

(GOVERNMENT CODE §§54950 - 54963)

JJCC JULY 26, 2022

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General Rule

- Provides legal minimums for transparency in decision-making
- Decision-making bodies must conduct business in open and in public meeting to ensure that the public is fully informed about local decisions
- Articles in San Francisco Chronicle title "Your Secret Government"

The Act Applies to Legislative Bodies of Local Agencies

- Governing bodies-Board of Supervisors/City Council/School Boards etc. etc.
- Subsidiary bodies-commissions, committees created by Statute, charter, ordinance, resolution or formal action of a legislative body
- Bodies like the JJCC, created pursuant to WIC § 749.22 for limited purpose of creating plan are subject to Brown Act

WHAT IS A MEETING?

- A meeting is any situation involving a majority of a decision-making body in which business is transacted or discussed.
 - Does not require that action be taken
 - Majority of governing body cannot talk privately about an issue before the body no matter how the conversation occurs, whether by
 - > telephone,
 - > e-mail or
 - > at a local coffee shop

Serial Meetings Prohibited

- Serial meetings are prohibited
- Serial meeting is a series of meetings conducted through direct communications, intermediaries or technological devices to develop a concurrence as to action to be taken.
- Hub and spoke-A to B, A to C and A to D
- Sequential-A to B, B to C, C to D
- Simultaneous-A,B,C and D have joint conversation by phone or other means

Serial Meetings: Practice Tips

AVOID SUBSTANTIVE COMMUNICATIONS (DIRECTLY OR THROUGH OTHERS) WITH OTHER MEMBERS RE ITEMS THAT ARE ON AN AGENDA OR LIKELY TO BE PLACED ON A FUTURE AGENDA

DISCUSSING PROCEDURAL ISSUES (TIME, DATE AND ORDER OF MATTERS ON AN AGENDA) IS NOT PROHIBITED. BUT DO NOT DISCUSS SUBSTANTIVE COMMUNICATIONS

STAFF BRIEFINGS ARE PERMISSIBLE TO ANSWER QUESTIONS/PROVIDE INFORMATION TO MEMBERS IF STAFF DOES NOT COMMUNICATE THE COMMENTS OF MEMBERS TO OTHER MEMBERS OF THE LEGISLATIVE BODY

Permissible Gatherings

- Not every gathering of governing body members amounts to a violation
- Attendance at an educational conference or a social event is not a violation if a majority of the governing body does not discuss business at the event.

Types of Lawful Meetings

- Regular meetings-time and place established by ordinance, resolution or bylaws
- Special meetings-called 24 hours before meeting by the presiding officer or a majority of the board/legislative body
- Emergency meetings-crippling activity, work stoppage or other activity that severely impairs public health/safety-1 hour notice

Basic Rights of the Public

- To receive agenda materials
- To notice of meetings
- To attend meetings
- To record meetings
- To comment at meetings
 - Items on the agenda
 - Non-agenda matters



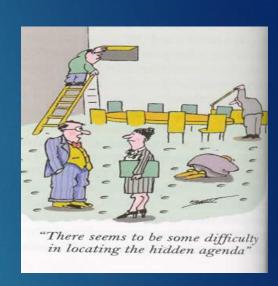


Access to Written Materials

- Agenda and any written materials related to items on agenda that are distributed to a member are public records
 - Emails or other written material relating to an agenda item that is sent by staff directly to a member must be provided to all members
 - Draft staff reports that are provided to individual members for comment/input must be provided to others
 - "On the agenda" includes items not only on upcoming agenda but items which are reasonably foreseeable to be on any future agenda
 - Draft staff reports provided to individual members for comment must be provided to other members.
- Documents provided less than 72 hours before meeting must be made available to the public at the same time as provided to majority of members
- Documents provided by others (public) must be made available promptly after the meeting

Agenda Requirements

- Agenda must contain a brief description of each item of business to be transacted or discussed
- Closed session must be on the agenda
- Must include time for public comment before or during agenda item



Right to Attend Meeting

- Accessible to disabled persons
- No precondition to attend
- If sign-in sheet, must clearly state that it is optional



Conducting Meeting

- Must permit audio/videotape recording by public and media unless disrupts meeting
- No secret ballots



May use teleconferences for public comment

Right to Comment

- On each agenda item
 - Before conclusion of consideration of item (if discussion item) or before action taken (if action item)
- On any matter within the body's jurisdiction that is not an agenda item
 - May schedule for any time in meeting
 - Members may not discuss or respond substantively

Limits on Public Comment

- May limit amount of time for each item
- Reasonable limit on total public comment time on an item
- No right to disrupt
- No right to a response from body or its members

Consequences of Brown Act Violation

- Civil action
 - Injunction against violation
 - Decision voidable (right to cure)
 - Attorneys fees and costs
- Criminal sanctions
 - Misdemeanor



AB 361

- Allows for virtual meetings to continue during declared emergency
- Sunsets possibly on December 31, 2022