

February 23, 1994

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

1993 AMENDMENTS TO RALPH M. BROWN ACT
(CALIFORNIA OPEN MEETINGS LAW)

The California Legislature amended the Ralph M. Brown Act (the "Act") (also known as the Open Meetings Law), codified at Government Code sections 54950 - 54962, several times in 1993. Most of the amendments do not go into effect until April 1, 1994,^F

Changes made by Assembly Bill 1426, Senate Bill 36, and Senate Bill 1140 are effective April 1, 1994.

although a small number went into effect immediately upon the signature by the Governor, as urgency measures.^F

Senate Bill 376 became effective immediately. Changes made by Senate Bill 376 are merely declaratory of existing law and do not create new law.

A "redlined" version of the Ralph M. Brown Act as amended in 1993 has been prepared by the League of California Cities ("League") and is attached as Exhibit A for your reference. Also attached is a chart prepared for the League outlining the current law and the 1993 amendments (Exhibit B). Please note, however, that this chart outlines only those Government Code sections that were amended, not the whole Act.

This report highlights the major amendments to the Act. We will distribute to you shortly the League of California Cities' more comprehensive summary of changes written specifically for City Councils and other elected officials.

MEETINGS

For the first time, the Act defines a "meeting," as follows:

54952.2 Meeting, definition

(a) As used in this chapter, "meeting" includes all of the following:

(1) Any congregation of a majority of the members of a legislative body in the same time and place to hear, discuss, or deliberate

upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(2) Any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body.

(b) Nothing in subdivision (a) shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person.

(2) The attendance of a majority of members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and

publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

LEGISLATIVE BODY

The term "legislative body" now expressly includes "standing" committees of a legislative body, even though they are comprised of "less than a quorum" of the legislative body members. Note, however, that an "advisory committee" composed solely of less than a quorum of legislative body members is not treated as a "legislative body." Therefore this type of committee is not subject to the Act, unless the committee has "continuing subject matter jurisdiction" or "meets regularly" as established by charter, ordinance, resolution, or other formal action of the legislative body. Government Code section 54952. The term "legislative body" also expressly includes boards that govern certain private corporations that receive public monies.

MEMBER OF LEGISLATIVE BODY

The term "member of legislative body" now expressly includes a newly elected, but not yet seated, member of an elected body. Government Code section 54952.1.

NOTICE, LOCATION AND AGENDA REQUIREMENTS

A brief summary of the amendments affecting notice, location and agenda requirements is attached as Exhibit C for your reference. Please note that, contrary to what you may have read in the newspapers recently, the City Council may meet outside the City limits under very limited circumstances. Government Code section 54954.

PUBLIC COMMENT

Under the new amendments, notices of special meetings where action is proposed to be taken on an item requires an opportunity for the public to talk on that item before action may be taken on the item. Government Code section 54954.3.

CLOSED SESSIONS

Several amendments affect the notice and reporting requirements governing closed sessions. The City Clerk and City Attorney will be working closely to ensure compliance with these amendments.

You should note, however, that the amendments require a report and vote tally on any action taken in closed session pertaining to a long list of various types of possible actions, ranging from final approval of real estate transactions, to approval of certain litigation actions, to actions on certain personnel matters. Government Code section 54957.1.

Even more critically, closed sessions on labor negotiations "shall not include discussions of a local agency's available funds, funding priorities, or budget." Government Code section 54957.6.

If, after reading this report and attached materials, you have some specific questions, please call Chief Deputy City Attorney Ken So, or Deputy City Attorney Cristie McGuire at 236-6220. As requested, the City Attorney will be holding a workshop on the Brown Act amendments for the Rules Committee very soon.

Respectfully submitted,

JOHN W. WITT

City Attorney

CCM:jrl:011(043.1)

Attachments (3)

RC-94-10