

## **BROWN ACT BASICS**

### **I. WHAT IS THE BROWN ACT**

- Ralph M. Brown Act/Open Meeting Laws
- enacted by the State Legislature in 1953
- codified in Government Code sections 54950 et seq.
- law requires public agencies to conduct business in an open forum, with limited exceptions.
- the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.
- promotes accountability of public officers and allows for public oversight; helps the public to understand the process

### **II. WHO DOES THE BROWN ACT APPLY TO**

- Public commissions, boards and councils, including committees created by the legislative body.
- Commissions created by the Board of Supervisors.
- Standing committees versus ad hoc committees.
- Such bodies are supposed to arrive at collaborative decisions through public discussions and debate.

### **III. WHAT IS REQUIRED BY THE BROWN ACT**

#### **A. Agenda Posting Requirements**

- Public must be given notice of the time and place where the meeting is to be held. Public can make a standing request to receive agendas; written request is effective for 1 year, fee for copying and postage costs can be charged, failure to send packet could result in invalidation of action taken at meeting.
- Agenda must be posted at least 72 hours (for regular meetings) in advance.

- For the most part, cannot discuss anything not listed on the agenda so be careful to include all items to be discussed.  
Exception - immediate action required and came to the attention of body subsequent to agenda posting, finding must be made by 2/3 vote of the members of the legislative body present at the meeting, or, if less than 2/3 of the members are present, a unanimous vote of those members present.
- Description must be sufficient to give the public a reasonable idea of what will be discussed. It must contain enough information on the subject matter under consideration so that the public can determine whether or not to monitor or participate in the meeting. Vague, general language is not sufficient. Generally not to exceed 20 words.
- Public comment entry required on each agenda.
- Public availability of agenda materials. Public is entitled to access to copies of the agenda packet/documents associated with the agenda item.

B. Definition of Meeting

- A gathering of a quorum (generally a simple majority) of the legislative body, no matter how informal, where public business is transacted or discussed.
- Three types of meetings:
  1. Regular- 72 hours advance notice required
  2. Special- 24 hours advance notice required (cannot discuss other matters - only special item)
  3. Emergency- True emergency must exist, immediate action is needed.  
two types of emergencies (emergency and dire emergency)  
agenda posting waived
- Action taken: collective commitment or promise by majority to make positive or negative decision.
- Use of teleconferencing requirements:
  - At least a quorum of members must participate from locations within LA County.
  - An agenda must be posted at each location.

- The address of each location must be listed in the notice and agenda.
- Each location must be fully accessible to the public.
- Each location must be ADA-compliant.
- The public's right to testify at each location must be ensured.
- All votes taken must be by roll call.

C. Conducting Meetings

- Cannot be held outside the agency's jurisdiction, with limited exceptions.
- Cannot be held in a place that discriminates or that requires the making of a payment or purchase; must be ADA compliant.
- Cannot require a person to register or provide information as a condition to attendance.
- Cannot prohibit use of tape recorders, cameras or even broadcasting unless the body makes a finding that noise, illumination or obstruction of view would disrupt the meeting.
- Any tape or film record made by the body must be made available for public inspection. Public can be charged for agency's copies of tapes and/or videos but can't be charged to listen to or view agency's tape or video.
- Public comment- reasonable rules can be adopted.

D. Closed Session

- Threshold question: does the legislative body have jurisdiction over a subject matter that may be discussed in closed session?
- All items must be listed on the agenda.
- Must publicly announce item to be discussed in closed session.
- Personnel matters exception.  
To consider the appointment, employment, evaluation of performance, discipline or dismissal of public employees or to hear complaints or charges brought against the employee, unless the employee requests

a public session.

- Public security threat exception.  
To discuss matters of threat to the security to public services or public facilities.
- Litigation exception- anticipated/pending, initiation of litigation.  
Applies to cases in court or any proceeding in which the agency is represented by counsel which involves formal rules of evidence, determination of rights of the adverse parties.  
Agenda must identify the case.  
Attorney must be present or by conference call.  
Implications of a proposed or future action in not appropriate.  
Opposing counsel cannot participate.  
OK to receive confidential memos under the attorney/client privilege.  
Records remain confidential, any closed session minutes are confidential
- Labor negotiations exception.  
To instruct bargaining representatives on employee salaries and fringe benefits for union and non-union employees; must identify the negotiator(s) in open session prior to going into closed session.
- Real estate negotiations exception.  
To meet with real estate negotiator(s) prior to the purchase, sale, exchange of personal or real property by or for the agency and to grant authority to the negotiator(s) regarding the sale and terms of payment; other "reasonably related" topics are allowed.
- After the closed session, must convene in open session and announce reportable action taken, if any.
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#### **IV. CONSEQUENCES FOR VIOLATING THE ACT**

- Civil action to stop or prevent violations. (Notice of corrective action first required.)
- Civil action to declare action null and void.
- Court costs and reasonable attorney's fees maybe awarded if court finds Brown Act violation.