Overview
California’s Open Meeting Requirements

Ralph M. Brown Act
California Government Code
Section 54950 and following
Plan of Action

• Welcome & Introductions
  o Institute for Local Government
  o California Clerk of the Board of Supervisors Association

• Presentation:
  o Michael Martello, Local Agency Attorney & Volunteer, ILG

• Questions & Answers

• Additional Resources
ILG Mission

• Promote good government at the local level

• Practical, impartial and easy-to-use resources

• We ♥ local government

www.ca-ilg.org
Program Areas

- Sustainability
- Ethics
- Public Engagement
- Local Government 101
- Intergovernmental Collaboration
California Clerk of the Board of Supervisors Association
Goal: Open Meeting Laws

Promote transparency and public trust through:

• Public Access to Meetings
• Public Attendance and Participation in Meetings
• Open Deliberations and Action
Brown Act Requirements

Legislative Body + Meeting = Notice & Agenda
Legislative Body

The Brown Act covers members of virtually every type of local government body, including elected and appointed decision-making or advisory bodies.

**Elected bodies:**
The governing body of a local agency

**Appointed bodies:**
Created by formal action of the legislative body
“Legislative Body”

• **Standing committees** (less than a quorum of the whole committee) which have either:
  - Continuing subject matter jurisdiction, or
  - A fixed meeting schedule

• **New Member**, but not yet seated
  - Brown Act still applies
  - Good issue to cover in orientation materials/sessions
Meetings Defined

“any congregation of a majority of the members of a legislative body at 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…”
Meetings Include

• Retreats or workshops of legislative body

• Informal gatherings can be meetings

• Serial meetings by telephone, email or personal intermediaries
“Serial Meetings”

- Daisy Chain

- Hub-and-Spoke

- Forwarding or responding to emails
Usually Meetings Are Not

- Contacts with constituents or staff
- Conferences
Usually Meetings Are Not

• Community Meetings

• Other Legislative Bodies’ Meetings

• Social or Ceremonial Events
  – Do not discuss the body’s business at “non-meetings”
Meetings: Time & Place

- Establish regular time and place for meetings
- Must meet within the boundaries of the territory, except:
  - To inspect real or personal property
  - For multi-agency discussions
  - To meet with federal/state officials
  - At legal counsel’s office
Notice & Agenda

• Must include
  – Meeting time and place
  – Brief description of each item

• Post
  – Publicly accessible place
  – Website, if agency has one
  – When:
    • Post 72 hours in advance (regular meetings)
    • Post 24 hours in advance (special meetings)
Notice & Agenda, cont’d

• If something isn’t on the agenda,
  – No action or discussion
  – Limited exceptions for emergencies with majority vote
  – Limited response to public comment
Notice & Agenda, cont’d

Agenda Packet

• Include supporting items for meeting

• If materials are distributed at meeting, copy of item available at county administrative building or city hall

• The agenda needs to explain where materials can be obtained
Notice & Agenda, cont’d

- Exceptions to general notice & agenda requirements:
  - Special meetings
  - Adjourned meetings
  - Emergency meetings
  - Subsequent need
Public Attendance
Comment And Participation

• At all regular meetings
  ▪ Before or during consideration of item
  ▪ Any issue within subject matter jurisdiction

• At special meetings
  ▪ Agenda topics only

• Reasonable time limits and other management measures okay
  • Speaker cards must be voluntary/optional
Responding To The Public

• The public can talk about anything; the legislative body cannot

• If not on the agenda, legislative body limited to
  ▪ Brief response
  ▪ Refer to staff
  ▪ Future agenda
Open Meeting Exceptions: Closed Sessions

• Specific Authority for Closed Sessions:
  ▪ Real property negotiations
  ▪ Labor negotiations
  ▪ Personnel
  ▪ Litigation

• Agenda Descriptions
  ▪ “Safe Harbor” formats/cheat sheet

• Pre-closed Session Announcement

• After Closed Session
  ▪ Report to public
Violation Of Brown Act

• Action taken on item not on agenda or not properly on agenda

• Action can be legally challenged and invalidated
  ▪ Opportunity To Correct
  ▪ Must Show Harm
  ▪ Civil Suit
  ▪ Criminal Action
Clerk’s Minutes

• Is the E-recording the new minutes?

• What the camera doesn’t see:
  – Board members coming and going
  – Items handed to board members
Clerk’s Minutes, cont’d

• Record

  – Statements about conflicts of interest and recusals; note if member left the room
  – Pre- or post-closed session announcement were made
Additional Resources

www.ca-ilg.org/webinar/brown-act-webinar-keeping-clerks-ahead-curve
Questions?
Resources for in-person AB 1234 training:
www.ca-ilg.org/ab1234trainermaterials
The underlying philosophy of the open government laws is that public agency processes should be as transparent as possible. Such transparency is vital in promoting public trust in government. This concept of governmental transparency is so important to the public that some 83 percent of voters supported adding it to California’s constitution by adopting Proposition 59 in 2004.

California’s open government laws require public officials to:

A. Conduct meetings of public bodies openly, except for limited circumstances under which the law allows the public’s business to be conducted privately in closed sessions.

B. Allow the public to participate in meetings of public bodies through a public comment process.

C. Allow inspection and copying of public records, except when non-disclosure is authorized by law.

This pamphlet summarizes these three requirements in general terms. Local officials are also encouraged to consult with their agency attorneys for information about how these requirements apply in any given situation or more information about this area of the law.
Orientation materials available at www.ca-ilg.org/orientationmaterials
Resources on public engagement strategies: [www.ca-ilg.org/public-engagement](http://www.ca-ilg.org/public-engagement)
For additional resources on local agency transparency strategies: www.ca-ilg.org/transparency
Feel Encouraged To Share

• The webinar recording will be available in three days.

• ILG welcomes sharing of this webinar and all of our resources.
Thank you for participating in today’s webinar:

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