



# The Ralph M. Brown Act

Meeting Laws Pocket Guide

Churchwell White<sup>LLP</sup>

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## What is the Brown Act?

The Ralph M. Brown Act (“Act”), set forth in California Government Code (“GC”) §§ 54950 through 54963, requires that meetings of public bodies be “open and public.” The goal of the Act is to increase government transparency.

### *Violations of the Act*

Violations may result in an invalidation of the action. Individual members of the legislative body who violate the Act may be charged with a misdemeanor if: (1) the member intends to deprive the public of information, and (2) the public is entitled to that information. (GC §§ 54950.1, 54959)

### *Key Terms*

- **Local Public Agency** – includes counties, cities, schools, and special districts
- **Legislative Body** – a local agency’s governing body (e.g., city council) and “covered boards” (permanent and temporary boards, commissions, task forces, or other advisory bodies created by the local agency)

- **Quorum** – the number of members needed to take valid action (usually a majority of members of the legislative body or other group covered under the Act)
- **Regular Meeting** – meetings at the dates, times, and location set by resolution, by-law, or other formal action by the legislative body
- **Special Meeting** – meetings called by the presiding officer or majority of the legislative body to discuss specific items on the agenda
- **Emergency Meeting** – meetings called by the majority of the legislative body during an emergency (crippling activity, strikes, public health, public safety impairments)
- **Dire Emergency Meeting** – meetings called by the majority of the legislative body during a dire emergency (crippling disasters, terrorism, public health or safety threats)
- **Adjourned Meeting** – regular or special meetings adjourned or re-adjourned to a time and place specified in the order of adjournment
- **Closed Session** – private sessions held during meetings for limited purposes

## Who is Covered by the Brown Act?

### *Covered*

- Local public agencies (GC § 54951)
- Legislative bodies and covered boards of local public agencies (GC § 54952)
- Standing committees of a covered board, regardless of number of members (GC § 54952)
- Governing bodies of any private organization meeting certain requirements (GC § 54952)

### *Not Covered*

- Ad hoc advisory committees with less than a quorum of the covered board (GC § 54952)
- Most other non-profit corporations
- All other government agencies (e.g., state agencies) are covered under the Bagley-Keene Open Meeting Act (GC §§ 11120-11132)

## What is a Meeting? (GC § 54952.2)

Any gathering of a majority of the members of a legislative body at the same time and location (including those who are teleconferencing in) to hear, discuss, deliberate, or take action on any matter under the local public agency's jurisdiction (Example: 3 of 5 councilmembers meet to discuss an ordinance)

### **Serial Meeting**

#### *Definition*

A series of individual contacts, which results in information regarding members' thoughts on agency matters communicated to a quorum of legislative body members, is a meeting. Serial meetings are prohibited.

#### *Examples*

- (1) Daisy Chain Meeting: "A" talks to "B" who talks to "C," who then talks to "D."
- (2) Spoke and Wheel Meeting: A third person "X" is at the center of the communication. The members never talk to each other; they all talk individually to "X."

## What are NOT Meetings? (GC §§ 54952.2, 54953.1)

- Briefings regarding public agency business, if the content is informative and does not involve communicating the position or comments of any other legislative body member
- Conversations between legislative body members not regarding public agency business
- Conferences open to the public involving issues of interest to the legislative body
- Other public meetings (e.g., an organization hosts an open and publicized meeting on a topic of local community concern)
- Meetings of other bodies of the public agency (e.g., councilmembers attending a planning commission meeting)
- Social or ceremonial occasions
- Public meetings of a public agency's standing committee, if the legislative body members, who are not members of the standing committee, attend only as observers
- Legislative body members may testify in private before a grand jury

## Rules for Public Meetings

### *Meetings Must*

- Be open and public (including teleconferenced meetings) (GC § 54953)
- Comply with the Americans with Disabilities Act (GC § 54953.2)
- Permit the public to audio or video record the meeting (GC § 54953.5)
- Permit broadcasting of the meeting (GC § 54953.6)
- Permit criticism of public policies, procedures, programs, or services, and the legislative body's acts (GC § 54954.3)
- Permit public testimony and inspection (GC § 54954.3)
- Pertain only to agenda items (GC § 54954.2)

### *Meetings Must Not*

- Be held in any facility with discriminatory policies (GC § 54961)
- Require the public to give personal information, answer questions, or fulfill any condition to participate in meetings (GC § 54953.3)

### *The Legislative Body May*

- Prohibit public recordings or broadcasts if the noise, illumination, or obstruction of view is persistently disruptive (GC §§ 54953.5-54953.6)
- Set reasonable limits on public testimony (GC § 54954.3)
- Clear the meeting room, except for press or news media, if individuals willfully interrupt the meeting in a way that order cannot be restored by removing the disruptive individuals (GC § 54957.9)

## **Agenda Requirements (GC § 54954.2)**

### **Basic Requirements**

- Brief description of items to be discussed
- Time and location of meeting
- Procedure for obtaining disability-related modifications or accommodations

## Notice Requirements

### Basic Requirements

- Provide agenda to all whom request it and in an appropriate format
- Mail when posted or when distributed to majority of the legislative body
- Post in location freely accessible to public and on agency's website

### Generally (GC § 54953)

- No secret ballots
- Publicly report all actions, votes, and abstentions

### Regular (GC §§ 54954-54954.2) Notice: 72 hrs. before

- Must hold in public agency's jurisdiction, with exceptions

### Special (GC § 54945) Notice: 24 hrs. before

- No business may be considered except that for which the meeting is called

- Closed session permitted
- Cannot use for discussion of salaries, salary schedules, compensation through fringe benefits, or local agency executive
- Must hold in public agency's jurisdiction, with exceptions

**Emergency (GC §§ 54954, 54954.2, 54956.5) Notice: 1 hr. before**

- Closed session requires 2/3 vote of body, unanimous if less than 2/3 of body is present
- Certain reports required at future meetings
- Hold elsewhere if unsafe to meet at set location

**Dire Emergency Notice: depends\***

- \*When members are notified or ASAP if phones are down
- Requirements are the same as those under "Emergency"

**Continued (GC § 54955.1) Notice: none\*\***

- \*\*For items continued from prior meeting set not more than 5 days prior to date action taken on item

## **Adjourned (GC § 54955)**

### *Notice Requirement*

- Post order of adjournment at place meeting was held within 24 hours of the time of adjournment

## **Teleconference (GC § 54953)**

### *Notice Requirement*

- Post agenda at all teleconference locations
- Notice and agenda must identify teleconference location
- Must conduct in manner which protects statutory and constitutional rights of parties or public appearing before the legislative body
- Votes taken by roll call
- Requires quorum of the legislative body to be in public agency jurisdiction

## **Closed Session (GC §§ 54954.5, 54956.7-54957.2, 54957.6-54957.8, 54957.10)**

### *Notice Requirement*

- Requires agenda notice, pre-closed session announcement, and post-closed session report of action taken
- May only hold closed session on a particular topic if Act explicitly permits it
- May only hold on a particular topic if explicitly permitted
- Act provides safe-harbor language for 17 closed session items, to be used in legislative body agendas
- Closed sessions on employment matters include additional notice and hearing rules
- Confidential information acquired in closed session cannot be disclosed unless the legislative body authorizes disclosure of the information

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