against a member of a body who attends a meeting where action is taken in violation of the Act, and where the member intended to deprive the public of information which the member knew or has reason to know the public was entitled to receive.	54959	Ch. VII

Return to Main Body