

402 - RULES AND LAWS APPLICABLE TO BOARDS, COMMISSIONS AND COMMITTEES

1. The Ralph M. Brown Act

The purpose of the Brown Act is to insure that the deliberations as well as the actions of all local public bodies are performed at meetings open to the public and to which the public has been given adequate notice. It is to prevent government from being conducted in secret (Section 54950 Government Code). In furtherance of this purpose, the Brown Act requires, with certain limited exceptions, that all meetings of local public bodies be open and public (Section 54953 Government Code). Meetings must be conducted in such a manner as to permit full and complete disclosure of the actions taken and the participation of individual members in such actions. Thus, secret ballot voting at meetings required to be open and public is prohibited (59 Ops. Atty. Gen. 619 1976).

The Brown Act applies to boards, commissions and committees of the County, whether temporary or permanent or decision-making or advisory, if they are formed by some formal action of the Board of Supervisors, or by some formal action of any other County; board, commission, or committee; and also applies to any other local body created by state or federal statute. Boards, commissions and committees possessing decision making authority are specified by Section ~~3.04.085~~ 2.38.270 of the County Code, ~~to be as follows:~~

~~A. Boards~~

- ~~1. Assessment Appeals Board~~
- ~~2. Building Appeals Board~~

~~B. Commissions~~

- ~~1. Agricultural Policy Advisory Commission~~
- ~~2. Fish and Wildlife Commission~~
- ~~3. Civil Service Commission~~
- ~~4. Nuisance Abatement Appeals Commission~~
- ~~5. Parks and Recreation Commission~~
- ~~6. Planning Commission~~
- ~~7. Private Industry Council~~
- ~~8. Human Resources Commission~~

~~C. Committees~~

- ~~1. Environmental Review Committee~~

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The Brown Act does not apply to meetings of the advisory committees or

subcommittees of boards, commissions or committees which are composed solely of less than a quorum of such public body, and which are not standing committees or subcommittees with either a continuing subject matter jurisdiction or a meeting schedule fixed by resolution or other formal action of the body which established the committee or subcommittee. However, this less-than-quorum exception may not be used to circumvent the purposes of the Brown Act. The following actions by boards, commissions, or committees have been found to be in violation of the Brown Act:

- A. The signing of a letter by all members.
- B. A telephone poll of members.
- C. A series of closed meetings with less than a quorum of the members present at each meeting.
- D. Formal or informal, deliberate or accidental meetings, at which a majority or a quorum of members deliberates collectively on public business within the subject matter jurisdiction of the body of which they are members.

"Joint meetings", "study sessions", "informal discussions", "business lunches", have all been found to be meetings within the meaning of the Brown Act. The Brown Act does not preclude the following:

- (1) Individual contacts or conversations between a member of a local public body and any other person.
- (2) The attendance of the majority of the members of a local public 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 local public body provided that a majority of the members do not discuss among themselves other than as part of the scheduled program business of a specified nature that is within the subject matter jurisdiction of the local public body of the County.
- (3) The attendance of a majority of the members of a local public body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the County, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the local public body of the County.
- (4) The attendance of a majority of the members of a local public body at an open and noticed meeting of another body of the County, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the local public body of the County.
- (5) The attendance of a majority of the members of the local public body 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 local public body of the County.

(Rev. 7/98)

2. Notice Requirements

A. Boards, Commissions, Committees and Subcommittees Subject to the Brown Act

- (1) Regular Meetings: A local public body subject to the Brown Act must provide in its bylaws or rules a time and place for holding regular meetings (Section 54954 Government Code). A regular meeting may be adjourned or continued

to a time and place specified in a Notice of Adjournment which is to be posted within 24 hours on or near the door of the meeting place. If no time is specified, the meeting is adjourned until the next regularly scheduled meeting. A meeting may be continued by less than a quorum of the board, commission or committee.

At least 72 hours prior to each regular meeting, an agenda for the regular meeting shall be mailed to each member of the local public body, representative of the news media and to each other person who has submitted a written request to the local public body for notification of meetings, and shall be posted at least 72 hours prior to the regular meeting at a location that is freely accessible to the public. The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting. No action or discussion shall be undertaken on any item not appearing on the posted agenda except that members of the local public body may briefly respond to statements made or questions posed by persons exercising their public testimony rights or asking questions for clarification, refer the matter to staff or to other resources for factual information, or request staff to report back at a subsequent meeting

concerning any matter or take action to direct staff to place a matter of business on a future agenda.

No action can be taken on any item not appearing on the posted agenda unless:

(a) Upon a determination by a majority vote of the local public body in an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities. From one of the following:

- (1) A work stoppage or other activity which severely impairs public health, safety, or both; or
- (2) A crippling disaster which severely impairs public health, safety or both.

(b) The local public body determines by a two-thirds vote of its members present at the meeting, or if less than two-thirds of its members are present, by a unanimous vote of those members present, that a need to take immediate action and that the need for action came to the attention of the County subsequent to the printed agenda being posted; or

(c) The item was posted at least 72 hours before a prior meeting which occurred not more than five calendar days preceding the date action is proposed to be taken on the item, and at the prior meeting the item was continued to the meeting at which action is proposed to be taken.

(2) Special Meetings In order to hold a special meeting, a local public body subject to the Brown Act must provide advance notice of such meeting to each member. In addition, notice must be given to each local newspaper of general circulation and radio and television station which has requested notice in writing of the meetings of the local public body. An agenda notice shall state the time and place of the special meeting and state the business to be transacted. No business other than as stated in the special notice shall be considered at a special meeting. (Section 54956 of the Government Code). The agenda notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting. Thus, mailing the notice 24 hours in advance is not sufficient; notice must actually be received 24 hours prior to the special meeting (Section 54956 Government Code; 56 Ops. Atty. Gen. 246 (1970)).

A member of the local public body may waive failure to receive notice of the meeting by filing a waiver prior to the time of the meeting or by being present at the meeting when it convenes. Moreover, absent a written request therefore, the body is not required by the Act to provide the media with notice of its special meeting (62 Ops. Atty. Gen. 658 (1979)).

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

3. Public Rights While Attending a Public Meeting

A member of the public can attend a meeting without having to register or give other information as a condition of attendance (Government Code Section 54953.3). A local public body may not prohibit any person attending an open meeting, from recording the proceedings with an audio/video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the local body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes or would constitute a persistent disruption of the proceedings, (Government Code Section 51953.5). Except for records which are exempt from public disclosure under the Brown Act, any agenda or other writings when distributed to all or a majority of all the members of the local public body by any person in connection with a matter subject to discussion or consideration at the public meeting of the body are disclose able public records under the California Public Records Act and shall be made available upon request without delay. (Government Code Section 54957.5) Writings which are public records and which are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the County or a member of the Board of Supervisors or after the meeting if prepared by some other person.

Public participation in public meetings shall be allowed as follows:

- A. An opportunity for members of the public to directly address the local public body on any item on the agenda of interest to the public shall be provided before or during the consideration of the item by the public body.
- B. In addition, the agenda will provide for oral communications on items not on the agenda, which are within the subject matter jurisdiction of the local public body at the beginning or at the end of each regular meeting agenda.
- C. The local public body may through its by-laws or at any meeting establish reasonable limits on the amount of time allocated to each speaker on a particular item, and may establish reasonable limits on the total amount of time allotted for public testimony on particular item or the total amount of time allocated for oral communications. When further discussion is required, the local public body may vote to allot time in the agenda of the following meeting.

4. Quorum Requirements

Except as otherwise provided in the by-laws of a local public body approved by the Board of Supervisors of the County, a majority of the voting members of each board, commission or committee shall constitute a quorum and no act of any board, commission or committee shall be valid unless at least a majority of the members constituting a quorum concur therein; however, for five member boards, commissions or committees, an affirmative vote of at least three members shall be required. Any act of any board, commission or committee shall be accomplished by roll call vote if such a vote is requested by any member in attendance. (Section 2.38.150 of the County Code)

5. Executive (closed) Sessions

No board, commission or committee shall hold an executive session or any meeting excluding the public without first receiving written authorization from the County Counsel to hold such a session or meeting. Advisory boards, commissions and committees will not be authorized by County Counsel to hold any executive sessions. Decision-making bodies will only be authorized by County Counsel to hold

executive sessions under unusual circumstances. County Counsel shall be present at all executive sessions held by any board, commission or committee (Section 2.38.130 of the County Code)

6. Public Notices: ADA Compliance

All public notices shall include the following statements:

"The County complies with the Americans with Disabilities Act. As a courtesy to those persons affected, please attend the meeting smoke and scent free."

[<< Return to Title V section of Procedures Manual](#)