THE BROWN ACT: MAKING MEETINGS PUBLIC

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California's **BROWN ACT** stipulates that meetings of public bodies must be "open and public," actions may not be secret, and action taken in violation of open meetings laws may be voided.

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The **Brown Act**, officially known as the Ralph M. Brown Act (Sections 54950-54963), authored by Assemblyman Ralph M. Brown, was enacted in 1953 by the California State Legislature in an **effort to safeguard the public's right to access and participate in government meetings** within the State.

The Brown Act, originally a 686 word statute has grown substantially over the years.

It was enacted in response to mounting public concerns over informal, undisclosed meetings held by local elected officials which were not in compliance with requirements for advance public notice; instead, they were skirting laws by holding secret 'workshops' and 'study sessions'.

The Brown Act solely applies to California city and county government agencies, boards, special districts and councils, whereas the comparable Bagley-Keane Act mandates open meetings for State government agencies.

What is a "public body"?

Local agencies such as counties, cities, school and special districts are public bodies. So are legislative bodies of each agency—any boards, commissions, committees, task forces, or other advisory bodies created by the agency—whether they are temporary or permanent. City councils, boards of supervisors, planning commissions, and a county's Local Agency Formation Commission (LAFCo) are public bodies.

When is a meeting a meeting?

Anytime the majority of the members of a covered board meet, The Brown Act applies. A meeting is any gathering to hear, discuss, or deliberate on matters within the body's purview. The meeting does not have to be face to face to be covered: an e-mail conversation or conference call counts. A meeting is still a meeting even if no decision is reached or no vote is taken.

The Brown Act allows for closed meetings under very limited circumstances: some personnel issues, pending litigation, some labor and property negotiations.

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Even then, the agency must post an agenda that lists the item, publicly report verbally or in writing any actions and votes taken in the closed session within 24 hours, and promptly make available copies of any approved contracts or settlements.

Dos and Don'ts Under Brown

Anytime a local public body meets, its members must

- post a notice and an agenda letting the public know when and where they are meeting and what they are going to discuss. They must mail a notice three days before a regular meeting to anyone who requests it. If a meeting is continued—that is, business isn't concluded during the allotted time and is carried over to another meeting—notice must once again be posted. In the case of a special meeting, a notice must be sent at least a day ahead to those who request it.
- notify the media of special or emergency meetings if requested.
- journalists have the right to remain in a meeting even if it is cleared due to public disturbance.
- hold meetings in universally accessible places within the jurisdiction without requiring a fee or sign-in.
- allow non-disruptive recordings and broadcasts. The public has a right to inspect any agency-made recordings. Such recordings may be destroyed after 30 days.
- provide opportunities for public comment.
- cast their votes publicly—no secret ballots.
- make public "without delay" any documents distributed to all or a majority of the members of the board before or during a meeting.

Alleged Violations and Penalties

If you suspect violation of the Brown Act, contact your County District Attorney. Individuals or the district attorney may file civil lawsuits to void action taken in violation of the Brown Act. A court may force the agency to make and preserve tapes of closed meetings, declare actions taken null and void, and award costs and attorney fees.

Additional Resources:

http://www.thefirstamendment.org/brownact.html

http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf

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http://ucanr.org/landusefactsheets

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