

**THE RALPH M. BROWN  
ACT -- LAW REGULATING  
MEETINGS OF LOCAL  
AGENCY LEGISLATIVE  
BODIES**

# GOVERNMENT CODE SECTION 54950 BROWN ACT: POLICY DECLARATION

“In enacting this chapter, the Legislature finds and declares that the public ...boards.. in this State exist to aid in the conduct of the people’s business. It is the intent of the law that **their actions be taken openly and that their deliberations be conducted openly...**”

# G.C. 54950, cont'd

“The people of this State **do not yield their sovereignty** to the agencies which serve them. 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.** The people **insist on remaining informed** so that they retain control over the instruments they have created.”

# WHO IS SUBJECT TO THE BROWN ACT?

- Applies to “legislative bodies”
- The governing board
- Newly elected board members
- Governing board committees created by formal action of the governing board

# Committees NOT Subject to Brown Act

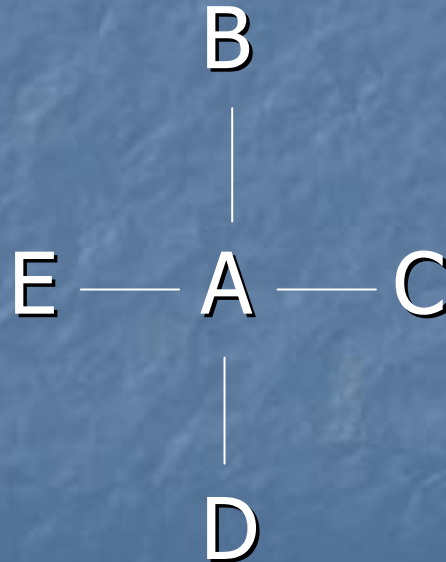
- Ad hoc advisory committees made up solely of governing board members and constituting less than a quorum.
  - No continuing subject matter jurisdiction
  - Limited term
- Committees not formed by act of legislative body

# PRIVATE ENTITIES SUBJECT TO BROWN ACT

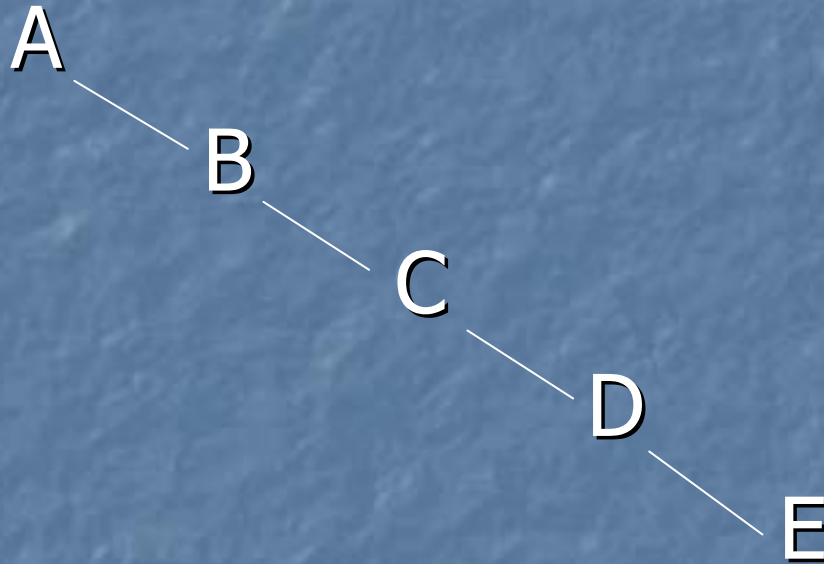
- Boards of private entities which either:
  - 1) are created by the board to exercise authority delegated to it; or
  - 2) both:
    - receive funds from the agency, and
    - membership includes a member of the governing board, appointed by governing board.

# WHAT CONSTITUTES A MEETING?

- Deliberation or action by a majority.
- Serial meeting



# WHAT, cont'd



# WHAT IS NOT A MEETING?

- Individual contacts between board member and another person
- Majority of board at conference open to public
- Majority of board at public meeting on topic of local community concern

# What is not a Meeting? cont.

- Majority of board at open meeting of another body of the agency
  - May not participate
- Majority of board at social or ceremonial event

# WHEN CAN MEETINGS BE HELD?

- Regular Meetings
  - Agenda posted 72 hours before the meeting
- Special Meetings
  - Called by the chair or majority of the board
  - Agenda posted 24 hours before the meeting

# What are the Posting Requirements?

- Must be accessible to public-24 hours/day
  - Inside bulletin board
  - Lighting
  - Weather-proof
  - Internet posting/electronic kiosk

# EMERGENCY SITUATION MEETINGS

- “Emergency”:
  - work stoppage or crippling activity resulting in severe public health/safety impairment;
  - 1 hour notice to media
- “Dire Emergency”:
  - crippling disaster, mass destruction or terrorist act
  - Notice at or near time members are notified, if possible
- Post-meeting posting requirements

# WHERE CAN MEETINGS BE HELD?

## General Rules

Within agency boundaries, unless:

- No facility within the boundaries;
- Comply with law or a court order;
- To inspect property outside boundaries;
- In facility owned by agency if agenda only relates to the facility/program
- Visit the agency's attorney for closed session on pending litigation

# WHERE—Special JPA Rules

- Multi-agency meetings of which agency is a member and meeting is in the area of one of the other agencies
- JPA meetings within boundary of a JPA member
  - JPA membership is “throughout the state”, then anywhere in the State

# WHAT TYPE OF FACILITY?

- Need not be building owned by public
- Accessible to the disabled
- Free to members of the public
- No requirement for sign-in or visitor ID

# VIDEO OR TELECONFERENCING PERMITTED

- Agenda posted at all locations
- All locations open to the public with public participation possible at each location
  - Use care when running meeting
- At least quorum of board must participate from locations within district boundaries

# MEETING RULES

- No required sign-in
  - Voluntary sign-in permitted if sheet specifies it is voluntary
- Complaints must be permitted
- Broadcasting, videotaping or photographs must be permitted
- No secret ballots

# AGENDA DESCRIPTIONS

- Brief general description of each item of business to be transacted or discussed
- Generally need not exceed 20 words
- Inform public of scope of board's intended plans – so they can decide whether to participate
- Available in alternate formats
  - Braille or tape

# PUBLIC RIGHT TO COMMENT

- Regular meeting – any matter within agency's subject matter jurisdiction or listed on agenda
  - Must be a “public comment” item listed on the agenda
- Special meeting – agenda items only
- Comment opportunity occurs before action by legislative body
- May not limit “negative” comments

# LIMITED RESPONSES TO PUBLIC COMMENT ON ITEMS NOT ON AGENDA

- Brief response to statements or questions
- Brief announcement or report on own activities
- Ask questions for clarification
- Refer to staff for information
- Request staff to report back
- Direct staff to place matter on future agenda

# NO CONSIDERATION OF MATTERS NOT PROPERLY AGENDIZED UNLESS

- Majority vote determines emergency exists
- Two-thirds vote determines need to take immediate action came to agency's attention after agenda posted

# CLOSED SESSIONS

- Must be open session, unless there is a specific section of the Brown Act which enables you to address the matter in closed session.
- Closed session during emergency meeting limited to threat to services or facilities.
- Use the “safe harbor” agenda descriptions.
- Public may comment on closed session items prior to going into closed session.

# SAMPLE CLOSED SESSION AGENDA ITEMS

- Conference with real property negotiator (G.C. 54956.8)
  - Property: (specify street address or APN)
  - Agency negotiator:
  - Negotiating parties:
  - Under negotiation: (specify price or terms or both)

# SAMPLE CLOSED SESSION AGENDA ITEMS, cont'd

- Conference with legal counsel – existing litigation (G.C. 54956.9(a))
  - Name of case: or
  - Case name unspecified: (Specify whether this is because it would jeopardize service of process or existing settlement negotiations)

# SAMPLE CLOSED SESSION AGENDA ITEMS, cont'd

- Conference with legal counsel – anticipated litigation (G.C. 54956.9(b))
  - Significant exposure to litigation pursuant to Section 54956.9(b): (Specify number of potential cases)
    - Note: May need to make additional disclosures of “facts and circumstances” -- sec. 54956.9(b)

# SAMPLE CLOSED SESSION AGENDA ITEMS, cont'd

- Conference with labor negotiator (G.C. 54957.6)
  - Agency designated representative: (specify name)
  - Employee organization: (specify name) or
  - Unrepresented employee: (specify position title)

# SAMPLE CLOSED SESSION AGENDA ITEMS, cont'd

- Threat to public services or facilities (G.C. 54957)
  - Consultation with: (Law enforcement agency or officer's name; or agency representative and title)
- Public employee appointment or employment (G.C. 54957)
  - Title: (Specify description of position to be filled)

# SAMPLE CLOSED SESSION AGENDA ITEMS, cont'd

- Public employee performance evaluation (G.C. 54957)
  - Title: (specify position title of employee being reviewed)
- Public employee discipline/dismissal/release (G.C. 54957)
  - (no additional information need be specified)

# RULES FOR PERSONNEL CLOSED SESSIONS

- Must deal with employees, not board members
- If “specific complaints or charges”
  - 24 hour prior written notice to employee
  - employee option regarding open or closed
  - may deliberate in closed session
  - does not apply to “evaluations”
- No discussion/action on compensation
  - Except: reductions as a part of discipline

# WHO GOES INTO CLOSED SESSION?

- No “partially open” closed sessions
- Members of legislative body
  - Not Alternate Commissioner unless Commissioner is absent
- Agency staff as required
- Note required attendance for certain closed sessions

# REPORTING OUT CLOSED SESSION ITEMS

- Report “Action Taken” at same meeting
  - Real Estate
    - If final, the agreement and its terms
    - If not final, disclose approval and substance when completed
  - Litigation
    - Report approvals given, unless would jeopardize the case
    - Settlements, as with real estate

# REPORTING OUT, cont'd

- Personnel
  - Report appointments, employment, acceptance of resignations and actions which otherwise affect employment status
  - Do not report dismissals or nonrenewals until the first public meeting after exhaustion of administrative remedies

# REPORTING OUT, cont'd

- Labor Negotiations
  - Approval of agreement concluding labor negotiations
  - Report after agreement is final and has been accepted and ratified by the other party

# DISCLOSURE OF INFORMATION FROM CLOSED SESSION

- Disclosure of information learned in closed session is prohibited
  - Injunctive relief, referral to grand jury, disciplinary action
- Disclosure permitted
  - Legislative body grants consent
  - Confidential inquiry to DA or grand jury
  - Information that is not confidential
  - Expressing opinion

# VIOLATIONS

## ■ CRIMINAL PENALTIES

- With intent to deprive public of information
- Guilty of a misdemeanor

## ■ CIVIL ACTIONS

- DA or any interested person may begin the action
- With judgment – can require recording closed sessions

# VIOLATIONS, cont'd

- CIVIL ACTIONS, cont'd
  - Cure and correct demand
    - 90 days if closed session
    - 30 days if open session
  - With judgment – action is null and void, with certain exceptions
  - Costs and attorneys fees